

Closed Hearing

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KC 49A

P.A. CLARKE XXN (MR ABBOTT)

1 COMSR STEVENS

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5 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

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9 THURSDAY, 19 OCTOBER 1995

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13 RESUMING 9.35 A.M.

14 COMSR: What is the situation? Are we in
15 private session?

16 MR ABBOTT: No.

17 COMSR: Public session?

18 MR SMITH: We are in public session, yes. We are
19 canvassing the Saunders report, are we not?

20 MR ABBOTT: Yes, we are. I have finished with the
21 Fergie report.

22 COMSR: We will move into public hearing then.

23 MR ABBOTT: Can I just say apropos my
24 cross-examination over the last day or so, I hold the
25 view that very little of it, if any, would need to be
26 suppressed, but that is a view that I defer to counsel
27 assisting after both of them and you have considered it.

28 COMSR: Yes, I can't think of anything, offhand,
29 that offends s.35.

30 MR ABBOTT: But I did that out of an abundance of
31 caution since the Fergie report is suppressed.

32 COMSR: Yes, I appreciate That.

33 WITNESS P.A. CLARKE, CROSS-EXAMINATION BY MR ABBOTT

34 CONTINUING

35 Q. You will recall that we closed in the in camera session
36 yesterday by me referring you to the Fergie report and
37 to the fact that there were two confidential appendices
38 which are at the centre of this investigation and

1 Inquiry by this Royal Commission.

2 A. That's correct.

3 Q. I told you and I think you agreed with me that appendix
4 2, from what one can discern internally in the Fergie
5 report, contains one or more pages in which Dr Fergie
6 claims to have written down the secret sacred women's
7 business which she obtained from Doreen Kartinyeri.

8 A. That's my belief, yes.

9 Q. Secret appendix 3, which is the second appendix,
10 appendix 1, of course, not being secret - appendix 2
11 being the first secret appendix and appendix 3 being the
12 second secret appendix - consists of one or more pages
13 and which is Dr Fergie's purported explanation of the
14 importance of the secret sacred material in the first
15 envelope which consists of appendix 2.

16 A. That is my belief as well, yes.

17 Q. We know, do we not, that the maximum amount of
18 documentation that could be in these envelopes is a
19 total of sixteen pages, because, if you look at the
20 Fergie report, the secret appendices run from p.28
21 through to p.43.

22 A. That's correct.

23 Q. Of course, we don't know how many pages are in appendix
24 2 and how many pages are in appendix 3, but I invite you
25 to assume that there are two pages in appendix 2 and
26 fourteen pages, therefore, in appendix 3. In other
27 words, there is some considerable detail by way of
28 explanation by Dr Fergie. A sample of that explanation
29 in that secret appendix 3 is set out in the Saunders
30 report, which is a public document, at p.42. And I drew
31 your attention, yesterday, to the passage at p.42 of the
32 Saunders report and I now take that up with you this
33 morning. It is the other way around.

34 A. Yes, appendix 2 -

35 Q. The table, I have made an error. Appendix 2, the
36 confidential appendix, is, in fact, twelve pages running
37 from pp.28 to 40. That is the Doreen Kartinyeri secret
38 material. Appendix 3, being Dr Fergie's explanation, is

1 three pages, pp.40, 41, 42 and 43. So, that is four
2 pages. Do you see that from the front of the Fergie
3 report.

4 A. Yes, I do, assuming that the front page of each appendix
5 is a cover sheet, that would suggest eleven pages and
6 two pages.

7 Q. Eleven pages and two pages of actual material, or two to
8 three pages in the case of appendix 3.

9 A. That's correct.

10 Q. I think, unless there is a miracle of compact and
11 succinct and logical steps contained in appendix 3, your
12 view is that it is highly unlikely that the purported
13 explanation that is provided in appendix 3 would measure
14 up to the standard that you would require for the claims
15 made in the body of the report.

16 A. Given that the body of the report includes quite a bit
17 of data -

18 OBJECTION Mr Kenny objects.

19 MR KENNY: I don't see how this witness can answer
20 that question. He is making a whole series of
21 assumptions.

22 COMSR: I don't know how much weight I am going
23 to give if in the long run.

24 MR ABBOTT: He has already said, given the claims
25 that were made, he would want to see a substantial
26 amount of data and explanation and argument and
27 discussion.

