



## SPARK AND CANNON

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THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

MS K McMILLAN SC, Counsel Assisting  
MR M COPLEY SC, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS INQUIRY ACT 1950  
COMMISSIONS OF INQUIRY ORDER (No. 1) 2012  
QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

BRISBANE

..DATE 29/01/2013

Continued from 25/01/2013

DAY 17

**WARNING:** The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complaints in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

THE COMMISSION COMMENCED AT 10.12 AM

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COMMISSIONER: Good morning, gentlemen.

MR COPLEY: Good morning, Mr Commissioner.

COMMISSIONER: Welcome back, Mr Bosscher.

MR BOSSCHER: Thank you, commissioner.

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MR COPLEY: We're ready to resume with Mr Walsh.

COMMISSIONER: Excellent, thank you.

**WALSH, TREVOR REGINALD** on former oath:

MR COPLEY: Could Mr Walsh - - -

COMMISSIONER: Good morning, Mr Walsh. Welcome back. Sorry, Mr Copley.

MR COPLEY: Thank you. Could Mr Walsh just have back - I'm sorry, I didn't tell you before - exhibit 293, which I think was the last exhibit that was tendered on Friday, the single-page document? Mr Walsh, on Friday you said you hadn't seen that before, didn't you?---I said I hadn't recalled seeing it before.

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Yes?---I know that I have seen it before I have my writing on it.

What document were you thinking of if you had not recalled seeing that one before on Friday until you saw it? What document were you thinking of when you said in paragraph 14 of your statement - and you may wish to turn to it. You will see there, "There were three cabinet submissions in total and an earlier verbal submission to cabinet by the previous document (sic)." Now, did you have in mind a document when you put that phrase in your statement about there being an earlier verbal submission to cabinet by the previous government?---No, I didn't have a document in mind. I had been told that the previous minister had brought a verbal submission to the cabinet and that was what I was thinking of.

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So at the time that phrase went in your statement you had no recollection at all of having seen exhibit 293?---No, I had not recalled it; no.

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No, fair enough. So at the time you put the phrase "and an earlier verbal submission to cabinet by the previous government" into the statement what was your source of information for that phrase in the statement if you had not recalled exhibit 293 at the time?---I'm afraid I can't

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recall, just that I was aware, probably from discussion with other people, that that was how the inquiry was originally established, through a verbal submission to cabinet. 1

That discussion did not derive from a discussion with Alan Pettigrew, did it?---No.

It did not derive from a discussion with George Nix, did it?---Not that I recall.

It cannot have derived from a discussion with Don Smith, can it?---No. 10

Because he didn't start there till 7 March?---No.

So who possibly could have told you that?---I may have initiated it myself, because obviously I contacted the cabinet office to ascertain if there was any information that would demonstrate the establishment of the inquiry and obviously they did send me this copy with some instructions which I wrote onto the form.

So are you saying now that there may not have been a verbal advice to you that there had been cabinet consideration by the previous government but rather that knowledge might have come to you because you sought the cabinet records to see if there had been such discussion?---It may have. I can see that it was very early in the piece after I'd commenced duty in the office and my thought, reflecting on it over the weekend, was probably that I was simply trying to establish how the inquiry was commenced. 20

But you wouldn't have taken the initiative of taking a serious step of asking the cabinet secretary to release to you a record from a previous ministry on your own initiative, would you?---I would have discussed it with the director-general. 30

Do you recall discussing it with the director-general? ---Not specifically. I recall on the document that was attached to this that there is a notation dated the same day from Ruth Matchett which refers to confirming with the cabinet secretary the date of Minister Nelson's submission.

Yes, so it's more likely than not, isn't it, that Ms Matchett was aware that you were going to make the inquiry of the cabinet secretary?---I would think so. 40

The timing of your inquiry now, looking back on it, had to have been an inquiry made either on 19 January or before? ---Yes.

That stands to reason, doesn't it?---Yes.

Because it can't have been later than that because of the date on the fax at the top of exhibit 293 and the date of your signature?---Yes.

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Do you remember know, thinking about these things in more detail, when the inquiry of cabinet was made?---No, I'm sorry, I can't recall.

Do you recall, thinking about it in more detail, who you made the inquiry of?---No, I don't recall who I spoke to.

What significance, if any, did you attach to the fact that the minister, the previous minister had indicated that an investigation was to be conducted into the operations of JOYC and the significance - I mean, what significance did you think it had that she told the previous cabinet that? ---I was just simply trying to establish, I presume for the information of the director-general, the background to the establishment of the inquiry.

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So it wasn't - you didn't labour under any view of law or convention or precedent that if a matter had simply been raised, or possibly raised, in the cabinet at some point it therefore always had to go back to the cabinet for any decisions to be made about that topic again?---Not specifically, no.

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Indeed, unless there was a law which obliged that to be the case, that would be very difficult after every change in government, wouldn't it?---It would.

Because the people that made the decision in many circumstances would not be the people that might be asked to reconsider or consider afresh different circumstances relating to their earlier decision, would they?---Yes.

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You state at paragraph 15 that you cannot comment about how verbal cabinet submissions worked as you have no understanding of that process. Was that sentence to be understood to be referable to verbal submissions made by the previous National Party ministers to cabinet or is it to be understood to be a reference to any verbal submissions that might have been made by Labor Party ministers to the Labor cabinet?---It referred to any verbal submissions.

At all?---At all.

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You then state that written cabinet submissions were placed in a designated cabinet bag each week for delivery to cabinet so that the submission might be considered?---Yes. 1

So if we look at your diary, for example, for Tuesday, 30 January 1990, there's a heading next to 10 o'clock, Deadline for Cabinet Submissions and then at 4 o'clock, Pick Up Cabinet Bag. Can you explain the significance of those two entries to us?---Well, cabinet met in the morning on a Monday.

Yes?---After cabinet we were able to collect the cabinet bag and return it back to the department. 10

So you didn't pick up the cabinet bag - see, there's an entry the day before "Return cabinet bag"?---Yes.

Let's imagine there's a receptacle on a Monday?---Yes.

And there may or may not be something in it, but on Monday at 5 o'clock, according to the diary, the cabinet bag was returned?---Yes.

All right. Where was it returned to?---To the cabinet office. 20

What would have been in it, anything?---It would have been the folder for the department's copy of the cabinet's submissions and the folder of the minister's copy of the cabinet submissions. So the minister took the cabinet bag with her to cabinet and returned it after cabinet and then an officer of the department would return it back to the cabinet office.

It's just that because the deadline for cabinet submissions is on Tuesday, wouldn't it be the case that if the minister had submissions that had to go to cabinet, the deadline would have been by no later than 5 pm on Monday when the cabinet bag had to be returned or am I misunderstanding something?---No. Any submissions to cabinet were not sent through the cabinet bag. 30

Okay?---There were multiple copies, one copy for each department and - - -

So on a Tuesday at 10 o'clock when the deadline fell for a cabinet submission, where did the cabinet submission get sent to?---To the cabinet office. 40

How many copies?---I'm sorry, I can't remember the number, but it was multiple copies. There were 18 departments, I think, from memory, so there would've been two copies for each department.

So possibly 36?---Yes, or even more.

Okay, and when they got to the cabinet office, say, a submission from the Department Family Services, the minister would know what was in it because, presumably being a party to the creation of it, she might keep a copy for herself?---Yes.

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That is, the Minister for Family Services, but what about the other ministers in the cabinet? How would they become aware of her cabinet submission?---They would receive a copy of their own cabinet bag with all of the submissions in it. Each minister got a copy of each submission in the cabinet bags.

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How soon prior to a cabinet meeting would a minister get a copy of a submission from another minister?---Look, it's so long ago I'm really have trouble - difficulty remembering the timing of the different processes of the cabinet bag now.

See, on Tuesday afternoon at 4 o'clock or between 4.00 and 5.00 it says, "Pick up cabinet bag"?---Yes.

So if you picked up the cabinet bag at 4 o'clock on a Tuesday afternoon, would the minister's submission that had been required to be finished by 10 o'clock that morning be in the cabinet bag you were picking up?---Yes, normally it would be.

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So if cabinet met on a Monday, it would have allowed Wednesday, Thursday, Friday and the weekend, if necessary, for all ministers to read the submissions of their colleagues?---Yes.

If they wanted to read them?---Yes.

Thank you. Now, you recall that three submissions apparently went to the Goss cabinet concerning the John Oxley Youth Centre in February-March 1990?---Yes.

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And you saw all three of them?---I did.

Because you were the cabinet legislation and liaison officer?---Yes.

And you state, "All of the cabinet documents came through me"?---Yes.

So I will get you now to look at these documents one by one to confirm that. First of all, I will get you to have a look at what we have designated exhibit 151. Now, exhibit 151 contains not just what's called a cabinet submission but a cabinet minute on the front of it. You can clarify with me whether or not a department did up a draft decision for cabinet when it sent in its submission or, first of

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all, whether or not the cabinet minute was simply done up by the cabinet office after a decision had been made. Can you help me on that point?---I can. The cabinet minute - the decision was written in the cabinet office.

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So it was not typed in draft by, in this case, Family Services?---No.

All right. So if we turn to the second page of the document, do you agree that you have seen, looking through all of the pages of that, that cabinet submission before? ---Yes, I have seen that submission before.

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All right, and that was the first submission, was it, that went to the Goss cabinet?---It was, yes.

About John Oxley and Mr Heiner?---Yes.

Now, I assume, as the cabinet legislation and liaison officer, part of your responsibility in addition to making sure the submission got to the cabinet secretary by the due time and date was to have regard to the format or the setting out of the structure of the submission?---That's true.

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Because it could be - and you can confirm this, if you like - that all submissions had to be done with various heading as essential parts of it. Is that the case?---That's correct.

For example, the submission had to identify who the minister was who was putting it in?---Yes.

And it had to identify whether there was any element of urgency about it?---Yes.

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And any consultation that had occurred?---Yes.

So leaving aside your role to ensure time compliance and compliance with formatting - - -?---Yes.

Leaving those two roles to one side because they're really neither here nor there to us now - - -?---Yes.

- - - what contribution did you make to this cabinet submission that's attached to exhibit 151?---I can't recall any specific contribution.

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Did you type it?---No.

Do you know who typed it?---No.

COMMISSIONER: Do you know who's likely to have typed it? ---I'm sorry?

Do you know who's most likely to have typed it?---One of the executive secretaries would normally type cabinet submissions.

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How many of them - - -?---There were two executive secretaries.

And who were they?---One was Ms Leanne Bishop-Kinleyside.

MR COPLEY: Can you say that again?---Leanne Bishop-Kinleyside, a hyphenated surname.

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Okay, yes?---The other was Ms Wendy Jones.

Just for the record, can you spell the first lady's name, Leanne Bishop hyphen what?---Hyphen Kinleyside, K-i-n-l-e-y-s-i-d-e.

Okay, thank you.

COMMISSIONER: Did they leave any mark or code to show which of them had done a particular document?---Not that I recall.

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MR COPLEY: Now, looking at this document, the first three pages of it seem to be a shorter version of pages, if you look at the contents, 4 through to 7?---Yes.

Is that true?---Yes.

Because the first three pages are heading Cabinet Submission?---Yes.

Then from page 4 of this numbered document it's headed Cabinet Submission - Body of Submission?---Yes.

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And it goes into the background?---Yes.

So the document that's simply headed Cabinet Submission is a summary of what's contained in Body of Submission?---Yes. It was referred to, and it actually says there, as a cover sheet.

Yes, as a cover sheet. You mean there's a heading up there on the left that says Cover Sheet?---Yes.

So whose job was it to reduce the body of the submission into the document Cabinet Submission Cover Sheet?---I cannot recall who wrote the submission now, I'm sorry.

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It wouldn't have been either of the secretaries' jobs, would it, to have - - -?---No, no.

I will just finish the question so that we get the answer to the whole question?---Yes.



It wouldn't have been either of the secretaries' jobs to have used their discretion to pick out the salient things from the Body of Submission document and reduce it into the cover sheet, would it?---No.

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It would have to have been done by a person of some standing and seniority and importance somewhere in the Family Services Department?---Yes.

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So if you can't now remember who wrote the document headed Body of Submission or the document Cover Sheet, whose job in those days - in January, February, 1990 - whose job or whose jobs - which person or persons had the job of drafting these documents?---It was very early days of the new government and so there were not specific people allocated to do that work. Cabinet submissions were written usually in the division that the topic related to.

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Yes?---In the case of this one I cannot recall who it was that actually wrote the submission.

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Well, we've heard evidence from Mr Ian Peers that Ms Matchett's handling of the Coyne issue and the Heiner issue was a matter that she very much confined to herself? ---Yes.

Would you agree with that?---Yes.

And it was Ms Matchett who was having the discussions with the Crown Law office, wasn't it?---Yes.

And Ms Sue Crook may have been present for some of them? ---For some of that, yes.

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But Ian Peers wasn't, was he?---Not to my knowledge.

Or George Nis?---Not to my knowledge.

No. Could you have drafted the cabinet submission?---I don't recall drafting the cabinet submission, no.

I know you don't recall it, but does that mean to say that you concede it is possible you drafted it, or you're saying, when you say "I don't recall it, there is no way in the world I drafted that cabinet submission"?---I couldn't be that specific. Yes, I may have helped draft it in the extent of making sure that it covered the template that is required.

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Yes, let's leave that aside, though?---But in terms of the actual wording, I don't recall and I'm fairly certain that I would not have actually written the submission itself.

All right. Well, if you are fairly sure you didn't write the submission, and bearing in mind that your agreement with the proposition that Ms Matchett handled on a personal level the Coyne-Heiner matter - - -?---Yes.

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- - - who does that leave as the possible author of this document called Body of Submission?---Either Ruth Matchett or one of the officers from the personnel section, Sue Crook or one of her staff.

All right. Did Ms Matchett have any discussion with you regarding the advice that she was receiving from the crown solicitor?---We talked about most things. I can't recall a specific conversation.

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Okay. In your role as the cabinet legislation and liaison officer was it your duty to check these documents to see that they were factually correct?---That's very difficult to answer. Yes, I wouldn't have checked - as best as I could I would have checked to make sure that the information was correct, but because they were prepared by senior officers my role was more to make sure that the administrative processes were handled. So I wouldn't necessarily have gone back and challenged the authors or what they had written.

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Is that because there could have been detail in a document like this that the correctness or otherwise of it, you just wouldn't have been in a position to know?---That's correct.

So your position is that it's most unlikely that you drafted the body of submission or the cover sheet?---Most unlikely.

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And beyond possibly speculating about Ruth Matchett or Sue Crook or someone from personnel, you can't help us with who did?---No, I'm sorry, I can't.

Okay. Now, I take it that the fact that there's a signature above the name Anne Warner typed at the end of the body of the submission and at the end of the cover sheet, you may be able to identify the signature. Was that in fact Ms Anne Warner's signature?---Yes, I identified that signature.

Now, how many submissions had the Minister for Family Services, Ms Anne Warner, made to the cabinet at the time she signed this one?---To the best of my recollection this would have been the first.

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I see. Did you have any understanding about why - from things you were told or overheard or read up there in Ms Matchett's office - do you have any understanding about why it was necessary for cabinet to be advised about the need to have Mr Heiner indemnified?---To the best of my knowledge it was a recommendation from Crown Law that that should be the case.

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Yes, right. And were you aware of there being some policy dating back to many years into the life of the earlier government about indemnification of public officers or public officials?---Not that I recall.

Why was it necessary to bring to the attention of the cabinet the question of what to do with the material that Mr Heiner had gathered, as far as you knew?---Again, I believe we were following Crown Law advice, to the best of my knowledge.

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But you hadn't been a participant in the sense of being present when that advice was given, if indeed it was given orally?---No.

And letters regarding that course of action hadn't been sent to you, had they?---No. Well, I had seen the correspondence between Crown Law and the director-general.

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Yes?---To the best of my knowledge there was a recommendation there about the destruction of the documents - - -

Okay?--- - - - and the indemnification to be provided to Mr Heiner.

Right. Now, Crown Law wouldn't have got involved in this matter unless Ms Matchett had involved them. Would you agree with that?---That's true.

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And you know from the documents that a concern for her was what to do about the inquiry?---Mm'hm.

And her view was in the end that it should be ended, shouldn't it?---Yes.