28 COMSR: He may be going to say it, but he hasn't
29 said it yet.

30 MR ABBOTT: He has.

31 MR KENNY: We are not talking about a thesis here.
32 This is an academic view we are getting.

33 COMSR: That's right.

34 MR KENNY: Not a view from Aboriginal women who
35 have written down certain information that they deemed
36 to be released. We don't know what they wrote or how
37 much they wrote or what they said.

38 MR ABBOTT: Mr Kenny has the wrong end of the stick,

- 1 as usual. I am dealing with appendix 3, which is Dr
2 Fergie's explanation and that is what I am asking
3 questions about.
- 4 MR KENNY: I am sorry, I do apologise.
5 XXN
- 6 Q. Could you answer my question.
- 7 A. Given all of the many problems that I have with the body
8 of the report in view of the inconsistent data, lack of
9 bibliography and a lack of supporting statements for
10 many of the conclusions, I find it very difficult that
11 two or three pages at the - coming at the -
- 12 Q. In the secret appendix.
- 13 A. In the secret appendix, appendix 3, would be able to tie
14 up many of the loose ends that I believe are left in the
15 main body. That is, appendix 1.
- 16 Q. A sample of Dr Fergie's attempts, to use your
17 expression, to tie up the loose ends we find in the
18 Saunders report, at p.42, to which I now take you. You
19 have had the opportunity of reading to yourself and
20 examining the sort of exercise that or a sample of the
21 exercise that Dr Fergie has gone about in her secret
22 appendix 3, her purported attempt to explain and justify
23 the conclusions in her report and in the secret appendix
24 2.
- 25 A. Yes, I have read this passage.
- 26 Q. I direct your attention, so we are all clear on just
27 what is in appendix 3, to p.12 of the Saunders report.
28 Before we get to p.42, look at p.12 of the Saunders
29 report. You will see, in the penultimate paragraph, her
30 report is attached to the supplementary representation
31 from the ALRM. It contains two confidential appendices.
32 One of these appendices is a detailed account of aspects
33 of Aboriginal tradition restricted to women only. And
34 then - surprise, surprise - 'It conforms, in all
35 respects, with the account which Doreen Kartinyeri gave
36 to me.' You would have no trouble in accepting that
37 since it is obvious that it came from Doreen Kartinyeri
38 in the first place.

1 A. That is my belief, yes.

2 Q. Professor Saunders then says apropos of the second
3 appendix which, in fact, is the appendix numbered 3 'The
4 second appendix seeks to interpret some of that
5 knowledge into insights into Ngarrindjeri cosmology.'
6 So we get a fair idea of what appendix 3 is on about,
7 don't we.

8 A. That's correct.

9 Q. Go to p.31, where there is another reference, four lines
10 from the bottom, Dr Fergie's detailed account of her
11 discussions with Doreen Kartinyeri. So, appendix 2 is
12 all Doreen Kartinyeri and then Professor Saunders's
13 report continues 'And a preliminary analysis of its
14 significance for Ngarrindjeri cosmology are attached as
15 confidential appendices 2 and 3 to her report.' So,
16 again, we learn that all that is in the secret envelope,
17 it all comes from Doreen Kartinyeri. And appendix 3,
18 which we know consists of perhaps a cover sheet and
19 three pages or 4 pages of explanation, is, in the eyes
20 at least of Professor Saunders, 'a preliminary analysis
21 of its significance'.

22 A. That's my understanding.

23 Q. Just have a look now at p.42 where a sample of this
24 preliminary analysis by Dr Fergie is set out. Do you
25 find there is any, first of all, ethnographic basis for
26 this analysis which is an extract from secret appendix 3
27 from the Fergie report.

28 A. On the basis of my knowledge of the literature and the
29 ethnographic situation, my answer is no.

30 Q. Any historical basis.

31 A. None that I can see.

32 Q. Dr Fergie states in secret appendix 3, her analysis of
33 Doreen Kartinyeri's material, 'A critical point may be
34 that Kumarangk and Mundoo can only go together when they
35 are mediated by the life supporting waters of the Goolwa
36 channel.' Does that make sense to you. On its own.

37 A. No, I would need to know, through reading the report,
38 what she means by 'life supporting'.

1 Q. The author, Dr Fergie, says 'The complex relationship
2 between contingent separation and the togetherness of
3 life and death is achieved by water.' I put it to you
4 that is anthropological mumbo jumbo.

5 A. I would agree with that.

6 Q. The author then says 'The separation of all the major
7 organs in this system is mediated and achieved by
8 water.' Do you take that to be a reference to the
9 aerial view that Hindmarsh Island and the surrounding
10 waters and the surrounding islands are a reproduction of
11 Reproductive organs, female reproductive organs.

12 A. That is the only conclusion that I can gather with the
13 limited knowledge we have.

14 Q. Leave the first paragraph and go to the second, I won't
15 read it out to you, but she then adds a bit more about
16 what was different between the barrages and the bridge.
17 Do you see that.

18 A. Yes, I do.

19 Q. Dr Fergie proffers her own comment, doesn't she. She
20 says that 'The problem with the bridge is that it goes
21 above the water.' She says 'It is a shore-to-shore
22 direct and permanent link.'

23 A. Yes, this whole paragraph appears to be Dr Fergie's
24 views of what may be an explanation, but it is passively
25 written. It is not stated with the kind of authority
26 that I would be looking for.

27 COMSR

28 Q. Just to clarify something: what do you understand the
29 expression 'mediated' to mean, in this context.

30 A. Mediated, controlling the connection of.

31 XXN

32 Q. In view of what you know about the barrages and what you
33 have seen here in the Royal Commission, do you accept,
34 on any basis, that the distinction between the bridge
35 linking Hindmarsh Island and the mainland and the
36 barrages linking Hindmarsh Island and the mainland is
37 that the bridge is 'shore-to-shore direct and
38 permanent', whereas presumably the barrages, in the eyes

1 of Dr Fergie, not. Do you accept that.

2 A. No, and I have driven across the barrages. I would
3 consider that a far greater impediment to the flow of
4 water than any bridge.

5 Q. The sort of bridge that is proposed sits on three
6 pylons, I think, or three groups - two or three groups
7 of pylons.

8 A. Yes.

9 Q. And, in that sense, is much less an impediment to the
10 flow of water than the barrages, is it not.

11 A. Yes, and when one considers the surface area of the
12 ferry in contact with the water, it is more than likely,
13 in my opinion, that the ferry probably impedes the water
14 flow more than a bridge would.

15 Q. But put aside the ferry, the author, Dr Fergie, is
16 contrasting the barrages with the bridge.

17 A. That's correct.

18 Q. On any basis, do you see any rational basis for the
19 distinction she makes.

20 A. No, I don't.

21 Q. She concludes by saying that the link, that is, the link
22 that a bridge would make with the mainland, would mean a
23 link which is 'unmediated by water'. That is I suggest,
24 nonsense, both physically and, on any view,
25 ethnographically.

26 A. Yes, it would require much greater explanation.

27 Q. She concludes in this quote from her secret section 'It
28 would make the system sterile.' That is presumably
29 harking back to the claim made in her report that the
30 significance of this so-called tradition is that, if it
31 was interrupted by the building of the bridge, then the
32 reproductive abilities of the Ngarrindjeri women, as a
33 whole, would cease absolutely in time.

34 A. It is difficult to know whether these are her views of
35 what is perceived by at least some Ngarrindjeri women to
36 result or what she actually believes herself, but I find
37 no evidence to support, in either case, claims of
38 sterility.

1 Q. I want to very briefly take you through the Saunders
2 report, but, before I do, I would like to ask you some
3 questions about the Berndts' field work and some other
4 aspects, which I think are appropriate in the lead up to
5 any questioning about the Saunders report.

6 MR KENNY: Can I just interrupt Mr Abbott here if
7 he is going to a fresh topic? I didn't want to
8 interrupt him earlier.