And of course although the ending of an inquiry might give rise to issues about indemnification, the ending of an inquiry doesn't always give rise to an issue of: what shall we do with the documents generated in the inquiry, does it?---No, it does not. Mr Heiner himself had, after discussing the matter with Ms Matchett - had decided that he would not continue with the inquiry - - -

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Yes?--- - - - and sought indemnification - - -

Right. So that explains - - -?--- - - - for - - -

- - - doesn't it, how that issue - - -?---Yes.

- - - became a live issue that Ms Matchett needed to get advice on?---Yes.

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That he was concerned about his position - - -?---Yes.

- - - so naturally she looked into that?---Yes.

But how did the fate of the documents arise, to your understanding? The documents Mr Heiner had created? ---Right. Well, the question was asked as to what we should - seeing that Mr Heiner was not continuing and

Ms Matchett had determined that the inquiry would not continue, the question was: what did we do with the information that Mr Heiner had collected? 1

Yes?---And it was that question that we put to Crown Law office

Okay. Well now, according to the first page of exhibit 151 cabinet decided that - - -

COMMISSIONER: Sorry to interrupt there, Mr Copley, but it wasn't a question of the investigation continuing; it had finished; it was a question of whether a report of the investigation would be required, wasn't it?---Yes. 10

So it was late in the game to be - - -?---It was late in the game and it was clear that no report was going to be forthcoming.

From Mr Heiner?---From Mr Heiner.

Because his correspondence and communication with various people in government had spooked him?---Yes. 20

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Then everyone forgot about the kids at JOYC and everyone started thinking about indemnities and things like that for themselves?---That was an issue, although Ms Matchett, as I recall, went to the staff at John Oxley and explained to the staff what the inquiry would not be continuing and it is my understanding that she invited staff to make their own complaints if they wished to or to raise issues of concern that had been part of the Heiner inquiry.

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But they had already done that. They had already stuck their neck out?---They had.

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Exposed themselves, as it appears, not only to reprisal but also to potential legal action for defamation?---That's true.

And they were being asked to do that again by the same bureaucracy that started the first one that was now going to go - - -?---Well, it was - - -

From their point of view it was the same apparatus?---From their - yes, I understand.

It was just machinery of government?---Yes.

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They don't really care who proposes it. They're workers. So how was that ever going to work satisfactorily, do you think? I mean, these are questions that would have been discussed between you and those you were advising and those who were advising you?---They weren't issues that were discussed with me, however my understanding in reflecting back on the whole situation, I think Ms Matchett wanted to make sure that people understood that seeing the Heiner inquiry would not continue, if people had concerns or grievances that they still wished to raise, that they would have an opportunity to do that beyond the closure of the Heiner inquiry.

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I know, but just looking - sorry, Mr Copley, I'm going to be a little while. I want to test some things.

MR COPLEY: Yes, sir.

COMMISSIONER: Just thinking of human behaviour and explaining it after the fact, we work on experience, commonsense, habit, expectation, reasonable expectation, those sorts of things, don't we?---True.

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When we can't remember what happened we work on what probably happened. In working out what probably happened we look to see what people would - how they would normally react to a situation. Now, this situation where you had a volatile, as everyone keeps telling me, 24-7 facility that are always hard to manage at the best of times, it had a lot of adverse media coverage about the conduct and management of the place, a lot of people had come forward

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with complaints and almost as many had come forward with support for the manager, a formal inquiry had been set up with terms of reference, people had, you know, been inconvenienced and if not required at least had gone to Mr Heiner and given statements about things. The workforce was divided, morale was low. Killing it off wasn't going to pass The Courier Mail test, was it?---No.

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So what to do about it? You wouldn't think just based on protecting ourselves from adverse publicity, whether it's warranted or not, shredding the very documents in question, is the best apparent solution, is it?---I understand what you're saying, yes.

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So part of the thing we have to do, as best we can, is try and get into the mind of people, see why they made the decisions they made and why they would choose what might be arguably the worst possible option in the circumstances. We don't normally do that. We try to achieve the best or the least worst outcome for ourselves, not the worst. All right, thank you, Mr Copley.

MR COPLEY: Mr Walsh, when the cabinet made its decision the minister presumably would have been aware of it because she would have been in the room, but did you become aware of cabinet decision number 101 of 1990, which was that Mr Heiner would get his indemnity but that a further memorandum needed to be prepared advising cabinet about what to do with the Heiner documents? Did you become aware of that decision?---I would have become aware of that when the cabinet decisions were circulated back to the departments.

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For example, is this decision number 101 the type of thing that would come back or be available for collection in the cabinet bag on a Monday afternoon?---I think so, but I'm not absolutely certain of that anymore.

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So by one means or another, whether it was put in the bag called the cabinet bag or whether it was somehow or other in some other way communicated, you became aware that cabinet wanted a further submission on the destruction issue?---Yes.

That must have caused people in Ms Matchett's office such as you and her pause for thought and discussion, mustn't it?---For Ms Matchett it may have. I don't recall any particular discussion following the decision from cabinet other than there was to be a further memorandum prepared.

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Ms Matchett didn't express frustration to you that cabinet was not satisfied with the submission number - part of exhibit 151, which said, "The crown solicitor has advised that as the material does not constitute a public record there is no legal impediment to destroying it"?---I don't recall any discussion with Ms Matchett about that.

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Do you see in that submission in the body of the submission on page 6 that the author said that the crown solicitor's advice does not apply to material removed from official files, which should be returned, but more importantly, "Nor would it apply in the event of legal action requiring production of the material being commenced. To date no such action has been initiated." Right?---Yes. 1

You read the cabinet submission before it went to cabinet, didn't you?---Yes.

When you read that part of paragraph 7 on page 6 did you recall whether or not you had seen a copy of exhibit 131? I'll just get you to look at that again, 131. I know we talked about this exhibit on Friday, the handwritten memorandum from Ian Peers, but when you saw the cabinet submission did you think to yourself, "I'd better raise with Ms Matchett this strange telephone call we've had about the discontinuance of one sort of action and the continuation of another sort of action. We need to get that clarified as to whether in fact any action has started or ended"? Did you do that?---I can't recall a specific discussion in relation to Ian Peers' notation here. The thing that I was satisfied with was that at that stage we had not seen any legal action taken. 10 20

Who would you have been relying upon to have told you if legal action had been taken? For example, what I'm trying to say is, as at that date you had not seen any legal action taken?---No.

How would you have become aware if legal action had in fact been taken?---I would've expected to see something from Mr Berry because he was the one representing Mr Coyne.

All right. Did the minister, Ms Warner, have any input into the creation of the cabinet submission?---Not that I'm aware of. 30

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Did anyone from the cabinet office have any input into the creation of the cabinet submission?---Not that I'm aware of.

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Okay. Exhibit 151 can be returned. The next time cabinet considered the matter was 19 February 1990, wasn't it?---I can't specify the date.

You can't remember. May Mr Walsh have for the moment exhibit 168?

COMMISSIONER: Yes, sure.

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MR COPLEY: That was the next time cabinet considered the fate of the documents, wasn't it?---Yes.

Now, I will get you to look at exhibit 159. That is a memorandum to Ms Matchett from you, isn't it?---Yes, it is.

Okay, and there's a notation on the right-hand side. Do you see that in running writing?---Yes.

Do you recognise the writing?---Yes, that's Ruth Matchett's writing.

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What does it say?---It says noted, "This was conveyed to me verbally on 15 February in Hobart."

Right, and it's dated?---And it's dated 21 February.

So does that mean that on 15 February she was in Hobart and you told her about the contents of this typewritten memo?---Yes.

In the first paragraph it says that at 10.20 am on 14 February 1990 Mr Ian Berry had telephoned?---Yes.

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And Mr Berry was seeking assurances from her that the documents relating to the Heiner inquiry would not be destroyed?---Yes.

And in the paragraph two below that he advised that a barrister's opinion was to hand which was that they couldn't go to court unless it could be proven that Mr Coyne had been affected adversely?---Yes.

And that Mr Berry considered that the change to Mr Coyne's career path on 13 February had at least denied his client something?---Yes.

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That's a reference to the fact that on 13 February Ms Matchett had given Mr Coyne's his transfer from John Oxley into town?---Yes.

COMMISSIONER: They would also have to show a causal link between that intervention or that change in direction and what was in the Heiner documents, wouldn't they? 1

MR COPLEY: Well, that's a comment or a proposition that you're putting to me.

COMMISSIONER: Yes.

MR COPLEY: It's not something the witness can answer.

COMMISSIONER: No, no, that's true. You don't want to answer it. 10

MR COPLEY: So unless you're inviting a submission from me at the moment - - -

COMMISSIONER: No, it's all right.

MR COPLEY: - - - I shall ignore it.

COMMISSIONER: Yes, do that.

MR COPLEY: Thank you. 20

COMMISSIONER: You can think about it though.

MR COPLEY: I will.

COMMISSIONER: Yes, good.

MR COPLEY: Mr Walsh, I also want you to look at exhibit 153. On the first page of that there's a letter to Mr Barry Thomas which appears to be signed by Ms Matchett. That's not really important, but attached to that document there's a photocopy of a letter from Rosemary Jensen, isn't there?---Yes. 30

And it's addressed to Ms Matchett?---Yes.

On the second page Mr Berry seeks the compilation of a list of documents that they might be able to inspect relating to Mr Coyne. Right?---Yes.

Now, if Mr Berry was writing a letter like that to Ms Matchett and you were receiving a telephone call like the one you received on 14 February 1990 from Mr Berry and you were taking the trouble to verbally advise Ms Matchett of it in Hobart, surely there must have been some discussion between you and Ms Matchett about what was going to be the fate of the documents that Mr Coyne wanted to see. There was, wasn't there?---Look, I honestly cannot recall what we would've said. I was certainly wanting to keep Ms Matchett informed even though she was out of the 40

state about what was happening in terms of letters from Mr Berry, but I can't recall a discussion that we had about the fate of the documents.

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Yes, and your desire to keep her informed would at least have been due to an awareness that Mr Berry and Mr Coyne were each making demands to see documents that cabinet had received a submission about contending that they should be destroyed?---Yes.

Exhibit 159 can be returned. Mr Walsh could keep the cabinet document. 168 I think it is.

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Now, I want you to have a look at, I think, exhibit 157. I will just need to see it to be sure. Yes, thank you. Could we just turn it over so that - this is exhibit 157. It's just a bundle of photocopies of some handwritten notes from foolscap. Now, the first two pages don't need to detain us at all. They have got nothing to do with you, I don't think. Then do you see a page like this, Mr Walsh, that says Coyne Personal Notes?---Yes.

Do you recognise whose writing that is?---That's my writing.

20

Right. That's a good start. Then on the next page, do you see a page that begins "Trevor" underlined?---Yes.

I presume that's not your writing?---No, that's Ms Matchett's writing.

Right. So there's clearly, I would suggest to you, two different styles of handwriting on that page, or is there more?---There's my writing and Ms Matchett's writing.

Well, could you read out Ms Matchett's writing to us, please, all of it, then I will get you to read out your writing unless, looking at the document as you can go, you can clearly see that something you have written is referable to something she has written as we go through, but otherwise read out everything she wrote, then everything you wrote?

30

*---Trevor, after I tell you of cabinet decision please phone Peter Coyne first, then Anne Dutney and say I wish to meet with Peter at 9 o'clock Tuesday, Anne 9.45 Tuesday and George Nix will be present for both meetings; want to discuss contents of my 10.30 meeting with staff and other matters. Tell Peter that I have planned these meetings for some time but on legal advice was not able to advise him.*

40

Did she write anything else besides that on that page? 1  
---No, I think that's all Ruth Matchett's writing.

All right. Well, before we go to the next page we'll just get you now to read out what you wrote on that page?  
---"Indemnify" - I'm sorry, I'm having trouble reading my own writing.

Just take your time?

---*Indemnify with cab sub next week. Stuart later. Number (1) option, destroy; number (2) documents to Cabinet to note.* 10

And then I think I've got, "Possibility of writ."

Is there something they're about tapes above that? Does it say tapes above the word writ?---It could say tapes.

Now, pausing there, because that's - we'll go back to it. We're reading on the top right-hand side of the document, aren't we?---Yes.

And the first word you were able to identify was 20  
"indemnity" on the very top line?---Yes.

But before the word "indemnity" there appears to be two, if not three other words on that line. Can you make those words out?---No, I'm sorry, I can't.

Does this note suggest to you - that you've just read out - that you were in discussions with someone called Stuart about options for Cabinet?---That's a possibility.

Right. And how many Stuarts did you know in government in February - - -?---Only Stuart Tait. 30

Only Stuart Tait, all right. And looking at the note were the things that were written there near Stuart's name, are you able to say whether they are things you told to Stuart Tait or whether they were things Stuart Tait told to you?  
---I cannot recall.

Okay. Now, what else on there?---On the bottom I've written a note, "At what time do I send the documents to Cabinet?"

Well, the answer to that would presumably be by the time of the deadline for Cabinet submissions, wouldn't it?---That would normally be the case. 40

Yes?---I can only speak in general terms that there were occasions because of Cabinet's desire to have documents, that there were exceptions to the normal timing rules, so I

may have had a discussion with Stuart regarding do we have some extra time, because it was a tight time frame to get the memorandum back to Cabinet.

1

Could he also have been advising you that he wanted to shorten timeframes in the sense that he wanted to get them earlier than normal? Would that have been possible?---It would have been possible but I can't recall him asking for that.

Okay. Then there's another three or four lines at the bottom beginning of the left-hand side, isn't there?  
---Mm'hm.

10

What does that say?---It says, "May be late," and then I've got, "Kevin 3.15, Peter SSW Friday indicated meeting with Ruth had last Tuesday," I think it says.

Now, what does "SSW" mean?---That may be "SSU", State Services Union.

So "SSU" - what was the next word - "Friday", something "Friday"?---Yes, I may have just drawn a line through something.

20

Okay?---"Friday indicated meeting with Ruth."

"Had last Tuesday"?---"Had last Tuesday."

All right. Now, who's the Peter referred to there?---I don't recall. I can think of a couple of Peters.

Can you - - -?---Peter Coyne.

Yes?---Peter Harten.

30

Peter Harten. Now, we haven't heard of him before?---I think Peter Harten was a union representative.

Could you spelt - do you know how - - -?---H-a-r-t-e-n.

Yes?---I just mentioned his name because it's a name that I recall from the past.

All right. And which union do you think he represented?  
---He may have been with State Services Union but I'm not certain.

40

Okay. Now, the name Kevin, who would that be a reference to?---May well have been a reference to Lindeberg.

Is that the only Kevin it could be a reference to?---I can't think of anyone else at the moment.

All right. Now, if we turn over the page, the next page seems to be headed with the word Long-JOYC. Do you agree?  
---Yes.

Is your writing on this page?---That's my writing.

Is everything on there your writing?---Yes.

Okay. Now, could you read out everything on that page that you wrote, please?---All right.

*14 February, 8.30 I checked with George as to whether there have been any further developments overnight. He advised that he was not aware of further. I questioned about the bomb threat that had been made yesterday. Oxley police received the threat and attended JOYC.*

Pausing there, who would be the George that you're speaking of in that night?---That would be George Nix.

No other Georges?---Not that I can think of.

Okay, go on?

*---George said he felt that the wrong person had been moved (Peter) and that Fred Feige - I think the name is - and Bob Parfitt (?) were the troublemakers. Bob Parfitt has resigned from JOYC, announced 13 February. George said he thinks Tim won't be able to handle the staff at JOYC.*

Yes?

*---He feels that the senior staff will all resign in protest of the move against Peter.*

Pausing there, who was the Peter that you're writing about there?---I believe that's Peter Coyne.

And who was the Tim that you're speaking of there?---Tim was the gentleman asked, I think, to take over. I can't recall his name just at the moment.

Did he succeed Mr Coyne at JOYC?---I believe so.

Okay, go on?

*---He said the Heiner inquiry had done a lot of damage.*

Now, is the "he" a reference to George Nix, is it?---I believe so.

Yes?

1

*---I said, "You will have to wait and see what happens from day to day."*

Is it "you" or "we"? "I said you" - or "we will?" Can you just look at that work more closely?---"I said we will" - we.

Right?---"We will have to visit."

Okay. And the next note?---It's also dated 14 February:

10

*Sue Crook advises Anne Dutney has taken the day off. Advised by JOYC that she is at home, not working.*

Yes?