9 The evidence that has just been given, this question
10 of reading out parts of the extracts from the
11 confidential envelopes and being described by Mr Abbott
12 as 'anthropological mumbo jumbo', I would ask you to
13 suppress all of that evidence. The reason I ask for
14 that is that this is quite clearly the beliefs of a
15 large number of the Ngarrindjeri people, more
16 particularly, the women. This witness himself has given
17 evidence that a large number of those people genuinely
18 believe that there is women's business associated with
19 Hindmarsh Island and. I see this as a very direct
20 attack upon those religious beliefs and it would cause
21 great offence if that is published. And it is a very
22 catchy headline. I have no doubt that it would appear
23 in the media and it would cause considerable offence to
24 a large number of people. It is on that ground that I
25 ask it to be suppressed.

26 CONTINUED

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1 Some may say that that is perhaps factually untrue, and
2 we appear to be getting into an examination of those
3 spiritual and religious beliefs by referring to it as
4 mumbo jumbo, but I do emphasise that this, I believe,
5 will cause considerable -

6 COMSR: I'm not sure that that expression was
7 used in relation to the anthropological point of view
8 rather than -

9 MR ABBOTT: Exactly. Mr Kenny has either not heard
10 or misunderstood my question, but what I was saying was
11 that that term was applied not in relation to the belief
12 which may or may not be genuinely held by a number of
13 Ngarrindjeri women, but Dr Fergie's interpretation of
14 information which she has received from Doreen
15 Kartinyeri. Now that is no more than saying that, in
16 the Christian sense, there is a belief in the
17 resurrection genuinely held, but that doesn't stop any
18 number of writers writing what might be mumbo jumbo
19 about it, and what I'm suggesting is that what Dr Fergie
20 has written about a particular belief is anthropological
21 mumbo jumbo. It's not an attack on the belief itself,
22 it's an attack on the ability of the interpreter of that
23 belief.

24 MR KENNY: It's a very fine distinction my friend
25 is attempting to draw, and academically -

26 COMSR: It's saying that the critic has been
27 talking mumbo jumbo, not that the subject itself is
28 mumbo jumbo, as I understand it.

29 MR ABBOTT: That's right. I'm saying the attempts
30 by Dr Fergie to rationalise the information in
31 anthropological terms, a sample of which we see at p.42,
32 I'm suggesting is, in plain English, nonsense. If you
33 read it carefully to yourself, you'll probably agree
34 with me, Mr Kenny. You have a look at p.42.

35 MR KENNY: I can say that I have read the point,
36 and it may be a fine distinction, but I'm quite sure -

37 COMSR: It's obviously one that would have to be
38 handled with care so that the wrong comment is not made,

1 Mr Abbott.

2 MR ABBOTT: I'm entitled to get this witness' view
3 about Dr Fergie's construction based on the information.

4 COMSR: I don't want to spent forever on this,
5 so long as it's clearly understood that the term `mumbo
6 jumbo' is used in respect of Dr Fergie, and not in
7 respect of the belief itself.

8 MR ABBOTT: That's right.

9 COMSR: It's Dr Fergie's interpretation which
10 has been described as mumbo jumbo. Now it may well be
11 that that will have to be carefully reported not to be
12 offensive. I can understand the point you're making,
13 but if it were wrongly reported, it could give offence.
14 It will certainly give offence to Dr Fergie of course.

15 MR KENNY: My concern is not with Dr Fergie.

16 COMSR: I appreciate that.

17 MR KENNY: But she is interpreting the beliefs of
18 certain people.

19 COMSR: Yes.

20 MR KENNY: To describe her interpretation as mumbo
21 jumbo is, in my opinion, also to interpret the belief,
22 and a direct attack on that belief, as mumbo jumbo.
23 Indeed that's Mr Abbott's entire claim is that all of
24 the belief is mumbo jumbo. His clients have all given
25 evidence that, as far as they are concerned, it doesn't
26 exist.

27 COMSR: I've heard all that, I'm only concerned
28 with the question of whether or not - I don't propose to
29 suppress it, but if anyone does report it, I think it's
30 one instance where people should be unusually careful in
31 the manner of the reporting, so that it's not reported
32 in a way that does give offence.