*---I contacted Ian Peers and confirmed that he was aware of the absence and said that he would arrange for an officer to have the delegations of manager in Anne's absence. Jeff Manitzky will be authorised to act as manager from 14/2/90 and until Ms Dutney returns to duty. Sue Crook will arrange. I then received a phone call from Ian Berry, solicitor to Peter Coyne (see separate report) -*

20

would you like me to continue?

Yes, if the writing on the next page is yours?---Yes, it is.

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29/1/13

WALSH, T.R. XN

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Right?

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*---Parfitt's application for leave pending resignation has been referred to Sue Crook. Sue is aware of Ian's instruction re manager and deputy manager. Parfitt should be allowed to take leave pending resignation. Rumour is rife about Peter amongst professionals. Most feel the action is right. Terry McDermott said it should have happened two years ago.*

Okay, now, pausing there, do you recall whether these notes which are each dated 14 February were made at the time these events were happening or shortly after or are they notes that you made weeks or months later?---No, they would have been notes I was making at the time.

10

All right. Can I suggest to you that the content of these notes demonstrates that as at 14 February you were a person who was integrally and vitally involved in the machinations regarding the John Oxley Centre?---I was a point of contact for a lot of these things and I was certainly recording what I was being told.

20

Well, this is where I want to now go back to those cabinet documents. Surely a man like you who was the point of contact, who was receiving calls from deputy directors-general like George Nix and was able to contact Ian Peers and ask questions, surely a man in your position would be able to tell us who drafted the body of the submission and the cover sheet for that first cabinet memorandum, the first one, as far as you can recall, that that government or that minister had ever put into the cabinet?---Yes. I understand what you're saying but I just cannot recall. It's just too long ago.

30

All right. Now, the next note would appear to have 5/2 - - -?---15/2.

Is it 15? All right. Can you read that out, please?  
---15/2:

*Discussion with acting director-general. Received direction that Peter Coyne is not address staff.*

Yes?

*---Discussion with acting director-general. Agreed that direction discussed yesterday -*

40

I'm sorry, I can't - - -



"Did not have to be given in writing." Could it say that? 1

*---Have to be given in writing. Sue and I to prepare brief for minister on options and then for me to ring Stuart Tait.*

So here we have in your own handwriting what you must concede is a contemporaneous notation that you and Sue Crook are going to prepare a brief for the minister regarding options?---Right.

So what was that a reference to?---I just cannot recall. 10

Can I posit the possibility for you to comment on that it was options for cabinet to consider in terms of what was to be done with the documents?---I would take that to be the case.

I'm only suggesting it as a possibility?---Yes. I mean, that is very much a possibility, because the cabinet memorandum that was prepared under Myolene Carrick's signature, the memorandum is exactly that, a series of options. 20

Indeed you said that in your statement at paragraph 17, that the second cabinet submission put up a number of options, four in total, as how the Heiner material could be dealt with?---Yes.

Okay, so at least at 16 February it was your intention that you and Sue were going to prepare that brief for the minister on options?---Yes.

Could you read on the next line, please?

*---16 February, 8.15. Confirmed with Ian that no further development overnight re JOYC.* 30

Now, just to clarify, would that have been a reference to Ian Peers or Ian Berry?---To Ian Peers. That would be to Ian Peers.

Okay?

*---He advised that he is going there again this morning over another matter. I confirmed that Ruth does not want Peter Coyne to address the staff and reinforced that his agreement to follow this option was a correct one.* 40

Now, what is that a reference to? Is it a reference to Ian Peers' agreement to do something or Peter Coyne's agreement to do something?---I think I would have been referring to Ian Peers. My principal point was just to reinforce Ruth Matchett's request that Peter Coyne not address the staff.

29/1/13

WALSH, T.R. XN

You were her - you were one of her means of communication for the underlings in the department, weren't you?---Yes. 1

You were an important man in that apparatus, weren't you? ---Well, I didn't consider myself such, but I was certainly the point of contact quite often between Ruth Matchett and other people in the department and outside the department.

COMMISSIONER: And particularly so in this context? ---Particularly in this context.

MR COPLEY: She had recalled you from your holidays and appointed you as her acting executive director?---That's correct. 10

Yet you said to me on Friday that you don't remember or know why she did that?---No, I don't, other than we had worked together in a number of different places over a number of years and had respect for each other's work.

Yes. Did you get on well?---We did get on well.

Did you trust her?---I did. 20

Did she trust you, as far as you could tell?---She trusted me, yes.

The role that you were performing as an executive - I can't remember what you called it - executive officer to a director-general, was a role that as far as you were concerned couldn't just be given to any public servant necessarily in the department, could it?---No, there was - director-generals receive a lot of information and I think they need to be satisfied that the person that's taking information on their behalf will be accurate. 30

Yes, and will be discreet?---And will be discreet, I guess, yes.

In terms of who they tell the information to, if anyone? ---Yes. I might mention, though, it was only - it was a very professional relationship. We'd worked together on domestic violence legislation and in other types of areas. So we knew the way that we worked and we trusted each other.

Okay, if you could continue to read? 40

*---16 February, confirmed with Sue Crook - - -*

Well, hang on, it says "16/2". Is that right?---16/2, 9 am.

29/1/13  
Yes?

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*---Confirmed with Sue Crook that we will prepare options for the minister in relation to the cabinet memorandum this morning and then I will talk to Stuart Tait re legal opinion.*

1

Right, so what does that mean, that note? Can you remember in more detail what all that was about?---No, I'm afraid I don't.

Can I suggest to you that it again would appear to be a reference to the preparation of a submission to cabinet setting out a number of options for what could be done with the Heiner documents?---I believe that's what it would be.

10

Then it says, "And then I will talk to Stuart Tait re legal opinion"?---Yes.

Does that mean that the options were going to be drafted in the light of a legal opinion you had seen or does it mean that the options were simply going to be drafted and then you'd get in touch with Stuart Tait to find out what the legal opinion was, or is it something else again?---I don't recall. I have it in the back of my mind that Stuart Tait was certainly seeking his own legal advice from Crown Law Office.

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Right. Was that normal for a cabinet secretary to do that? 1  
---I don't know; I don't know. As I say, Stuart Tait was  
very new to the cabinet role. A number of the people who  
were involved were very new to this whole process.

But Mr O'Shea was an old hand, wasn't he?---He was.

Where had this Stuart Tait come from before he became the  
acting cabinet secretary?---Someone had told me that he'd  
previously worked within the Department of Aboriginal  
Affairs but I hadn't met or known Stuart Tait before his  
role in the cabinet office. 10

Okay. Could you continue now reading from the page, 16/2?  
---16/2:

*Ian Peers rang from JOYC. Nothing dramatic to report.  
Peter has asked if he is offered a job, would be  
released from special duties?*

"Would he be released from special duties": would that be  
what it says?---"Would be released from special duties."

Okay? 20

*---Ian has told him to put his request in writing.  
Karen Mersiadés has had threatening calls. (On further  
inquiry I am advised that the phone rang five times and  
no-one would answer on the other end). QSSU held a  
meeting this afternoon that was well attended. No  
outcomes known.*

So would they all be things that Ian Peers had advised you?  
---Yes.

See you have those bullet points there?---There's a series 30  
of dot point.

Yes. Now, just look at the next page and after all these  
years I cannot suggest to you that the next page logically  
follows from the page before because, for example, 15/2  
appears at the start of the second paragraph, but you may  
be able to help me. These are your notes. You may be able  
to help me and confirm that it does logically follow or  
what the position is?---Yes. I don't think it logically  
follows.

Because it starts off by referring to Sue again, doesn't 40  
it?---It does.

Whereas on the page before you're speaking with Ian?---Yes.  
I just wonder whether the page could be out of sequence  
from two pages earlier.

Right. You mean maybe it could follow after the reference to receiving the phone call from Ian Berry, solicitor?---It could. 1

All right?---Just as a suggestion.

Yes. I'm not going to suggest to you what you suggest is wrong so thank you for that, but if you could now confirm, first of all, that on the next page that we have turned to "Sue also" - is everything on there your writing?---Yes.

Could you read it out from the line beginning "Sue also"? 10

*---Sue also advised that Brad Parfitt has resigned and is seeking permission not to return to duty. This request was responded to firstly by Anne Dutney, according to Mr Parfitt's advice to Sue. I have asked Sue to document her conversation.*

Pausing there, that's the end of the first paragraph. Above that first paragraph there are some words inside a box across the top the page?---Yes.

Can you make out any or all of those?---Something "is not to address the staff". 20

It's a fair bet it's a reference to Peter Coyne, isn't it? ---Yes, I believe so.

Yes, okay. Can you read on from the paragraph beginning 15/2?---15/2:

*Discussed latest situation with Ian Peers. Peter Coyne is asking for four days' leave. Options: special leave full pay/worker's compensation/sick leave (he has a certificate). I advised he will need to apply.* 30

Now, can I just ask you to stop there for a second? Why would you advise Ian Peers that Peter Coyne would need to apply for leave, because Ian Peers would surely know that? He was a higher up officer of the department than you, wasn't he?---Yes.

And you weren't Peter Coyne's manager in line of authority, were you?---No.

Why did you tell Ian Peers that he would need to apply for leave?---I can't answer specifically other than I think Ian was telling me that Peter has asked for leave and these were a number of options and I confirmed that he would need to put in a formal application. 40

Can I posit for your consideration this: that note, "I advised he will need to apply" perhaps portrays or throws a window upon the manner in which you saw yourself in the

department at that time and I posit for your consideration  
this: that you saw yourself as a fairly powerful figure?  
---No, I didn't.

1

And that you, I will posit for your consideration,  
perceived your position to be in fact in reality - leaving  
aside the legal or the public service niceties of it, you  
perceived yourself to be superior to Ian Peers?---No.

Okay?---Definitely not.

All right. Go on?---"I advised" - sorry:

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*Ian has told Peter he can take leave. This will mean he  
is due to start on the project next Wednesday. Anne  
Dutney is on duty today. Ian is going out to see her  
(Peter told him Anne wanted to speak to him). Peter and  
Anne concerned about the senior staff -*

"Dropping their bundles"?---"Dropping their bundles,"  
thank you.

That's okay?---And then I have a line down to, "They had a  
planning conference only two weeks ago."

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Okay?

*---Ian advised that Peter has requested to address  
senior staff next Tuesday with Ian in attendance. Ian  
approved. Anne Dutney knows about it. George had no  
comment. Staff are angry over what has happened and Ian  
believes there will be resignations. I counselled that  
Peter should not be allowed to address staff: (1) he is  
now on a special project and has to divorce himself from  
the role of manager; (2) he cannot address staff whilst  
on leave. I advised that he should at least talk to you  
before allowing Peter to proceed as planned.*

30

Who was the reference to "you" to? It's either Ian Peers,  
isn't it, or someone else?---Yes. I would think Ian Peers.  
I can't think of who else it would be.

So here there's a note that suggests that, as a subordinate  
officer, you were counselling or advising a superior  
officer about the wisdom of his decision to permit Peter to  
address the staff?---Yes, it sounds that way.

It does, doesn't it?---It sounds that way. My thought  
would be that it would have been a cordial conversation  
about what was happening.

40

I'm not suggesting that there would necessarily have been  
any animosity between you and Ian Peers?---No.

But what I am suggesting to you is that these notes do demonstrate that a person occupying a lower position in the public service was by virtue of the fact that he was attached to the Office of the Director-General able to wield considerable influence in the Department Family Services?---I understand what you're saying.

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See, to be blunt about it it really comes down to this, doesn't it, that - and you've been in the public service for a long time, or have been, had you?---Yes.

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Those people that enjoy the grace and favour of the powerful can themselves be seen to be powerful, can't they?---Yes. 1

And sometimes those people who are seen to be powerful may not in reality have all that much power, but they can push the boundaries of their authority a bit because they know they've got someone like the director-general behind them? ---That may be so, but that's not my nature.

COMMISSIONER: But you definitely had her ear, didn't you? ---I definitely had her ear, yes. 10

MR COPLEY: And you counselled or advised Ian Peers to - in an effort to get him to undo his consent to Peter Coyne addressing staff?---Because that was the instruction that Ruth Matchett had given previously.

I see. So why didn't the note just say, "Ruth Matchett said he's not to address the staff? She's not copping him speaking to the staff, the union better tell him that"? ---It's just the way I recorded it.

Okay. Go on, please. I think you were beginning to read from the second-last line?---Right. 20

*Ian advised that he would prefer to tell Peter it is his decision not to let Peter address the staff, rather than have to say, "It is a direction from Ruth."*

Right?---"Carmel rang to say" - that is Carmel Finn.

Thank you. And who's she?---Carmel Finn was the director of information services, my previous line manager. 30

Okay?

*---Carmel rang to say that she has heard that Ian has told Tim that he can expect resignations and that he probably would not be able to manage the situation. Sue Horten advised Carmel that she has always had concerns about Peter. He has been known to threaten violence and once said he would "punch" Afzul.*

Punch who? Afzul?---Afzul. Afzul Yacob was a senior child care officer within the department. 40

Okay. Is that A-f-s-a-l?---A-f-z-u-l.

Z-u-l. Okay. Now, who was Sue Horten?---Sue Horten was a senior officer of the department. She may have been in charge of freedom of information at that stage, I'm not certain. She had previously been a regional director.



Well, just on that point, they didn't have freedom of information laws under the National Party government, did they?---No. 1

They were introduced by the ALP government?---Yes.

Parliament hadn't sat - - -?---Right, okay.

- - - to pass any of those laws by this point, had it?  
---No.

So does that help in working out what role Sue Horten had in things at that stage?---She had been a regional director. I can't recall exactly what role she was having in the department at that time. 10

All right. The next line says, "Sue Crook"?

*---Sue Crook has had further contact with Kevin Lindeberg.*

Does it say "from" or "with"?---From.

I know I'm pedantic, but we will just get it exactly as we can, please?---I'm sorry, yes: 20

*from Kevin Lindeberg. He is not happy and won't accept that two actions are not coincidental.*

Do you know what that means, that he's not happy and that he won't accept that two actions are not coincidental? Do you know what that's a reference to?---I don't recall.

Okay?---I'm sorry.

All right?---"Further action anticipated but not sure what at present." 30

Now, is that a reference to something that Sue Crook told you that Lindeberg has said?---Yes, I believe so.

All right?

*---Barry Thomas, Crown Law, advised that there is no protection/privilege in the proposed Cabinet method. He says we've got to do it soon. Now that the documents are in our possession Crown Law have advised Cabinet Secretariat. Other suggestion from Barry, give documents back to Heiner. 2.30, saw Ian. He has advised Peter and Anne no address to staff on Tuesday. Anne advised she cannot do all the work alone but doesn't want to act as manager. Ian has instructed Anne to act as manager and Jeff Manitzky to act as deputy manager from 16/2/90 until Tim Evans commences duty.* 40

Okay. Now, if you look at the balance of those photocopied pages, are they in your handwriting?---No, they are Ruth Matchett's writing. 1

Are you able to read it?---I'll do my best.

What we might do at this point so that we keep these things separate, Mr Commissioner, is perhaps we can leave Mr Walsh's notes as exhibit 157 and we can have separated from exhibit 157 those pages that Mr Walsh regards as Ms Matchett's handwriting and we'll do something with those in the fullness of time. 10

COMMISSIONER: So we're going to reduce 157?

MR COPLEY: We'll reduce it in size, yes, to just Mr Walsh's notes.

COMMISSIONER: And should we mark what we're taking off 157 as for identification - - -

MR COPLEY: Yes.

COMMISSIONER: - - - so we know which is which? 20

MR COPLEY: Yes.

COMMISSIONER: All right, thank you.

MR COPLEY: So if we just tear off what Mr Walsh says is Ms Mathcett's notes, and I ask that they be marked for identification, and exhibit 157 can go back.

COMMISSIONER: Okay. Now, the four pages identified as being Ms Matchett's handwriting will be marked for identification 6, so MFI6. 30

ADMITTED AND MARKED: "MFI6"

MR COPLEY: Now, can you read out what she's written in these pages?---There's a date, 23 January with a question mark beside it, "Conference with Barry Thomas, Crown Solicitor's office. Mr H" - underlined - "not an officer: (a) no power to retain him; or (b) comes under 12," with an arrow beside it.