33 MR KENNY: Certainly. Provided Mr Abbott accepts
34 that the belief is not, as alleged, mumbo jumbo.

35 COMSR: He has not put that to the witness.

36 MR KENNY: I accept that.

37 MR ABBOTT: I have not put to this witness anything
38 contrary to his claim that, in his opinion, a number of

1 Ngarrindjeri women now believe it. I can't do any more
2 than that. My learned friend says `providing I accept
3 it'. I don't accept it for a minute. What I accept and
4 what he accepts have got nothing to do with this
5 commission.

6 COMSR: Right.

7 XXN

8 Q. You were asked a number of questions by Ms Pyke about
9 the nature of the field work done by the Berndts, and I
10 think the tenor of the questions was directed to this
11 issue, namely that in the course of their work, they may
12 not have come across the secret sacred women's business,
13 even though it may have been there. Do you remember
14 that line of questions.

15 A. That was the suggestion behind that line of questioning,
16 yes.

17 Q. I'd like to ask you this before we get to Professor
18 Saunders report; the Berndts not only worked in the
19 Lower Murray area but in other areas, did they not.

20 A. Yes. They were fortunate enough to work in all regions
21 in Australia, and even some work in Melanesia.

22 Q. I don't know about their work in Melanesia, but from my
23 reading of the rest of their work in Australia, they
24 actually found secret sacred women's business in the
25 other areas.

26 A. That's correct.

27 Q. So it's not as though they apparently weren't looking
28 for it and were unable to find it in their other areas
29 of investigation.

30 A. That's correct.

31 Q. Those areas were Ooldea, western desert, Northern
32 Australia, Central Australia, geographically speaking.

33 A. The Kimerleys, Arnhem Land, some work in Queensland.

34 COMSR

35 Q. In those other areas where there is secret women's
36 business, is the fact that there is secret women's
37 business itself secret.

38 A. No.

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1 Q. So although people may know that there is secret women's
2 business, they wouldn't know the content of it.

3 A. That's correct. They would know -

4 Q. Other than those who are privy to the secret, of course.

5 A. That's correct.

6 XXN

7 Q. I don't want to go into this in great detail - for
8 sensitivity reasons not for s.35 reasons - but a careful
9 reading of their published works, and I mean their
10 books, for example 'From Black to White in South
11 Australia', reveals the nature and extent of what they
12 did find, in general terms, of secret sacred women's
13 business, for example in the western desert region.

14 A. That's correct.

15 Q. Are you familiar with the article by Catherine Berndt
16 'Retrospect and Prospect' which is published in 'Women's
17 Rights and Sites'.

18 A. Yes, I have read that - not within the past month or so,
19 but I am familiar with it, yes.

20 Q. I'm referring you to the section in the book 'Women's
21 Rights and Sites', edited by Penny Brock, published in
22 1989, to a chapter 'Retrospect and Prospect, Looking
23 Back over 50 Years' by Catherine Berndt. I just want to
24 take you to a couple of references. On p.5, does
25 Catherine Berndt, eight lines from the bottom, deal with
26 the western desert and the fact that they found, the
27 Berndts together found what was 'Conceptually a realm of
28 what could be designated men's business as contrasted
29 with women's business, and a fluctuating intermediate
30 zone where these two overlap.'

31 A. I haven't got the book in front of me, but that is my
32 memory. If I could just check that.

33 Q. It is Exhibit 11 at p.5, eight lines from the bottom.

34 A. That's correct.

35 Q. On p.6, just where she ends up with a section on Ooldea,
36 Catherine Berndt talks about her introduction to women's
37 business and rituals, myths, songs etc., and sites, in
38 generality.

1 A. That's correct.

2 Q. That's an example, I suggest, of the fact that they were
3 successful in finding the existence of women's business
4 in these other areas.

5 A. Yes. It was a particular research interest of Dr
6 Catherine Berndt.

7 Q. Indeed, at p.11 of this section, dealing with the Lower
8 River Murray and, in particular, the Ngarrindjeri
9 people, Catherine Berndt said at line 8, 'The only
10 persons who still had a relatively thorough knowledge of
11 their traditional cultures were Albert Karloan and
12 Pinkie Mack. There was a certain amount of friendly
13 rivalry between them, but this was not on the basis of
14 gender, because the traditional culture of the region
15 was remarkable in at least one respect among others;
16 gender based differences in the sense of
17 inclusion/exclusion in religious and other affairs, were
18 minimal. The nearest parallel in this respect was/is
19 the Tiwi culture of the Bathurst and Melville Islands'.
20 Now that's a remark that Catherine Berndt made. Has
21 your reading, your investigation, your field work
22 supported that conclusion.