Yes?---"Section 12, treat as generalised. Appoint as a consultant. Result to investigate and" - it may be "report" but I can't quite read that. 40

Okay?---Then there's some wording on the left-hand side, "Must have" - something - "appointed" - I'm sorry, I can't read that.

So that's the writing that's sloped up the page?---Yes.

The three lines, yes?---And then underlined, "Issue is  
whether he can compel" - and then - "Heiner has no absolute  
privilege" - underlined - "only qualified privilege.  
Criminal Code should be" - sorry, can't read the next word;  
"indemnified", it may be, slash, "policy matter,"  
underlined. "Appoint officer to look at grievance. Second  
and then appoint under section 12, management issues.  
Crown law," bracket, "confirm not to start indemnify  
minister," in brackets, "proceed to cabinet. No real use.  
Unbiased," an arrow, "Destroy records," another arrow down,  
"on legal advice. Reply to Dutney and Coyne," then an  
arrow. Should I continue?

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Yes, please?---There is a box with bits crossed out and then it says to the right, "State archive," underlined, "Collected by Heiner," underlined, then there's a word "report" and I'm not quite sure what the next word is. Then it says, "Kevin, 24/1/90, 9 am. Chat with members yesterday JOYC," then an asterisk, "In a bind. Put something in writing. This may end concern. He's on tape as saying a grievance procedure. Want to see documents. Fighting legally," then an arrow to the words, "Court action," underlined, and then in a circle, "Talk to solicitors," then, "Department should have told them to use grievance procedure. Would like to talk to me."

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Okay, so that's the end of the second page, then the third page has got a word in the top right-hand corner and a date, hasn't it?---It says, "Heiner," and it's dated 19/1/90. There's a number of points here. Number 1, "Concerns raised with me. Number of staff, staff at centre, staff of" - and I can't read the next word, and then a plus sign, "POA plus class legal action." Number 2, "Concern," underlined. I'm sorry, I can't read the next word.

Yes?---Something "people", "alleges that process contrary to natural justice," then there's a bracket, presumably a number 3 that I can't see, "How does he see the process? No part of role" - I'm sorry, I can't read the next bit.

20

So go to the next line?---Okay. "Management and staff," in a box, "style and interaction of work." Then, "Facts finding." It then may say "cabinet". I'm not certain about that word either.

Yes?---"23/11/89, oral statement that she will be appointing an inquiry. Remandees at JOYC," brackets, "wrong", underlined, and then Mr Heiner's name and a telephone number.

30

So it's possible that - well, we know from other documents, don't we, and from your evidence, that Ms Matchett met with Mr Heiner on 19 January 1990?---Yes.

We also know that on 19 January 1990 an extract was forwarded to you, Trevor Walsh, from the collective minutes of cabinet of 23 October 1989?---Yes.

No doubt we'll ask Ms Matchett about this in fullness of time, but looking at that now, could it have been the case that you were asked to go and get that extract from the cabinet records of 23 October 1989 because of something Ms Matchett told you that had come from Mr Heiner?---It could very well be.

40

Even though her note says, possibly, "Cabinet 23/11/89." Okay, then the next - what was the next - yes, you told us about the phone number, then on the next page there's what looks like a telephone number from those days?---Yes.

1

Is this Ms Matchett's writing?---No. I don't know whose writing the word "Anne Dutney" - I don't know whose writing that is.

Is any of your writing there?---Yes, my writing is next.

What does it say?---It says, "Ruth, private phone number of Anne Dutney. She too would like a personal interview with you."

10

"Trevor Walsh," is it?---Signed Trevor Walsh on 11 January 90.

So that document does not follow chronologically from the page you read before?---No, it's even earlier.

Yes, okay. Is any of the other writing on the balance of that page Ms Matchett's?---The rest of it is Ms Matchett's writing.

20

Could you just read out what's written there, please? ---"Leanne, make appointment at 2.15 for Anne today." That's Leanne Kinleyside.

Yes?---"Aware that an allegation has been made. No opportunity to respond to allegation", then an asterisk, "Defamation: concerned an official inquiry and allegation. See situation" - sorry, I can't make out the next word, and then another asterisk, "Make allegations and remain anonymous."

30

Okay, well, thank you for helping us with those notes. We'll have those provided to the commission now. Could you just have a look at exhibit 160, please? I just want to ask you again to look at the handwritten notes to determine if any of them are written by you. I'll show you what it looks like?---The small writing at the top is my writing. Would you like me to read that?

We'll just get wherever else your writing is first as well. If you would just look through each page?---No, none of the other writing is mine.

40

Can you read out what you wrote in the small writing on the top of the first page on 160?

---4.30, 14 February 1990. I checked with Ian re JOYC. Peter Coyne rang Ian this morning and requested and was granted time in lieu.

Well, it says "TIL"?---"TIL", sorry.

1

Do you interpret that to be time in lieu?---"TIL" stands for time in lieu, sorry.

Okay?---There's something been blotted out.

Yes?

*---Rang in a distressed state and subsequently decided to take a day's sick leave. Jeff Manitzky has been advised by Ian that he is to accept the delegation of manager in Ms Dutney's absence today.*

10

So that's all you wrote on exhibit 160?---That's it.

Do you recognise the writing beginning immediately underneath your writing and going over the subsequent pages?---No, I don't.

Okay. That can be returned. I would like you to look at exhibit 161. That's a letter that has got your handwriting on it, hasn't it?---It has, yes.

20

And it's from Ian Berry to Ms Matchett - - -?---Yes.

- - - on 15 February referring to a telephone conversation had with you on 14 February and confirming his advice to the effect that you and Ms Matchett would be absent from Queensland until the end of this week. Was that conference in Hobart going to take the rest of the week, was it?---I can't recall, but it was for a few days.

Okay. Then it says:

*Mr Walsh did indicate to the writer of his intention to communicate with you to advise of our intention to commence court proceedings in view of the fact that against the wishes of our client he has been seconded to another section.*

30

That move being only after a discussion with Mr Heiner. Now, is it true that you told Mr Berry that you would pass on Mr Berry's communication to Ms Matchett?---I believe I did.

But is it true that you told Mr Berry that you would do that?---I think - yes, I believe I did.

40

All right, and then down the bottom there's a handwritten note from you, isn't there, which says, "Manager personnel services, for referral to Crown Solicitor as a matter of urgency, Trevor Walsh, 21/2/1990"?---Yes.

Now, can I suggest to you that again that file note there even demonstrates or portrays something of the position you occupied in the department at that time in the sense that you didn't send it to the Crown Solicitor? You didn't do that. You made a note for the manager of personnel services to do it. What do you say to that?---I was acting on Ms Matchett's directions and Sue Crook was handling some of those matters.

1

Ms Matchett saw it on 19 February 1990, if her initials at the top follow her previous practice?---Mm'hm.

10

And then you wrote on 21 February 1990 to Sue Crook? ---Right.

All right, thank you. That can be returned. Now, in that letter Mr Berry wanted a response to his letter of 8 February within 48 hours, didn't he?---He did.

I will get you to look at exhibit 163. I will need your help on this. You will see there's a letter there to Mr Berry referring to his letter of 18 February 1990 but this letter is dated 16 February 1990 and then there's another copy of it, each with a different notation at the bottom of it?---Yes.

20

Do you recognise on the first copy of exhibit 163 who the initials are above Ms Matchett's name?---I don't.

Look on the next page then. Does anything written on that copy of the document help? Do you recognise whose writing that is?---I would only be guessing.

All right. We won't get you to guess. That can be returned. Now, I would like you to have a look at exhibit 168 which you have got, I think, beside you. Do you have it?---Yes.

30

Yes?---The memorandum.

Okay. So this is the document that you describe in your statement at paragraph 17 as the second cabinet submission, isn't it?---Yes.

And you say that one was signed under the hand of Myolene Carrick and, indeed, the photocopy that is part of exhibit 168 does bear - does it bear her signature?---Yes.

40

And it says "M.A. Carrick for Ruth Matchett"?---Yes.

Is there any reason why on this occasion the cabinet submission was to be signed by Ms Matchett, whereas on the first occasion it was signed by Anne Warner?---That's because it's a memorandum and not a submission.

Okay?---Memorandums may be written - may be signed by heads of departments. 1

All right. That clears that up then, thanks. Now, I assume you have seen this somewhere before?---I have.

Now, did you see it on or about the date it is dated, 13 February 1990?---Yes.

Who drafted this document? Do you know?---Again I don't recall.

10

You were involved, according to file notes that you have read out in your handwriting, as tasked with the responsibility of preparing options for cabinet?---Yes. I believe it would've been written by Sue Crook.

Well, there are options set out on page 2, aren't there? ---Yes.

Why do you believe it would be written by Sue Crook? ---Well, Sue Crook had been actively involved in a number of the discussions with Ruth Matchett and she was the head of the HR area at the time.

20

Right. Now, how did Ms Myolene Carrick come to sign it? ---Myolene Carrick was filling in for Ruth Matchett because Ruth Matchett was interstate.

Had Ms Carrick had any involvement in the handling of the Coyne-Heiner issues apart from signing this document?---Not to my knowledge.

And you would know about it if she had, wouldn't you? ---Yes, normally I would.

30

Because you were the executive officer to the director-general?---Yes.

So the document is pretty routine until it gets down to the paragraph heading Issues, doesn't it? It tells the cabinet what they already know until it gets to Issues?---Yes.

And then it says that the fate of the Heiner material is yet to be determined and it says, "This is a matter of some urgency as there have been a number of demands requiring access to the material, including requests from solicitors on behalf of certain staff members." That's true, isn't it?---Yes.

40

And then options are set out and then it appears that on 19 February 1990, according to the decision, cabinet didn't rush into anything again, did it? It made a decision to defer a decision. Do you agree?---To the state archivist?



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Yes, to allow the secretary to cabinet to liaise with the state archivist?---Yes. 1

Right. Now, do you recall becoming aware of cabinet's decision to defer a decision pending that consultation? ---Yes.

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Okay. And how were you advised of that?---I've received a copy of the decision. 1

Right. Okay, thank you. That can be returned. I just want you to look at exhibit 170. We have attached to it that exhibit that I showed you earlier which was Ian Berry's letter to Ms Matchett referring to your phone call on 14 February where you then directed it off to Ms Crook but in terms of her title, just take it up with the Crown Solicitor?---Yes.

Then you'll see on the front of that there's a letter dated 22 February 1990 signed by Ms Matchett, isn't it?---Yes. 10

To Mr O'Shea, attention Barry - Mr BJ Thomas?---Yes.

Can you read that letter to yourself, please. Now, that letter says that Mr Walsh's recollection of his conversation with Mr Berry differs in part to Mr Berry's report of it but it doesn't bother to tell Mr Thomas or Mr O'Shea how it differed all why it was different?---Yes.

Do you have any idea now what Ms Matchett was referring to? ---No, I'm afraid I just cannot recall any longer. 20

Okay. Now, I want you to have a look at - you'll recall - I'll just check that I'm right on this, too - that Exhibit 168, which was the decision to defer a decision by a Cabinet until consultation with the state archivist was decision number 118 of 1990, but that the attached memorandum was number 117. Do you remember that from the documents, or do you want to check?---I remember the decision.

I'll just get you to look at 168 just to confirm it again. So the decision number 118 refers to submission number 117, doesn't it?---Yes. 30

Okay. Can I get you to look at this document, please, which is headed in bold Submission 117, Consequence of Option 4? Read that, please?---"Submission 117 - - -"

To yourself, sorry, just to yourself. I just want you to have a look at it?---Sorry.

Now, Mr Walsh, you did not draft that, did you?---No.

Because you did not have discussions with the Crown Solicitor - - -?---No. 40

- - - about the Libraries and Archives Act, did you?---No.

Do you know who drafted it?---Do you want me to speculate?

Well - - -

COMMISSIONER: You can go on likelihood?---Yes. 1

"Speculate" sounds like it's unreliable, but probability is based on somebody who knows and has experience, it carries a lot more weight than just someone off the street having a stab at something.

MR COPLEY: Well, can I invite you to make an educated guess?---My belief would be that this is a briefing note from the Premier's office of the Cabinet submission.

Yes. 10

COMMISSIONER: It's what it looks like to you having regard all your experience in the department?---Yes.

Including having seen similar documents from Premiers? ---Yes.

MR COPLEY: Can I have that marked for identification, please.

COMMISSIONER: That will be MFI 7. 20

ADMITTED AND MARKED: "MFI 7"

MR COPLEY: Mr Walsh, was that a common thing for the Premiers Department to make submissions to Cabinet about other department's submissions?---Yes.

Well, given that it's just an educated guess or a belief on your part that it's a Premiers Department document, you're not able to take it any further and make any educated guess as to who the author was, are you?---Not really. I can tell you who were the senior people up there at the time. 30

Who were the senior people up there at that time?---Kevin Rudd was the chief of staff and Jackie Byrne was running the social policy unit.

Yes?---So Jackie Byrne would quite often, in relation to Cabinet submissions, ring departments and ask information and then either she or one of her staff prepare their own briefing notes to the Premier about Cabinet submissions.

Yes, okay. And indeed if you were to look at exhibit 168 under the heading Options there were in fact four options signed off by Ms Carrick, weren't there? ---Yes. 40

And the fourth one was referral of the material to Cabinet for noting?---Yes.

And I'll just get you to look at this document, which  
chronologically I should have shown you earlier this  
morning and I'm sorry, I apologise for overlooking it.  
Now, that's headed Honourable Minister, isn't it?---Yes.

1

And it says Submission Number 100, doesn't it?---Yes.

And if we were to go back - I'll put this to you and if I'm  
wrong someone will object - that exhibit 151, which  
concerned Cabinet decision number 101 was a decision  
referable to submission number 100. Okay?---Yes.

10

So if you look at that document, which is three pages long,  
it sets out a series of events by way of a background right  
up until 19 January 1990 when Mr Heiner advised of his  
intention not to continue. And then towards the end it  
refers to Ms Matchett's letter to Mr Heiner of 7 February  
1990 and what the plan is. Can I suggest to you that this  
was a document - or can I suggest to you that this is a  
document that was prepared in the Department of Family  
Services?---Yes.

Do you know who prepared it?---No, I don't. Not me.

20

30

40

Not you, okay. Well, whoever prepared it must have had access to departmental files to be able to put dates down for various events, mustn't they?---Yes.

1

Have you seen a document like this before?---Yes. It's quite common for submissions from a department to have a briefing note to the minister about the submission which would be background information for the minister to use.

So the minister may or may not refer to it if the minister has to actually make some oral submission to cabinet about her written submission?---Yes.

10

I'd ask that the submission addressed to the Honourable the Minister, submission number 100, be made a part of the cabinet exhibit - - -

MR HANGER: 151.

MR COPLEY: What was it?

MR HANGER: 151.

MR COPLEY: 151. Part of exhibit number 151, Mr Commissioner.

20

COMMISSIONER: Is that MFI marked, that one?

MR COPLEY: No.

COMMISSIONER: No. Well, I'm going to mark it MFI then I'll put it in.

MR COPLEY: Okay.

COMMISSIONER: No, that's not going to work, because no-one is going to know what it was anyway.

30

MR COPLEY: Well, perhaps, as Mr Hanger helpfully suggests, we could make it 151A.

COMMISSIONER: Yes, I think that might be better. I'm going to make submission number 00100 headed John Oxley Youth Centre Investigation exhibit 157A.

MR COPLEY: No, 151A.

COMMISSIONER: Or even better, 151A.

40

ADMITTED AND MARKED: "EXHIBIT 151A"

MR COPLEY: I apologise to you for getting that out of order?---That's fine.

It doesn't make it any easier. If you would just bear with me for a minute or two, Mr Commissioner.

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I want you to look at exhibit 180 to see if you know who wrote this document, please. To help you, you will see in paragraph 1 it says, "Matter considered by cabinet on two previous occasions." Did you write it?---No.

1

Do you know who did?---No, I don't really know who wrote it.

Do you have an idea?---I would suspect again Sue Crook, although depending upon the timing of it it may have been written by Don Smith at that stage.

10

Okay, well, cabinet made its next decision on 5 March 1990? ---Yes. Getting a bit soon still for Don.

Don, despite your belief that he was around the place, of which we find some expression in your statement, according to your diary didn't start - - -?---It's too early.

Yes, so it can't be - - -?---So much more likely Sue Smith or one of her staff.

Okay. Now, this thing called - - -?---Sue Crook, sorry; Sue Crook.

20

This document which is addressed to the Honourable the Minister and concerning material gathered by Mr Heiner, how would you characterise it? What is it in the nature of? ---I believe it's another briefing note for the minister.

It's not necessarily one to go to cabinet, is it?---No, it wasn't to go to cabinet. This was a briefing note for the minister just to have information with her.

Could you look at exhibit 181, please? You will see that this is the cabinet decision number 162 of 5 March 1990 which decided that the Heiner material be given to the state archivist for destruction. Allied to that is submission number 160 of 1990 which is dated 27 February 1990 and bears a signature, doesn't it?---Yes.

30

Whose signature is that?---This is Anne Warner's signature.

Anne Warner's. Now, who prepared this document?---Again, I don't know who would have prepared it.

Did you prepare it?---No.

40

Where were cabinet submissions ordinarily prepared in the Department of Family Services in January and February of 1990?---Most of them would have been prepared somewhere within the director-general's office or in the case - if they were prepared by Sue - no, they would have been prepared in the director-general's office, because we had specific paper to use.

So the only people in the director-general's office were the two secretaries, you and the director-general. Yes? ---There was another executive officer and a messenger.

1

Okay, well, now - - -

COMMISSIONER: Neither of whom you can remember?---Yes.

So significant you can't remember who they are.

MR COPLEY: You were the number 2 in the director-general's office, weren't you?---Yes.

10

In the department. That stands to reason, doesn't it, because you can't even remember the other two people and you were higher up than the secretaries. The number 1 was the director-general?---Yes.

So if you didn't prepare this document - - -?---Sue Crook.

You say Sue Crook. What about Ruth Matchett?---Ruth Matchett may have. I - yes.

COMMISSIONER: Why do you say - why did you say Sue Crook instead of Ms Matchett initially?---Well, Ruth was using Sue for advice in a number of the industrial relation issues associated with this so Sue was doing - writing for her, but Ruth Matchett may very well have prepared it herself also.

20

MR COPLEY: Thank you. That can be returned. Could you look at exhibit 190, please? Does that document have your signature on it?---It does.

You and I both know what it says. Can you explain to me first of all whether it is an entirely - and I'm not suggesting it isn't but I just want to find out if it is, an entirely accurate description of what happened with the documents?---I believe that's entirely accurate.

30

All right. So in your presence Ms Kate McGuckin from the state archivist's premises office destroyed the relevant material from the Heiner inquiry?---Yes.

That means you were in a position to see what it was that she destroyed?---Yes.

Can you describe to us what it was that Ms Kate McGuckin destroyed?---It was a series of audiotapes and some computer files. There may have been some papers but very, very little. I cannot recall what papers there might have been.

40

The audiotapes, were they microcassette tapes or ones that - - -?---No, my recollection was that they were the larger tapes, the - call them C90s or C60s.

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Did either you or Ms McGuckin listen to what was on them?  
---I didn't. Ms McGuckin had listened to them, along with  
Lee McGregor, previously.

1

How do you know that?---Because she told me.

Okay, and did Ms McGuckin tell you what was on them?---No.

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Did you put the computer discs into a computer to see what was on them?---No.

1

Did you read any of the paperwork that you thought might have been there?---No, the only other paperwork that was there were annual reports and some policy documents which really weren't part of Mr Heiner's work and they weren't destroyed. They were returned back to files.

So as far as you know, the only objects that came from Mr Heiner were not paper-related objects but audio cassette tapes or computer discs?---That's correct, yes.

10

So how did Ms McGuckin destroy them?---The tapes were just pulled out of the cases and we put them through the shredding machine and similar with the computer discs. We just put them through the shredder.

All right.

COMMISSIONER: What about the casing?---The cases we threw in the - the empty cases we threw in the rubbish bin, wastepaper basket.

20

MR COPLEY: These documents were destroyed by the state archivist in your office?---Yes.

And your office was the seventh floor of Family Services? ---Yes.

And that was where Ms Matchett was?---Yes.

Why were they destroyed there rather than just somewhere else like out at the State Archives premises?---The state archivist rang me and said, "We're going to destroy the documents," and did we - they didn't have - they didn't have a shredder and could they use ours or she asked me did I have a shredder and I said, yes, I did.

30

When Ms Matchett came to your office, did she come accompanied by someone else?---Ms Matchett?

Sorry, Ms McGuckin?---Ms McGuckin?

Yes?---Not that I recall, no.

So when she arrived that day with the material, she was on her own?---Yes.

40

And how was she carrying it? Was it in a box?---In a box.

Was the box sealed when she arrived or unsealed?---I can't recall. It was closed but I can't recall whether it was sealed or just folded in.

COMMISSIONER: You're a very busy man. Why would you take time out of your day to supervise what would, generally speaking, be a fairly routine operation by an archivist? ---Simply because Lee McGregor asked could they use my shredder. 1

Sure, but you didn't have to be there while they did, did you?---It was in my office.

Right, but you played a role. You didn't just sit there and do your work, did you?---No. 10

MR COPLEY: Wouldn't you have said, "Well, look, there's plenty of shredders here in Family Services. Just come on in. I'll contact somebody and tell them you're coming and you can shred it downstairs"?---I could have, yes.

There must have been some reason why - - -?---Only because Lee McGregor asked me could she do it there.

Okay. Well, I suggest to you that Ms McGuckin was conveyed from the State Archives office to your office by Mr Littleboy from the cabinet office?---Right. 20

What do you say to that suggestion?---I read that somewhere previously.

Do you have first-hand knowledge of that one way or the other?---No.

Have you ever discussed it with Mr Littleboy?---Not that I recall.

Did Ms McGuckin tell you how she got to your office?---I don't remember. 30

Now, why was it necessary for you to make a notation for file saying, "It is confirmed that on Friday, 23 March Ms Kate McGuckin destroyed the relevant material in my presence"?---Well, I thought it was important because that was the decision of cabinet and because I'd been a witness, I thought it was important to record the event.

Why was it important to record that Ms Kate McGuckin did it?---Because she was the representative of the state archivist and that was the cabinet decision.

So did you regard it as important that the destruction be done by someone from the state archivist's office?---Yes. 40

And was it important to you because the cabinet decision was that the records were to be handed to the state archivist for destruction under the Libraries and Archives Act?---Yes.

You say that Ms Lee McGregor contacted you and said they didn't have a shredder?---That's right.

1

All right. What time of the day was it that she called you about that?---I honestly cannot recall. The detective who interviewed me asked me the same question. I speculated that it may have been the morning but I honestly don't know.

Can I suggest to you that you seemed to portray a little bit of irritation with me when I asked you that question, yet here we have you making file notes on 2 April 1990 stating when and where and who destroyed the material? So you have gone to the trouble to make a file note of when, where and who?---Right.

10

And I simply asked a fairly innocuous question about how it came to be - - -?---Yes.

- - - that it happened to occur at your place?---Yes.

Did it occur at your office so that you could tell Ms Matchett, "It's all done. It's all been destroyed now. We don't have to give Coyne anything"?---No, no.

20

Did you and Ms Matchett ever discuss the difficulty or what difficulties there were just giving Mr Coyne a copy of or even just making a room available and someone to guard the documents while he read those documents?---No.

Did you ever discuss that possibility?---No, I've never had that conversation, to my recollection.

I will just be one more moment. I have no further questions.

30

COMMISSIONER: Mr Hanger?

MR HANGER: I don't envisage any questions, but I would like to reserve my rights in respect to that.

COMMISSIONER: Thank you. Mr Harris?

MR HARRIS: I have no questions, commissioner.

COMMISSIONER: Mr Bosscher?

MR BOSSCHER: Commissioner, I do have some. Unfortunately I haven't had the ability to finish reading the transcript of the balance of the evidence-in-chief that was given on Friday. Could I ask your indulgence to take an early luncheon adjournment and I can finish reading that over the break and then I don't anticipate being too long with Mr Walsh.

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COMMISSIONER: Yes. Is that okay, Mr Copley?

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MR COPLEY: That would be okay, but one more question has occurred to me and now would be a good time to ask it, I would suggest.

I just want to clear something up with you, Mr Walsh. In paragraph 20 of your statement you said that you just have it in your mind that Derman Roughead, an executive officer in the department, might have been the man who fetched the box from Mr Heiner?---Mm.

10

How reliable is that recollection?---Not very.

Not very?---Not very; I tried to remember how the documents got to my office from Mr Heiner and I can recall at some stage Mr Roughead - - -

Is it Roughead, sorry?---Roughead carried the documents. Now, I think it would've been picking them up from John Oxley and bringing them into the office because I was aware that Ken Littleboy had transported Kate McGuckin to bring the documents from the cabinet office back.

20

Okay. Now, Derman Roughead: is he still around? Do you know?---I don't know.

All right. Thank you, Mr Commissioner.

COMMISSIONER: Yes, thanks. All right. We will adjourn now until - I might make it 2 o'clock, if that's okay with everybody today. I have just got something to deal with that will take me a little bit longer than normal.

THE COMMISSION ADJOURNED AT 12.33 PM UNTIL 2 PM

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THE COMMISSION RESUMED AT 2.05 PM

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COMMISSIONER: Mr Bosscher, are you ready?

MR BOSSCHER: Yes, commissioner.

COMMISSIONER: Ready to go. Excellent.

MR BOSSCHER: Yes, thanks.

10

Mr Walsh, I don't have many questions for you. You were taken at length through the documents very thoroughly by Mr Copley but I just want to tidy up some things if I may and perhaps even summarise a little bit so that I fully understand the evidence that you're giving. Firstly, as I understand your evidence, you effectively inherited what was known as the Heiner inquiry and the great bulk of it had been concluded before you took the position that you took?---Yes.

It was really left to you, as I read the material, to deal with the ramifications of the shutdown of the inquiry. Is that correct?---Yes.

20

Your earlier evidence was that Mrs Matchett was handling this matter very personally. She had dealt with a lot of the issues surrounding Heiner herself?---That's correct.

Was there any particular reason for which you're aware as to why she took such a personal interest in it?---I think it was simply that she was the new head of the department and saw that as an important issue, along with a lot of other things, that she felt was her responsibility to make decisions upon.

30

I'll ask you to comment on this as a statement. It's been my impression hearing you give evidence today and reading through the relevant material that this matter seemed to occupy a very disproportionate amount of the department's time. Would you agree with that?---It did take quite a lot of time, yes.

The department was an extremely large one?---Yes.

The government had just changed, obviously. You had a new minister in place, a new director-general, but from reading all of this material it seems as though the Heiner inquiry and the John Oxley Youth Detention Centre certainly in the early days played a significant - or took a significant amount of your time and Mrs Matchett's time. Do you agree with that?---It did take a lot of time, yes.

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COMMISSIONER: Were you the only one incoming who had worked with Mrs Matchett before on - - -?---At that time, commissioner, yes. 1

Yes?---She was still selecting her team.

So after that would you say you were her right-hand man? ---My role was - it was an important role, but it was more managing the administration type things within the department rather than the policy type issues.

So you were the one who got things done and not who thought about getting it done?---Yes, coordinating. 10

Is that the difference between policy and implementation? You actually do it?---I would think so.

Yes, thanks, Mr Bosscher.

MR BOSSCHER: Thank you, commissioner.

Mr Walsh, if I understand the chronology correctly, after the first submission went to cabinet you had a telephone call with the solicitors representing Coyne and they clearly informed you by virtue of the memo that you've written that the potential of litigation was certainly alive. Do you agree with that?---Yes. 20

Clearly in your mind, given the note that you wrote and some other things that appear in cabinet submissions, the potential of legal action was something very much at the forefront of your mind?---Yes.

Also the mind of Mrs Matchett?---Yes.

The pending or potential legal action was communicated to cabinet. Do you agree with that as well?---Yes. 30

In a document called the submission to cabinet, the second of the three. So everybody was aware that there was the potential of legal action forthcoming. You need to verbally answer, sir. This is being recorded?---Sure, sorry.

I can see you but the lady who has to type this, she can't. It seems patently clear too that the focus of Mrs Matchett was to find a way to make sure that these documents did not get delivered to Mr Coyne or his solicitors. Would you agree with that?---Yes, I'm not sure that that's the exact situation. My understanding is that Mr Coyne had been asking for the documents. They had been passed to Mr Heiner and Mr Heiner had made a decision not to make the documents available to Mr Coyne. 40

Yes, and some other things go on but ultimately they end back up under the care and control of the department?  
---Yes.

1

It seems to me, and this is the proposition that I'm putting to you, that the intention of Mrs Matchett was that those documents not be made available to Mr Coyne and his solicitors. Do you agree with that?---Ms Matchett had sought legal advice and she was following the legal advice that she had been given.

What I'm suggesting to you is that she was seeking mechanisms to ensure that those documents were not released to Mr Coyne?---I wouldn't put it that way, that she was seeking mechanisms. We were certainly faced with a situation of some documents that were left over from an inquiry that was not going to have an outcome.

10

No, and nobody really knew what to do with them. You agree with that?---That's right.

Different scenarios were posited as to ways that they could be dealt with?---Yes.

20

One was to destroy them. Do you agree with that?---Yes.

One seems to have been a misguided endeavour to potentially turn them into cabinet documents and protect them that way?  
---Yes.

So what I'm suggesting to you is the end game in Mrs Matchett's mind - - -

MR HANGER: My friend has asked this question and he cannot speak to Mrs Matchett's mind.

30

MR BOSSCHER: What were the specific instructions Mrs Matchett gave you in relation to the documents?---In what context?

In how to deal with them. Was the instruction something like this - and this is my proposition - "I don't want those returned so help me find a way that we can protect them"?---No, we never had a conversation like that.

Never had a conversation along those lines?---No.

Whose idea was it to see if they could be turned into cabinet in confidence documents?---My best recollection would be that it would have come from the crown law office as one of the options for what to do with the documents.

40

When it came time to destroy these documents the young lady from the archivist's office rang you because you had a shredder and came to your office. Do you agree with that?  
---Actually, it was Lee McGregor, the archivist, who rang

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me, and it was Lee McGregor and Kate McGuckin who had looked at the documents and then it was Kate McGuckin who came and destroyed the documents.

1

You know they had looked at the documents because they had told you that?---Yes.

Had you had a number of conversations with them post - - -? ---No.

No?---No.

10

How many times had you spoken to McGuckin?---I don't think I'd spoken to her before she came to the office.

What about the other person that you mentioned, McGregor? ---Lee McGregor spoke to me in relation to whether I had a shredder. I'm just trying to think if she had any other conversation. She had one other conversation, because Peter Coyne had been wanting to talk to her and I'd suggested to her that it would be better if she simply referred Mr Coyne back to me, because we were dealing with the crown law office and seeking their advice on issues.

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Not only were you seeking their advice but I think you told us that Mr Tait was seeking their advice?---That's true. 1

Separately from yourself?---Yes.

Also somebody else from the Department of Premier. Is that correct, or did I mishear that?---I can't recall. There may be someone from the cabinet office who was seeking advice, but I can't recall that.

When you got the call asking if they could come to your office to destroy the documents, did that surprise you?---I wasn't expecting that they would want to destroy them in my office. I had no intention to do that because the decision from Cabinet was that they were to be destroyed by the archivist. However, the archivist just explained to me that they didn't have a shredder and so she asked me did I have one and could they use it. 10

What I don't understand, what doesn't make sense to me - and I'll ask you to comment on this - is why did they call you, the number two at the director's office, about this issue? Why were you the go-to person in their mind? ---Well, I think it was Ken Littleboy from the office who had taken Ms McGuckin to my office and there had been discussions between the Cabinet office and Ms McGuckin's office about the shredding of the documents. So she would have been aware that I was the point of contact within the department. 20

And where were the documents physically before being shredded in your office?---Before being shredded, were in the Cabinet office.

So I assume that the Cabinet office also has shredders? ---Yes, they would have. 30

And in order to get to you they've gone through Mr Littleboy from the Cabinet office?---Yes.

It didn't surprise you then that you were being brought into this particular activity?---Yes, I hadn't expected to have to be involved in the shredding of the documents, but it was simply trying to assist Ms McGregor when she contacted me and said they'd like to destroy the documents there.

And just so I understand, the documents were at the Cabinet office, so they would have had to have been picked up and brought directly to your office?---Yes. 40

They weren't in the possession of the archivist at the time?---No.