23 A. All of my field work knowledge of the literature, my
24 overview of the culture itself, supports that
25 conclusion.

26 Q. I mean here is Catherine Berndt saying that, in essence,
27 the Ngarrindjeri culture was remarkable because of the
28 lack of gender based differences.

29 A. That's correct.

30 Q. One of the claims that I suggest will be in the secret
31 envelope, which is appendix two to the Fergie report,
32 relates to not merely the fact that the area around
33 Hindmarsh Island bears a resemblance to women's
34 reproductive organs, but there will also be a claim that
35 Hindmarsh Island was the place to which Ngarrindjeri
36 women went for the purpose of aborting foetuses,
37 particularly those which they were bearing as a result
38 of having had sexual relations with a white or partly

- 1 white persons. Are you aware of that claim having been
2 made in the popular media by Doreen Kartinyeri.
- 3 OBJECTION Ms Pyke objects.
- 4 MS PYKE: The question has been put on the basis
5 `I guess that there might be something in the
6 envelopes'. What earthly assistance can that be for the
7 witness to answer a question about Mr Abbott's guess?
- 8 MR ABBOTT: It's not a guess, I'm asking the witness
9 to assume.
- 10 MS PYKE: You said a guess.
- 11 MR ABBOTT: I didn't a say guess, I'm asking the
12 witness to assume that there will be those two claims,
13 or you may find there are those two claims in appendix
14 two, the envelope. I can only proceed on the
15 assumption.
- 16 COMSR: I think the question can be put on that
17 basis, assuming that.
- 18 MS PYKE: I was objecting to Mr Abbott putting
19 something on the basis that he made a guess.
- 20 MR ABBOTT: It's a pretty good guess.
- 21 MS PYKE: It's clear Mr Abbott has got more
22 information than me. Perhaps Mr Abbott can get into the
23 witness box.
- 24 COMSR
- 25 Q. Can you recall the question.
- 26 A. I'm assuming the information I've heard in the media
27 about the abortions on Hindmarsh Island is somewhere in
28 one of the appendices. The question I don't think has
29 been asked, has it?
- 30 Q. Assuming that to be the case. (NOT ANSWERED)
- 31 XXN
- 32 Q. Assuming that to be the case, I think you're aware that
33 `abortion' is referred to in Berndt and Berndt.
- 34 A. That's correct.
- 35 Q. At p.138 of `A World That Was', which is an exhibit, we
36 read, just above the section on infanticide -
- 37 COMSR: Are you going to read this out?
- 38 MR ABBOTT: No, I'm not going to read it out, but

- 1 I'm going to direct the witness' attention to the
2 sentence, and ask him -
3 XXN
4 Q. It's the sentence beginning 'Abortion was frowned on',
5 which is the last five lines of the section before the
6 section on infanticide.
7 A. I see the line.
8 Q. Have you seen any other evidence to indicate that the
9 view that Berndt and Berndt expressed in 'A World That
10 Was' should be modified, changed or amended.
11 A. No, I believe it's generally in line with ethnographic
12 information from other Aboriginal groups in southern
13 Australia.
14 COMSR
15 Q. That was because of the dangerous nature of the abortion
16 procedures, is that what you read into that.
17 A. That would be the main reason, I believe.
18 XXN
19 Q. That section which begins halfway down p.137, the line
20 beginning 'Contraceptive purgatives were more generally'
21 deals with matters which I won't go into. I would like
22 you to read that section down to the end of the section
23 which ends on p.138 with those sentences I've just
24 referred you to.
25 A. Yes, I have finished reading the section.
26 Q. I draw your attention to the fact that the section
27 begins on p.134, and is a section of this book entitled
28 'Preventing Pregnancies'. I don't ask that you read it
29 all, but it is obvious, is it not, that the authors, or
30 at least one of them, possibly Catherine rather than
31 Ronald, have conducted considerable investigations into
32 preventative practices, which includes any traditional
33 practice in relation to abortion.
34 A. That's correct, and part of this data from the Lower
35 Murray was used in a comparative study as part of their
36 Ooldea work, which they finished in the 1940s.
37 Q. It would be quite wrong to say, in view of this section
38 in their book, that this is an area of Ngarrindjeri life

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- 1 that they have overlooked or haven't got around to
- 2 investigating, wouldn't it.
- 3 A. That's correct. They go into intimate detail on this
- 4 topic in this book.
- 5 CONTINUED

1 Q. The next section which deals with infanticide, over
2 pp.138, 139 and 140 - again I don't ask that you read it
3 as I think you have read it already for the purposes of
4 giving evidence in this Royal Commission.