When you took over this particular matter how did you brief yourself on the Heiner inquiry and what was involved?---I must admit I can't recall exactly. I mean, I'm sure I read the documents that were available to me at the time. I would certainly have had conversations with the other senior people in the department but I can't recall specifically how I briefed myself.

1

You don't recall whether somebody gave you a folder of information or something along those lines?---No. I would have seen some documents. I saw the list - the summary list of complaints from people that had been given to Mr Pettigrew previously, so I was aware of that.

10

You had a conversation you record on your statement with the then Crown solicitor, Mr Ken O'Shea and you quote him directly, "I recall his words were, 'Let them litigate if that's what they want to do'"?---Yes.

They were the exact words that he used?---Yes.

Having worked for him myself, he was a fairly rambunctious sort of a personality, you would agree?---I would agree, yes.

20

And called a spade a spade?---Yes.

Who else was present for that conversation?---No-one.

It was just the two of you?---Just the two of us to my knowledge.

To your recollection?---Yes. There was no-one in my office and I was speaking over the phone to Mr O'Shea.

After the documents were destroyed did you speak further with the solicitors acting on behalf of Mr Coyne?---Yes.

30

Were you the one that told them that the documents had in fact been destroyed?---No.

Are you aware who told them that?---No, I don't know who told them.

Do you recall a phone conversation with Mr Berry after the documents had been destroyed where he's expressed to you his disappointment that that's occurred?---I do.

40

And suggested that the department may be in a lot of trouble?---Yes.

I'm just going to finish with - to clarify this particular point with this question: when you helped - physically helped feed those tapes and computer discs into the shredder you were aware that Mr Coyne and his solicitors wanted copies of those documents?---I was aware.

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And you were also aware at the time that you were shredding that material that they were contemplating legal action? ---They made a number of indications that they would take legal action, but to my knowledge no legal action had been taken. 1

Thank you, Commissioner.

COMMISSIONER: Mr Copley?

MR COPLEY: No further questions. May the witness be excused? 10

COMMISSIONER: Anything arising for you, Mr Hanger?

MR HANGER: Nothing.

COMMISSIONER: No, okay. All right. Thanks very much for coming. I appreciate you spending so much time in the witness box answering questions about things that happened so long ago?---Thank you.

You're formally excused. 20

WITNESS WITHDREW

MR COPLEY: Mr Commissioner, in December or November when I tendered exhibit 157 I said that because we didn't know who wrote it it should not be published.

COMMISSIONER: Yes.

MR COPLEY: Exhibit 157 as now reduced to Mr Walsh's handwritten notes have been satisfactorily identified and there is no reason why the contents of exhibit 157 can't now be published. And so I'd ask you to vary the order you made previously to permit their publication. 30

COMMISSIONER: The non-publication order in respect of exhibit 157 is revoked and I direct that it be published.

MR COPLEY: And if I could just inquire, I think I tendered and you marked as an exhibit Mr Walsh's statement on Friday. Okay. Okay, thank you.

COMMISSIONER: Thanks, Mr Copley. Yes, Mr Woodford.

MR WOODFORD: Mr Commissioner, I call Jeffrey Manitzky. Before Mr Manitzky is sworn in, Mr Adrian Braithwaite, solicitor at Gilshenan and Luton, is in court. He attends with Mr Manitzky and I understand is seeking authority to appear so far as is necessary. 40

COMMISSIONER: Any problem with that, Mr Copley?

MR COPLEY: No, Mr Commissioner.

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COMMISSIONER: Okay. Anyone else? Mr Braithwaite, welcome. You've got leave to appear. 1

MR BRAITHWAITE: Thank you.

**MANITZKY, JEFFREY** sworn:

ASSOCIATE: For recording purposes please state your full name and your occupation?---Jeffrey Manitzky. I'm retired and I'm - - -

COMMISSIONER: Good afternoon, Mr Manitzky. Welcome? ---Commissioner, thank you. 10

MR WOODFORD: Thank you, Mr Commissioner. May Mr Manitzky see the eight-page document that's been supplied to the Commissioner under his name?

Mr Manitzky, I've placed in front of you there a document. It appears to be a statement under your hand. Could you just confirm for the Commissioner that is the statement that you supplied?---Yes, that's the statement I supplied.

Right. I have some questions for you this afternoon about your statement, and more specifically about the John Oxley Youth Centre. From your statement I understand that you started working there in about 1987?---Correct. 20

You were employed as a psychologist?---Correct.

You'd come in from Sir Leslie Wilson?---Correct.

How long did you remain at the John Oxley Youth Centre? ---Till about end of 90 or beginning of 91, I can't remember exactly. 30

Okay. Turn to paragraph 5 of your statement there. You make mention of the reporting structures, if you like, at John Oxley?---Yes.

From that do I understand that there wasn't any manager of the professional staff, if you like?---That's correct.

If you were reporting to anyone, really it would be to the centre manager. Would that be correct?---Probably the deputy manager to start with then the manager, yes.

Right?---Either way, but I'd say the deputy manager first and then the manager overall. 40

Moving through your statement at paragraph 7 there, you make some mention of one of the managers, a Mr Peter Coyne?---Yes. 1

Now, from your observations of things, there were some issues going on at the centre during your time there concerning Mr Coyne, were there?---There certainly were, yes.

Do I take it from what you say in your statement you yourself didn't have any involvement in those matters? ---That's correct, yes. 10

So you were a spectator from the sidelines, if you line? ---Correct.

Moving forward to paragraph 11, I would like to deal with the topic of something we've heard about, the Heiner inquiry. From your statement, do I understand that appearing at the inquiry was very much optional?---Correct.

That you yourself elected to go and participate?---I did.

Now, did you supply a statement before you went to the inquiry or did you - - -?---No. 20

Right?---No, it was - - -

It was just speaking with Mr Heiner. That was the extent of it?---Correct.

On page 4 of your statement at paragraphs 14 through 16 you set out in some detail how that all took place?---Correct.

Mr Coyne didn't place any pressure on you one way or another to attend the inquiry?---No, he never placed any pressure on me to attend the inquiry; no. 30

Looking at paragraph 13 of your statement, I want to get a feel for the matters that you spoke with Mr Heiner about to make sure we're clear with that. It was all about staff training. Was that the burning issue for you when you saw Mr Heiner?---Staff training, yes, and developing the skills and stuff; yes, it was.

From your position you saw that was something that was lacking at that time?---Yes, I did. 40

And Mr Heiner coming along was a good opportunity for you to ventilate your concerns?---I saw it as an opportunity, yes, to go in and talk about the need for training and improvement in the staff, skills of the staff; yes.

Looking at paragraph 17 of your statement, the topic of sexual abuse didn't come up whatsoever in your discussion with Mr Heiner?---No.

And delving into something a little more specific, we'll refer to an incident, the Annette Harding incident, in a few minutes?---Yes.

1

That certainly wasn't something that you spoke to Mr Heiner about?---Certainly not, no.

On page 4 of your statement you refer to some of the specifics about how the meeting with Mr Heiner went? ---Mm'hm.

Do I understand that it wasn't a formal sort of setting in the sense of you were in the formalised setting of a courtroom today? You didn't have that level of formality? ---No.

10

From what you indicate there it wasn't a case that Mr Heiner was firing the questions at you?---No, he wasn't.

How was it? Did he just open it up for you to tell him what you wanted? How did it go?---Yes, I went in and started talking to him about what I thought was needed. I can't - yes, I mean, I walked into the room and there were two other people in there and myself and - - -

20

When you say "two other people", we have got Mr Heiner? ---Yes.

Were there two people in addition to him?---No, no; one more.

Okay?---Sorry, there were three of us in the room.

You note in your statement there a Barbara Flynn?---Yes.

She was there as well, was she?---Yes, that's my recollection.

30

I interrupted you there. You went into the room?---Yes.

There was yourself and two other personalities?---Yes.

Yes?---And I just started talking to him about what I wanted to raise with him about the need for training, you know, what training was available or wasn't available. The issue was it was very difficult to get training for staff. There were - you know, they had to do it in their own time. It was difficult to get off. There was no resources, much support or any of that sort of stuff so I just saw it as an opportunity to - - -

40

Right?---Yes, and talk about that sort of stuff, my recollection.

The conversation with Mr Heiner - that took place out at the centre, the John Oxley Youth Centre?---Yes, correct.

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MANITZKY, J. XN

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One thing from your statement there - about paragraph 14 you speak about - and this is the last few lines of paragraph 14?---Yes.

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You speak about Mr Heiner saying something about defamation?---Correct.

That must have been a shot out of the blue sky, was it? ---It was.

Something that was unexpected?---Yes.

10

How did that come about? You had had this conversation with the man?---Well, my recollection is he indicated to me that my evidence - what I told him may have been defamatory of - I assume of somebody. I mean, I can't - I can't recall the exact details of that conversation. I can remember that part because it obviously stuck in my mind, yes, so I just - that's what he said to me, yes. I'm assuming that it was in relation to something I'd said during that - well, obviously during that conversation.

So you went along. You were having what you thought was a frank conversation with Mr Heiner?---Yes.

20

And all of a sudden he's saying the word "defamation"? ---Yes.

And you're thinking "Wow"?---Yes.

Yes, I think we understand. Moving away from that topic of the Heiner inquiry, I want to move to an incident that we have heard some evidence about already concerning an Annette Harding. Now, you deal with this matter in your statement around about paragraph 27 on page 8. What we might do, firstly, is I'll get you to have a look at a document for me. Mr Commissioner, may Mr Manitzky see exhibit 241, please?

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COMMISSIONER: Right.

MR WOODFORD: While that's coming up we're going to deal with this particular incident, but I understand from your statement apart from this particular incident concerning Annette Harding you have no knowledge of any other sexual abuse at the John Oxley Centre during the time you were there?---No.

40

Now, I have had placed in front of you our exhibit 241. It appears to be a two-page letter or memorandum under your hand addressed to "P. Coyne, manager, John Oxley Youth Centre"?---Mm'hm.

Now, firstly, is that your signature that appears on the bottom of the second page?---Yes.

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Looking at that document, do you have any doubt whatsoever that you signed that document, as in that is your document?  
---Yes, that's my document. 1

Now, do you see where it says "Re educational outing 24 May 88"?---Yes.

I couldn't see a date on the document. We know it refers to something that's - some events, rather, from 24 May?  
---Yes.

My question is: do you have any recollection how long after that time you wrote that?---I believe I wrote it either that day or very soon after that day; probably on that - more than likely on that evening. When we got back from the excursion, I think we stayed around and wrote them. 10

I'm looking at the second-last paragraph?---Yes.

This may help you. Just in fairness to you I will point these matters out?---Yes.

It seems that after you came back to the centre with other staff and some of the - we'll call them "children"?---Yes. 20

Mr Coyne came along and there was a - he arrived at about 7.15?---Yes.

There seems to have been then a meeting between Mr Coyne, Ms Moynihan, Ms Mersiadés and yourself?---Correct.

Then you note you left at about 9.15 pm?---Yes.

Are you saying your recollection is you either wrote the document that night - - -?---Yes. 30

- - - or shortly thereafter?---Yes.

Now, do you know why you wrote that document?---Well, it would be normal procedure to write a report when an incident of this nature occurs.

Right?---So that would've been the standard procedure.

You note in the last paragraph - the second-last paragraph, sorry, "The decision was made that the suspicions of sexual activity would be investigated" et cetera?---Yes. 40



You yourself, did you have any further involvement in the investigation of those allegations?---No, I didn't. 1

You didn't?---No.

So this document that you've supplied which details everything that you had to do with it right up until the point when you'd gone home at 9.15 on the evening of 24 May, that was the extent of your involvement?---Yes, that would have been correct.

From your point of view it had been reported to the manager Mr Coyne?---Yes. 10

Did it appear - well, nothing may have appeared at all, but did it appear that Mr Coyne was taking over the investigation, if you like, or dealing with the incident? ---Yes.

Just bear with me for one moment, Mr Commissioner. Thank you, Mr Commissioner.

You note in your statement in paragraph 20 and thereabouts on pages 5 and 6 after this particular time, May 1988, you have been approached on two separate occasions, have you, by the media in relation to this Annette Harding incident? ---Yes; twice, yes. 20

One was a telephone call from a Mr Grundy?---Yes.

You set out in your statement there the questions and answers on that particular occasion?---Yes.

Then again in 2007 by a Mr Martin. Is that correct?---Yes.

You're a bit unsure of his name?---Yes, I am. 30

Thank you, Mr Manitzky. I don't have any further questions. Some others may.

COMMISSIONER: Thank you. Mr Hanger?

MR HANGER: No questions.

MR HARRIS: Yes, commissioner, I have some questions for Mr Manitzky.

Mr Manitzky, have you got exhibit 241 in front of you there still?---No. Thank you. 40

Can I take you to the bottom paragraph of the first page? Now, there you say, "Annette Harding and," something blanked out, "were standing up, embracing." Could you explain what you mean by that, or what was happening?

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MANITZKY, J. XN  
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---They were standing up, embracing, I'm assuming. My recollection of the day is very - - - 1

But you had a clear view of what was actually happening there?---Yes, it was like - as I said, they were standing up, embracing.

This was in all extent a youth centre for very hardened young children who had committed criminal offences. Is that correct?

MR COPLEY: That question is perhaps unfair to the witness given the number of years that have passed since he's worked there and in view of the evidence which we have heard that the youth centre contained two different types of children, those sentenced by the courts and those who had been put there by the department after having gained a care and control order over them for protective purposes. 10

COMMISSIONER: I'm not sure, Mr Harris, if I know from evidence which of the four or five youth detention centres in Queensland operating at the time were specifically intended to house the hardened element or what even that means. I think there was a diversity of people being housed at John Oxley, just as - and I thought Westbrook, if any of them, would have more fallen into the category you've mentioned. 20

MR HARRIS: I'll move on. That's - another question, your Honour.

COMMISSIONER: Yes, I think the adjectives are a bit - - -

MR HARRIS: Your recollection of that incident today, how would you describe it? Do you have a good recollection of it?---No, I don't. I have a very poor recollection of it. 30

When you did this report around the time of this incident - have you seen that report between then and now?---This report?

Yes?---Yes, I saw it - I think the first time I saw it was when crown law supplied it to me in about mid maybe 2005, 6, somewhere around that time anyway.

All right. I just want to go on - over on the first paragraph on page 2 you say, "My suspicions were aroused about possible sexual contact between the children"?---Yes. 40

Now, that suspicion, did that arise from the embracing or was there something else there?---I would have thought that occurred after when we were walking back to the carpark.

So that's when your suspicion started arising?---I would think so, yes.

When you got back to the carpark you told the other members of the group there about your suspicion?---Can I refresh my memory of that? 1

Yes, by all means?---I can't recall if I - I haven't - I can't find in here where I've documented that so I can't recall when I - I can't recall now when I did it. If I haven't documented it here then I can't recall when I actually spoke to them about it the first time.

All right. You then left the Lower Portals and then returned back to the John Oxley Centre?---Yes. 10

You reported to the manager there your suspicion of the sexual activity on that day?---Yes.

Can I just put something to you? Were you ever spoken to after that date you got back there that you were seen to yell out to the boys and Annette to cut that out?---No.

So nobody has ever put anything to you with respect to what you saw there?---No.

That there were other incidents happening around that place? If I put it to you that one of the young persons was seen masturbating there, what do you say about that? ---It's news to me. I never saw that and no-one has ever indicated to me that that was happening. 20

So all you saw was Annette and one of the other persons embracing there. I have no further questions, commissioner.

COMMISSIONER: Thank you. Mr Bosscher?

MR BOSSCHER: No, thank you, commissioner. 30

COMMISSIONER: Mr Woodford?

MR WOODFORD: May Mr Manitzky be excused, Mr Commissioner?

COMMISSIONER: Yes. Mr Manitzky, thank you very much for coming and giving your evidence. It's very much appreciated. You're formally excused?---Thank you.

WITNESS WITHDREW

COMMISSIONER: Mr Braithwaite, do you want to leave us? 40

MR BRAITHWAITE: May I also be excused, Mr Commissioner?

COMMISSIONER: Yes, of course. Thank you. Good to see you.

MR BRAITHWAITE: You too. Thank you.

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MR WOODFORD: If exhibit 241 could be returned to the custody of the commission and I'll tender Mr Manitzky's statement. There is nothing in there that I have seen that needs to be obscured and can be published as it is.