5 A. That's correct.

6 Q. That's also an area that they have not shied away from
7 investigating.

8 A. That's right.

9 Q. No-one could say or claim that they have not got around
10 to investigating the practices of the Ngarrindjeri
11 people in relation to infanticide, could they.

12 A. That's correct.

13 Q. Assume that the claim that's made in the media and which
14 is thereafter contained in the secret envelopes is that
15 Ngarrindjeri women, when pregnant and when pregnant as a
16 result of sexual relations with white whalers or white
17 people, or for that matter partly white people, often
18 went to Hindmarsh Island to abort the foetus with or
19 without the assistance of a midwife or another woman.
20 That scenario connotes a number of things, I suggest.
21 Firstly, it suggests that pregnant women must have
22 travelled considerable distances with considerable
23 difficulty to get to Hindmarsh Island.

24 OBJECTION Ms Pyke objects.

25 MS PYKE: What is his source of knowledge to put
26 that?

27 MR ABBOTT: I'm putting to the witness, I'm asking
28 him whether he would agree with that, whether such a
29 claim connotes that situation.

30 A. Given the distribution of Ngarrindjeri descent groups
31 right around the lake, down the Coorong, along the
32 coast, in many cases it would entail, without measuring
33 the distance, a journey of up to 80, 90 km or more.

34 Q. Just to take what one might regard as being the most
35 obvious pre-European trip, if this tradition had any
36 historical connotation, that is in Encounter Bay -

37 MR KENNY: The evidence is that it was a large
38 population of Aboriginal people living on the banks at

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- 1 Goolwa opposite Hindmarsh Island, and I mean -
2 MR ABBOTT: Not being impregnated by white whalers.
3 COMSR: That cannot be pre-European time.
4 MR ABBOTT: Pre-European, there might be whalers.
5 MR KENNY: I don't see how that can assist you at
6 all. That is the point I make.
7 MR ABBOTT: I'm trying to come to grips with what I
8 believe are the impracticals that are implicit in any
9 claim that is made that Ngarrindjeri women travel to
10 Hindmarsh Island and used Hindmarsh Island as the place
11 to go to for the purpose of self-abort, or aborting
12 themselves with the assistance of other Ngarrindjeri
13 women.
14 COMSR: I'm not too sure that this witness would
15 be an expert in that field.
16 MR ABBOTT: No, I'm not suggesting he is an expert
17 in this file. I am suggesting that he is an expert in
18 the practical implications case for Ngarrindjeri people,
19 what such a claim practice involves. And one of the
20 practical implications it involves is that, first of
21 all, women left the tribe and went off to Hindmarsh
22 Island, either on their own or with the assistance of
23 another woman. Or, I will ask this.
24 XXN
25 Q. Was there or is there anything ethnographically recorded
26 about women slipping away for unexplained reasons.
27 A. If we are looking at large distances that is traversing
28 the descent groups of neighbours and over a wide section
29 of land. I would think that very unlikely. One of the
30 - we have spoken of the distances which is an
31 impediment, and probably it is a far greater impediment
32 for women from the Lower Murray going to that particular
33 spot. It is the rather complex matter that descent
34 groups from all parts with different language groups in
35 some cases would have. I can see how particular people
36 in a group may have rights through kinship to go in
37 certain directions across the country. Certainly all
38 women, or all men for that matter, would not be able to

1 go from one area of the Lower Murray to another.

2 Q. Without getting permission.

3 A. Without getting permission. And the ethnographic
4 literature, for example, puts a lot of emphasis on the
5 distinction above level descent group between salt water
6 Lower Murray people and fresh water Lower Murray people.