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COMMISSIONER: Thank you. 294, Mr Manitzky's statement.

ADMITTED AND MARKED: "EXHIBIT 294"

MR WOODFORD: Thank you.

MR COPLEY: I call Susan Tomsett.

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**TOMSETT, SUSAN ANNETTE** sworn:

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ASSOCIATE: For recording purposes please state your full name and your occupation?---Susan Annette Tomsett. I'm a sergeant of police at the domestic violence coordinate office at Petrie.

Please be seated?---Thank you.

COMMISSIONER: Good afternoon. Welcome?---Good afternoon, Mr Commissioner.

10

Yes, Mr Copley?

MR COPLEY: thank you.

Sergeant Tomsett, on 28 May 1988 you were in the Queensland Police Service, weren't you?---Yes, yes.

And you were a plainclothes constable working at the Ashgrove Juvenile Aid Bureau?---That's correct.

And you were working with a Detective Sergeant Janelle Podlich on 28 May 1988?---That's right.

20

So she was the more senior of the two officers at that time?---That's correct.

Now, you have prepared a statement for this Commission of Inquiry, haven't you?---Yes.

Could the witness see her statement, please?---Thank you.

Is that the statement that you have signed - dated and signed on 12 November 2012?---That's the statement.

30

All right. I tender that statement.

COMMISSIONER: The statement will be exhibit 295.

ADMITTED AND MARKED: "EXHIBIT 295"

MR COPLEY: Sergeant Tomsett, in the statement you speak about being detailed to go to investigate a matter at the John Oxley Youth Centre?---That's correct.

From Ashgrove?---That's right.

40

Was that within the geographical area that you ordinarily worked when stationed at Ashgrove?---No, it wasn't. It was out of our area.

At the time you gave the statement you cannot recall who asked you to go and attend to that job?---No, I can't.

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Does the position remain the same, that you don't recall how or why you were sent to do that job?---That's right. I don't who - I don't know who detailed us the job really.

1

Do you know why you were selected to go to investigate the matter?---The only reason I can think of is that Janelle and I, being two female police officers, were asked to talk to a female complainant, as often they often wanted female officers to attend.

Okay. According to your statement, when you got there, you spoke with people called Lorraine Hayward and Adolf or Rudi Pekelharing?---That's right.

10

Now, do you have a memory of speaking with those people or is that something that you've garnered from referring to your police notebook?---I really can't remember speaking to them. I just have that in my notebook as having spoken to them at the time.

You state that they told you that Annette Harding had made a statement that she had been raped by some fellows on a bushwalk at Mount Barney the preceding Tuesday and that she wanted to make a complaint?---Yes, that's as much as we knew about the complaint.

20

Okay, and you also knew that she had been seen by a doctor on Friday, 27 May?---That's right. They told us that when we went out to the centre.

Before you went to the centre or - - -?---No, when we were at the centre.

Okay?---I think that's when it was.

All right. Were either of those persons able to inform you of what the outcome of the doctor's examination had been? ---No, they didn't tell us and I don't know if they knew at that time.

30

So you then met with Annette Harding?---Yes, that's correct.

Do you have a memory of that now?---Very vaguely. I remember a young girl. I can't recall what she looked like or - but I do remember that we met her in - yes, met with her in a room.

40

Okay, and eventually did you have her sign something in your notebook?---Yes, I did.

All right. Could the witness see exhibit 253, please?

COMMISSIONER: Certainly.

MR COPLEY: We will just show you the document that we have actually made the exhibit, sergeant. You might have a copy of it there?---I do have a copy. 1

But we will show you the actual exhibit, if that's all right. Do you recognise the writing contained on exhibit 253?---Yes, that's my writing and other signatures at the bottom.

Well, it states that "I" - and the name has been blanked out there. Does the photocopy that you have in your possession include the name that has been removed?---No, it doesn't. 10

All right, but there's no doubt in your mind that the name that has been obliterated there was Annette Harding's name? ---That's right.

So:

*I, Annette Harding, spoke with Detective Podlich and Detective Sergeant Tomsett from Ashgrove Juvenile Aid Bureau in the presence of Lorraine Hayward and Adolf Pikelharing at John Oxley Youth Centre in relation to a sexual-type incident which occurred on Tuesday, 24 May 1988 at Mount Barney.* 20

Now, you have written the words "a sexual-type incident" there?---Yes.

Can I posit to you that they were not the child's words; that that was in fact your turn of phrase "a sexual-type incident"?---That was my turn of phrase.

Right. Do you recall now why you described whatever occurred as "a sexual-type incident"?---Not really, only that - because she didn't talk to us about, I wasn't able to ascertain from her what the extent of the assault or the offence was. 30

All right. So she had said nothing to you to indicate whether it was an act of penetrative intercourse?---No, she didn't speak to us at all about it.

So she said nothing to you to indicate whether she had desired the incident to occur or simply acquiesced in it or positively resisted it?---No, she didn't say anything. 40

It then goes on to state:

*I do not wish to make an official complaint to the police and I am happy with the police inquiries made in relation to this matter.*

Now, is that your formula of words "I do not wish to make an official complaint to the police"? Was that you

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summarising what you perceived to be her attitude?---Yes, and when we did have situations where we were asked to attend to talk to complainants and they didn't want to go further with it, that was pretty well a standard sort of notation in our notebook.

1

So that was a common way in which you would describe a person's decision not to make an official complaint to you? ---Yes, that's right.

All right, and then you asked the child to sign that?---I did.

10

And did she sign it?---Yes.

Okay, and then you signed it and Podlich signed it?---Yes, that's correct.

And Hayward and Pikelharing signed it?---That's correct.

Now, how long were you with Ms Harding for? Do you remember?---I really can't remember the length of time.

Well, what was your practice when dealing with teenage girls in those years? If you had been told by a responsible adult that the child has said something to the effect that she has been sexually assaulted or raped or whatever and you went and spoke with the child and they said they didn't want to talk about it, what was your approach in those days? Would you just say, "Oh, well, you don't want to talk about it. Here, sign this," or would you make some effort to engage with them?---We would make some effort to engage. We would've - I'm just trying to remember this case, but we normally go and speak to them and say, you know, "Such and such has told us that you've said this about what's happened. We're here for you to talk about it. Do you want to make a complaint or do you want to tell us about it?" It would be something like that.

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Yes?---Yes, I really can't remember the exact details, but we'd often say, "You're not in any trouble. We just need the information from you to continue with the investigation or complaint." It would generally be along those sorts of line.

So by speaking in the general, are you attempting to convey that you don't have any recollection now of what you actually said to Annette Harding or what she said to you? ---No, I don't; no.

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Now, you did not interview any of the staff from John Oxley who had gone on the outing, did you?---No, we didn't.



Why was that?---As Annette Harding hadn't made a complaint, we didn't have any further information to go on and there was no official complaint to sort of investigate. 1

It appears from material that has been tendered to this inquiry that there were some statements made by some of the boys that went on the outing. Well, there are statements - there was at some point a typewritten statement made by an adult staff member who questioned some of the boys and in that typewritten statement that adult says that some of those boys made some - I'll call them "admissions" to intercourse with Annette?---Okay. 10

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You're not aware of that?---No. We weren't aware of that at the time.

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Of course, it's possible that if you had asked for the names of staff who had gone on the outing then by questioning those staff members you may have found your way to the staff member who apparently allegedly had questioned the boys and received the admissions, mightn't you?---We would have, but as I said, we didn't have a complaint. We didn't follow up on it after she didn't want to talk about it.

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All right. And you say in your statement that after that you and Detective Povlich went back to the Ashgrove JOB office, that you wrote in your official police diary about the event and typed the details onto the daily occurrence log?---That's right. That was standard practice, to write in a diary, write it on an occurrence log that went into the city.

Okay. Now, do you have a copy of your diary there?---I think so, yes.

Could I just see that document, please? Okay, I'll give you that diary entry. And can you confirm to me that what you've got there is a photocopy which contains two pages from your official police diary but the only matters that have been reproduced in the photocopy are entries relevant to the Annette Harding matter?---Yes, that's what I wrote in my diary, a copy of the diary note.

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Okay. It is a handwritten note, isn't it?---Yes.

So that we can know what it says later, can you please read out all of the handwriting that is associated with the entry?---Okay:

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*Rostered 8 am to 4 pm (Povlich) correspondence: to John Oxley Youth Centre re allegations of rape by Annette Harding, 14 years by two male persons of the centre. Alleged to have occurred on 24/5/88 at Gold Coast Hinterland during bushwalk. She decided not to make an official complaint. Examined by doctor on Friday afternoon. Withdrawn complaint in the book. NFAD.*

"NF" what?---"NFAD."

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So that might mean, "No further action"?---"Desired."

"Desired." Okay. And who was that a reference to, your superiors, yourself or Annette Harding?---Annette Harding.

Okay. I tender Sergeant Tomsett's official police diary extract and for the sake of convenience ask that it be made exhibit 253A, that way it will be after her notebook entry that we've already discussed.

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COMMISSIONER: The diary notations from May 1988 will be exhibit 253A.

ADMITTED AND MARKED: "EXHIBIT 253A"

MR COPLEY: Can I just posit this for your consideration: that if a girl was under the age of 16 in those days and a person carnally knew her then whether she consented or not there was the possibility of an offence of unlawful carnal knowledge, wasn't there?---That's right.

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All right. No further questions, thank you.

MR HANGER: I have no further questions.

MR HARRIS: Thank you, Commissioner. I have some questions.

Good afternoon, Sergeant Tomsett. Could the witness see exhibit 244, please?

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This is a report written by Lorraine Hayward. Could you just have a read of that report, please? I'm (indistinct) with that, yes.

Thank you, Sergeant. Now, I know you didn't write this report and this is a report written by the person that was with you there. If I could take you to the first paragraph where she says in her report she was - and she's talking about Annette Harding here, "She was duly advised of her legal rights and what options there were." What legal rights did Annette have at that stage, considering that she was a complainant? And I know it's a long time ago, so could I ask you to think back, if you could recall something then?---I'm only thinking that she didn't need to make a complaint if she didn't want to. I can't recall what other legal rights Ms Hayward would be talking about.

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Because you weren't out there to question her for an offence or anything like that there where you have to go through the judge's rules and all that?---No.

This was a complaint?---She was a complainant.

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Complainant, that's right. So you had no real official thing other than try to take a complaint off her?---That's right.

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TOMSETT, S.A. XN  
TOMSETT, S.A. XXN

Okay, thank you. Could I have the witness see exhibit 250, please. Now, this is a letter that's dated - could I ask you to turn over to the second page? Now, this is a clinical examination. Have you ever seen that?---No. No, I haven't.

1

The date on this here, if you can see up in the top corner just before Clinical Examination: it says 27/5/88?---Yes, that's right.

Now, this document wasn't presented to you when you attended the John Oxley?---No, it wasn't.

10

Okay, thank you. Could I ask if the witness could see exhibit 241, please?

All right. Have you ever seen that exhibit before?---No, I haven't.

Just have a quick browse. Was that given to you at John Oxley?---No, it wasn't. I've never seen this before.

Okay. Could I ask the witness to see exhibit 248, please? ---Thank you.

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Have you seen that exhibit before?---No, I've never seen that either.

Okay. Could I also ask the witness to see exhibit 240? ---Thank you.

All right. Have you seen that exhibit before?---No, I haven't.

You can hand that back to the court officer now. On arrival at the John Oxley Centre that day were you given any other information other than what was conveyed to you that you've got in your diary?---No, I really can't remember any other information other than what I've said in the diary. We didn't see any other statements or anything like that.

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All right. With respect to the interview of Annette to get her to withdraw her complaint, who was present, do you recall?---I know just from my notes of my notebook that - - -

MR HANGER: If I could interrupt, my learned friend put in a mischievous statement there, "With respect to the interview to Annette to get her to withdraw her complaint." There's no evidence to suggest that that's a proper - - -

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COMMISSIONER: Is that why you interviewed her, to get her to withdraw her complaint?---No, Mr Commissioner. No. 1

All right, yes. I think that's a fair point.

MR HARRIS: Thank you, Commissioner.

After you'd left the John Oxley Centre did you do a criminal offence report on the matter?---I don't think so. I can't remember if we did or not.

You did, and you say in your statement that you did, a log entry on the matter?---In my diary, yes. 10

In your diary, and I think you - the daily occurrence log? ---That's right.

All right. There were no other reports or anything like that done on the matter?---No, I don't think so. Not that I remember.

Okay, thank you?---Because she didn't make a complaint, so we - - - 20

All right. Thank you very much. I have no further questions, commissioner.

COMMISSIONER: Thanks, Mr Harris. Yes, Mr Bosscher?

MR BOSSCHER: No, thank you, commissioner.

COMMISSIONER: Thanks, Mr Bosscher. Yes, Mr Copley?

MR COPLEY: No further questions. May the witness be excused? 30

COMMISSIONER: Certainly.

MR COPLEY: I call Edward Charles Clark.

COMMISSIONER: Thanks very much for coming. You're excused?---Thanks, Mr Commissioner.

WITNESS WITHDREW

COMMISSIONER: Now, Ms Tomsett's - the Tomsett statement: we've already tendered it, have we? 40

MR COPLEY: Yes, that was made exhibit 295.

COMMISSIONER: Can that be published?

MR COPLEY: It can be.

COMMISSIONER: It will be. Thank you.

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TOMSETT, S.A. XXN

**CLARKE, EDWARD CHARLES** affirmed:

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ASSOCIATE: For recording purposes, please state your full name and occupation?---Edward Charles Clarke, retired.

Please be seated.

COMMISSIONER: Yes, Mr Copley?

MR COPLEY: Could Mr Clarke be shown his statement, please? Mr Clarke, could you just peruse that document to confirm that that is a statement that you signed on 22 January 2013?---Yes, that's correct.

10

Thank you. According to the first paragraph of it, you worked for the Department of Families between 1988 and 1990?---That's correct.

Do you recall when in 1988 you started work there?---I was employed in the department from probably 1969 so I had continual employment in children's services and then family services.

All right. So the first paragraph doesn't accurately reflect your public service - - -?---No, it doesn't.

20

Period of public service employment in that department? ---No.

You started, you say, in 1969 under a predecessor department?---Yes.

You worked from 1969 until when there?---Probably 1997.

All right. By 1988 were you working as an industrial officer for the Department of Family Services?---Yes, I was.

30

Were you a person in charge of an area there or were you just one of many industrial officers?---I was one of probably two or three industrial officers in the department.

Your responsibility was to basically manage relationships between the director-general and his people and the employed public servants of the department. Is that one of the things you had to do?---Yes. It was managing, I suppose, human resources and employer-employee relations, disputations, yes.

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So if, for example, the head of an area office, a child safety office, somewhere said, "Look, I'm not happy with this subordinate in my office here in Toowoomba. He or she is not performing well. I want some action taken to have him or her terminated," were you the person in the

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CLARKE, E.C. XN

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department that might been brought into an issue of that nature?---Yes, I would. I would be brought in. They would contact me and I would provide advice to them as to what process would need to be followed for that to happen.

1

You weren't a lawyer?---No, I wasn't.

So the advice that you were providing, was that with reference to public service policies and procedures?---Yes.

And/or any legislation or regulations governing - - -?  
---Yes, under the legislation, industrial awards and the Public Service Management and Employment Act.

10

Now, you mention the Public Service Management and Employment Act. In 1988 that was a fairly new piece of legislation, wasn't it?---Yes, it was.

It had replaced an earlier statute?---Yes.

The Public Service Act 1922, was it?---Yes.

So it was a fairly venerable act?---Yes.

20

It had lasted for many years and then they saw fit to repeal it and start again?---That's right, yes.

In fact that pattern occurred a number of times - - -?  
---Times, yes.

- - - between 1988 and when you retired, didn't it?---Yes; bringing legislation up to date, yes, to suit the organisation at the time.

You had a lot to do with Mr Peter Coyne after he was appointed the manager at John Oxley?---I did.

30

Did you have anything to do with him prior to his appointment as manager at John Oxley, for example, when he was running the area office at Inala?---I would have been aware that he was running the area office at Inala and I probably had at that time, yes, met him on many social occasions outside of normal working hours.

In your statement in paragraph 4 you say that after he became the manager of John Oxley he, Mr Coyne, in terms of his decisions or management out there ended up generating a lot of work for you?---Yes.

40

You took the view that Mr Coyne should be removed from the John Oxley Centre?---Yes.

Do you recall - we've heard evidence that he was appointed there on or about 24 March 1988. Do you recall how soon after that that you formed this view that he should be

removed?---Probably not. It probably was - it could have been two to three months into his appointment at the centre.

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Yes?---I'm thinking that based on him needing time to get up to speed and to apply, you know, what he was seeking to do at the centre. He would have needed time to understand the John Oxley Youth Centre and therefore take what action he deemed necessary to change the culture within that centre.

So it could have been as early as only two or three months after his appointment that you took the view that he should be removed. Is that what you're saying?---Well, the lights might have started going on then in terms of the work that he may have been generating within the industrial relations section.

10

So are you now saying to me that it was really after two or three months in that role that he started generating work for the industrial relations section?---I'm guessing two to three months, yes.

Okay, because I'd suggest to you that two to three months in a role isn't a very long time for a person in a new job for you to be forming a view they should be removed. Would you agree with that?---Yes.

20

But his conduct, I'd suggest to you, wasn't as outrageous as all that, that within two to three months you thought, "This fellow should be removed"?---Yes. I'm thinking that the lights were probably starting to go on for me at that stage, yes.

So you were starting to have concerns after two or three months?---Yes, because, I mean, I was also aware that his appointment to the position at John Oxley Youth Centre was as a result of, I think, the organisation seeking to remove him from the position of manager at the Inala area office.

30

Okay?---So I think there was some history there also.

All right. Well, in any event, did things continue so far as you could see the way they had started after two or three months, that there was a lot of work being generated out of Mr Coyne's management of John Oxley?---Yes.

Was the work coming to your section from Mr Coyne contacting you and saying, "I want to remove X" or "I want to remove Y" or "Discipline X" or "Discipline Y" or was it coming from staff out there complaining about Mr Coyne? Which was it?---It was both. It was coming from Mr Coyne seeking to discipline staff in terms of their practices and as a result of that it was also then coming from the unions who were representing those staff members.

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CLARKE, E.C. XN



You state in your statement that Mr Nix and Mr Peers stood effectively fairly solidly behind Mr Coyne?---Yes, they did.

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So did you discuss with each of those gentlemen or both of those gentlemen the proposition that he should be removed? ---Yes, yes. Yes, I went directly to them and explained what was happening at John Oxley Youth Centre. I mean, they would've been aware of what was happening there, but I gave them my version of what I saw happening and therefore what this was likely to lead to and that he should be removed from the position.

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Do you recall when it was in terms of which year and which month of which year that you approached those men?---I think I said in my statement it might've been 1989.

1

Well, there was a meeting held on 14 September 1989 at which I would suggest you were present?---Mm'hm.

I will just get you to have a look at this document. It's exhibit 66. Now, I note that in your statement you state that you were shown that by the police but you don't specifically recall attending that meeting. Does that remain the position?---Yes, yes.

10

Okay?---I mean, we would've had - yes, I would've had regular union meetings.

This wasn't just a regular union - - -?---No, it wasn't; no.

It was a meeting involving a unionist, Walker - - -?---Yes.

- - - you and the highest levels of management, namely, Pettigrew, Nix and Thatcher, wasn't it?---That's right, yes.

20

Looking at that document now and bearing in mind it's dated 14 September 1989, had your representation to Mr Peers and Mr Nix about Mr Coyne needing to be removed - had it been made prior to that meeting or after that meeting or can't you say?---It would've been prior to those meetings - prior to that meeting, yes.

Because that document records, doesn't it, at the end of it in the last paragraph that Mr Pettigrew decided that there should be an investigation held into the goings on at the John Oxley Youth Centre?---That's right.

30

Were you supportive of his decision to hold an investigation?---Yes.

I'm no suggesting that you necessarily manifested it to Mr Nix or Mr Pettigrew that you were, but just in your own mind, were you supportive of an investigation?---Yes, I was.

Some terms of reference were drafted for the investigation which was conducted by Mr Heiner?---Yes.

40

Did you contribute at all to the drafting of the terms of reference?---I'd say no.

Why would you say no?---Because I think it would've been handled - when it got down to that type of matter, it would've been handled between probably Mr Pettigrew, Mr Nix, probably Col Thatcher and probably the union.

All right?---For Janine Walker to be there - I mean, looking at that meeting, that's where the pressure would've been coming from. 1

From the State Service Union?---For the inquiry, yes.

Yes. That can go back now, thank you. You know that ultimately Mr Pettigrew arranged for Mr Heiner to conduct the inquiry or investigation?---Yes.

Did you ever meet with Mr Heiner?---No, I don't recall. I would say no. 10

All right. Did you know Barbara Flynn?---Yes.

Did you ever meet with her in connection with Mr Heiner's investigation?---No.

Did you ever provide any information to either Ms Flynn or Mr Heiner relevant to matters at John Oxley?---No; I'd say, no, I don't remember providing any information.

In your statement at paragraph 34 you state that - perhaps if we go back a step, in paragraph 32 you say that the Public Service Management and Employment Act had regulations made pursuant to - concerning what could be placed on an employee's individual file. Now, what you're alluding to there, I'd suggest, is that any document adverse to a public servant could only be placed on his personal file if he had been given the opportunity to peruse or read the document and make any comment about it that he wished to make?---That's correct, yes. I mean, that was one of the things the PSME Act changed, that any information of that nature going onto an employee's file the employee would have needed to be made aware of that information, where prior to that information that was detrimental to an employee was being placed on their file and the employee not being afforded - - - 20 30

So under the old Public Service Act of 1921 or 22 there was material routinely, at least in your time, placed on an employee's file - - -?---Yes, yes, yes.

- - - even if detrimental to him without his knowledge? ---Yes, yes.

Now, you say in paragraph 33 that in the earlier days of the public service when it was a lot smaller you may have had instead of a personnel manager an administration officer for all matters pertaining to public sector employees. That person would have kept other information on employees. Some information on employees didn't automatically find its way to a staff member's personnel file. What are you attempting to convey there?---That many records were kept on employees in different locations and 40

therefore detrimental information on that employee could be kept at a location and the employee not be made aware of that information existing in relation to them.

1

So this innovation that the Public Sector Management and Employment Act brought in about requiring an employee to be aware of something adverse to himself before it could go on his personal file, do you know where the initiative came for that innovation to be introduced?---No.

Okay?---No.

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I just thought you might see as you were there in those days and an industrial officer, that's all?---It would've just been generated through the - yes, the higher echelons of the public service where they bring legislation up to date; yes.

All right. I'm just going to show you a document that you may never have seen before, but I want you to have a look at it to see if you can think back to the time it was written and consider whether or not it was a matter you were aware of at the time Mr Pettigrew wrote this letter. So I will show you exhibit 60. Just so that you know when you get it, it's a letter addressed to Mr O'Shea who was the Crown Solicitor and it was dated 20 June 1989. Mr Pettigrew was seeking legal advice from Mr O'Shea about what he could put on employees' files pursuant to the new regulations 46 and 65 of the regulations made pursuant to that 1988 statute. Now, Mr Clarke, did you know at the time that that was an issue exercising Mr Pettigrew's mind at all?---Well, it was written by Alan Pettigrew.

20

He signed it?---Yes.

Who knows who drafted it for him?---Yes.

30

You may have. I don't know?---Yes, well, I'd say that's probably something - sorry, Col Thatcher signed it. It's probably - yes.

Sorry?---It was probably - it was either emanated by Col Thatcher or could've been emanated by me.

You say that Col Thatcher signed it?---Mm.

Isn't that Alan Pettigrew's signature down the bottom on that letter?---I'd say that's Col Thatcher's signature.

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Okay?---Yes, that's Col Thatcher's signature.

Okay. So he might have signed it for Mr Pettigrew?---Yes, that's right. 1

But the position remains that either - - - ?---Yes.

- - - Mr Thatcher drafted this for him to sign or you did? ---Yes.

So was it - - - ?---I'd say if it was me my name would probably appear on the letter, yes.

All right. But was it an issue of concern to the department about how to store or where to store people's personal information - - - ?---Yes. 10

- - - under the new regime?---Yes, exactly.

Okay. That may be returned?---Yes.

Thank you. And can the witness see exhibit 61 because this, I'd suggest to you, was Mr O'Shea's answer, and I just want to know whether or not you ever saw this letter come back from the Crown Solicitors office?---I mean, I would have seen it. Something like that would have come through to me. 20

You don't specifically recall it now, though?---No.

Okay. We'll get you to look at - we'll take that back and give you exhibit 63. This is a letter to Mr O'Shea on the same subject again at raising another issue or an allied issue. It bears Mr Pettigrew's signature block, but again who do you say signed it?---Signed by Col Thatcher.

Just have a read of that because I want to know whether or not you were aware that this other query had been raised about regulation 46?---What was your question again? 30

My question was have you seen that one before?---I'd say no, but where it got, "Please contact David Herbert," he was another industrial officer.

Was he subordinate to you; on the same level as?---He was either subordinate to me or on the same level.

Okay?---So the fact that his name is there would suggest that this material is coming out of the industrial relations section. 40

Do you recall that being an issue for you in the industrial relations section about what to do with merit statements that were necessarily generated as part of a job selection process but which contained information from referees, say, that was adverse to the public service applicant?---I don't remember it now but I can understand why these letters

would have been generated at a time like that in terms of the new legislation and what is currently happening in the department at the time and where we needed to be based on the new legislation, so yes.

1

All right?---That new legislation would have required us to generate or seek this sort of advice.

Okay, thank you. That can be returned. In paragraph 34 now of your statement where we were, I was going to take you about 10 minutes ago, you said that:

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The department in handling the matter of employees seeking access to information would have fobbed them off with a story to gain time for the department to seek cabinet approval to have the documents destroyed.

And then in the next sentence you talk about contact you had with Mr Peter Coyne after he'd left John Oxley. And so that sentence is an important sentence in the sense that you could be speaking in the abstract; you could be speaking having made a supposition; or you could be speaking from direct knowledge of something?---There's two issues there. Just on the second issue about I may have had contact with Peter Coyne after he left the centre, what I mean there is after he left the department, because I did have a lot of contact with Peter Coyne after he left the centre.

20

Right?---Because he was brought into head office and worked on the same floor as me.

Okay?---Yes.

All right. That explains the second sentence, but the first one, this assertion that the department, in handling a matter of employees seeking access, would have fobbed them off with a story to gain time for the department to seek cabinet approval to have documents destroyed?---Mm.

30

That is a comment that must be referable to the Peter Coyne matter, isn't it?---Yes, it is.

Because it wasn't a widespread practice of the department, was it, to take documents to Cabinet to say that public servants couldn't look at their files, was it?---No, not at all.

40

Okay. So if we work on the basis that it's preferable to the Peter Coyne matter, are you asserting there that you knew for a fact that the department had been fobbing Mr Coyne off so as to get more time to get cabinet approval to have documents destroyed; or is that just an assumption you've made; or is it a rumour you're reporting there?---I

think I would have been - my memory is I was aware of it at the time in terms of what was happening. I think I've mentioned in there about the inexperience of the new regime coming into the department following new government.

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Yes?---And therefore based on what was surrounding what was happening at John Oxley and the remnants of the Heiner inquiry at the time the department would have been heading down one track in relation to the documents from the Heiner inquiry.

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Therefore they would have been seeking to deal with those matters, so any inquiries that they may have had from staff in terms of documents like that: they would have just been held at bay pending the department working out what path they were going to go down.

1

Who was your superior in - who was the person who was in charge of the industrial area that you had to report up to? ---It would have been the human resources manager.

Who was?---That I can't remember.

10

Was it a lady or a man?---I'm not sure at that time. It could have been a lady.

Could it have been Sue Crook?---Sue Crook - she was in the industrial relations section also. She was an industrial officer and she was around at the time. I'm trying to think where she came from at that time, but she was - - -

It probably doesn't matter where she came from?---No.

But was she your - - -?---Yes, okay, she may have been my superior.

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Okay, because earlier at paragraph 31 you say you were accordingly informed that the director-general was going to get crown law advice about what to do with the material, "I do recall Sue Crook stating crown law had provided advice not to destroy the documents but the D-G had taken an alternative view." That's as you recall it now, that Sue Crook told you that the crown law advice was not to destroy?---Mm.

You say, "I can understand the department wanting to get rid of the documentation if there were defamatory statements in them." Now, leaving aside the fact that you could understand why they would want to destroy them, did you ever see this documentation that they wanted to destroy?---I think I may have seen them as a bundle of papers and that may have been when they were going back to the union, but in terms of the contents I'm not sure and I probably didn't have that much interest in terms of their contents other than hearing what the contents may have related to.

30

So where did you get the - did you have the understanding at the time in 1990, February, March, 1990, that the material that the director-general wanted to get rid of contained defamatory statements?---Well, from memory there was a lot of defamatory statements relating to Peter Coyne and Anne Dutney. That really had nothing to do with the inquiry or the management practice at the centre at the time, yes.

40



Okay, and was it your view that it would be understandable that the department might want to just get rid of that sort of material?---Yes. 1

What, on the basis that it was adverse to these people's reputation?---Yes.

But not in a material way to how they were conducting the - - -?---Yes, and they then would have had to deal with the repercussions had they been dealt with internally within the organisation in terms of who said what. 10

Okay?---I don't think the youth workers who had written those statements would have wanted them to become - I say public information, within the organisation.

All right. I have no further questions.

COMMISSIONER: Thank you. Mr Hanger?

MR HANGER: No further questions.

MR HARRIS: No questions, commissioner. 20

MR BOSSCHER: Nothing, thank you, commissioner.

MR COPLEY: May Mr Clarke be excused?

COMMISSIONER: Yes. Mr Clarke, thank you for coming. You're excused.

MR COPLEY: We'll just get that statement off you.

WITNESS WITHDREW

MR COPLEY: I tender Mr Clarke's statement. 30

COMMISSIONER: Mr Clarke's statement will be 296.

ADMITTED AND MARKED: "EXHIBIT 296"

COMMISSIONER: It's okay to publish?

MR COPLEY: It is.

COMMISSIONER: It's publishable as is. Yes, Mr Copley?

MR COPLEY: That's all. Would that be appropriate now, to adjourn for the day? 40

COMMISSIONER: Okay.

MR COPLEY: I think - actually, what time is it? My clock must be wrong. I thought it was 4.30 but I think it might only be 3.30.

COMMISSIONER: 3.30. 1

MR COPLEY: Sorry about that.

COMMISSIONER: But we've got no witnesses left anyway.

MR COPLEY: I'm just checking. We may do. Sorry, Mr Commissioner.

COMMISSIONER: That's all right.

MR COPLEY: I looked at the clock before and it says 4.36, 10  
but it's one of these phone clocks.

COMMISSIONER: We'll find something to do, I'm sure. It must be running on New South Wales time.

MR COPLEY: It must be running on New South Wales time, yes. Look, I'm really - I apologise.

COMMISSIONER: You outsmarted yourself, Mr Copley.

MR COPLEY: Yes. I looked at the clock and I gave certain 20  
instructions, sorry.

COMMISSIONER: I have no material complaint.

MR COPLEY: I suppose there is one matter left to deal with just on one matter, and that is I caused communications to be made with Mr Harris and Mr Bosscher and Mr Hanger about whether or not any of them wanted to cross-examine Tanya Heidi Preston.

COMMISSIONER: Yes.

MR COPLEY: If they didn't I proposed that we just tender 30  
her statement. Mr Harris has replied that he doesn't wish to cross-examine her and I just wonder whether or not Mr Hanger or Mr Bosscher can - - -

MR HANGER: I don't think we have her statement as yet but I could let you know in 10 minutes if we get it.

MR COPLEY: Well, we'll deal with it tomorrow, I suppose.

COMMISSIONER: Okay.

MR BOSSCHER: I thought I had replied to that one but I 40  
will do so if I haven't. Is that the alarm officer?

MR COPLEY: Sorry?

MR BOSSCHER: The alarm officer.

MR COPLEY: She is an alarm - - -

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MR BOSSCHER: Yes. She's not required from our point of view. 1

COMMISSIONER: All right, thank you.

MR COPLEY: All right. We'll clear it up with Mister - - -

COMMISSIONER: 10 am tomorrow?

MR COPLEY: Yes. 10

THE COMMISSION ADJOURNED AT 3.38 PM UNTIL  
WEDNESDAY, 30 JANUARY 2013

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