7 The particular groups around the islands were forever
8 fighting with their neighbours in Encounter Bay and -

9 Q. The Ramindjeri.

10 A. Yes, and Yaraldi around the lake, and it's
11 inconceivable, in my opinion, in neither the
12 pre-European nor the sealing period between 1819 and
13 1836, or the indeed the years up to getting towards the
14 Taplin's period in 1959, it's inconceivable that all
15 Aboriginal people in the Lower Murray would have been
16 able to freely move across the landscape.

17 COMSR: All of this is based on the assumption
18 that it's more than one particular group that's been
19 discussed here.

20 MR ABBOTT: It has to be. I want to show your
21 Honour that there are against this claim of a tradition
22 going back 40,000 years, or, indeed, any period other
23 than March 1994, there were some purely practical
24 problems that relate to the kinship, the of the descent
25 groups and terrain and other problems. That means that
26 the bald claim that is made just couldn't possibly be
27 true. And one of the claims, the claim that is made
28 would have to involve, as this witnesses said, the
29 acquiescence of various groups of Ngarrindjeri people
30 who, historically, were, by and large, antagonistic to
31 each other to some degree about people passing over
32 their borders in their territory.

33 XXN

34 Q. That is so, is it not.

35 A. That's correct. And if that is not enough evidence, of
36 course, there is quite a bit of literature on the
37 avoidance of women at certain times, you know, pregnancy
38 and other times, avoidance that Ngarrindjeri have with

- 1 water. It was believed, for example, that the fish
2 would stop being speared and being netted if women
3 became too closely connected with water at certain
4 times. And that's been repeated enough in the
5 ethnography to see that it's unlikely that women would
6 have been crossing stretches of water at the time of
7 being pregnant or shortly afterwards.
- 8 Q. To take up that theme -
- 9 COMSR: How far are we going to go with that?
- 10 XXN
- 11 Q. As examples of that, Berndt and Berndt and other
12 ethnographers detail restrictions on eating certain
13 fish, restrictions on even being involved in fishing on
14 the part of pregnant and menstruating women, do they
15 not.
- 16 A. That's correct. And it's backed up by other
17 ethnographers who have worked in the region.
- 18 Q. Could I put this in context for the Commissioner. You
19 told us that and as in Tindale's map and other maps,
20 that shows that there were three groups of Ngarrindjeri
21 people - I'm not sure whether you call them descent
22 groups.
- 23 A. I call them descent groups. In some of the literature,
24 they could be described as clans.
- 25 Q. Three clans who, at least historically, as far as one
26 could see, were the `traditional owners' in quotes of
27 Hindmarsh Island.
- 28 A. At the time of settlement, that's what we believe to be
29 the case.
- 30 Q. It was not necessarily an easy or a safe matter to move
31 from one clan area to the other, would it.
- 32 A. It would vary from person to person, but no one person
33 would have free range without relying on connections
34 through relatives over the whole territory, I would
35 suggest.
- 36 Q. So, let's assume that a pregnant woman wanted to travel,
37 from the Ngarrindjeri women wanted to travel from
38 Encounter Bay to Hindmarsh Island. It would involve

1 contact - I suggest it must have involved contact - with
2 a number of other Ngarrindjeri people on the way.

3 A. That's correct. It would require utilising various kin
4 connections and the woman in this case being handed from
5 one group to the other for safe passage through that
6 area.

7 Q. Such an event, if it happened regularly, would it be
8 your view, for it not to be recorded, that is the mere
9 handing on of pregnant women regardless of what they did
10 eventually on Hindmarsh Island, if you found an absence
11 of that in the ethnography in relation to the
12 Ngarrindjeri people, would you find that highly
13 surprising.

14 A. I would find it highly surprising. And another factor
15 to take into consideration is that many of the disputes
16 that Aboriginal people were having were over things they
17 find as wife stealing. I find it very unlikely that
18 that practice took place.

19 Q. There is no evidence in the recorded practices of the
20 Ngarrindjeri people which in any way supports a travel
21 by pregnant Aboriginal women from one part of the
22 Ngarrindjeri nation to Hindmarsh Island, for whatever
23 purpose is there.

24 A. None whatsoever.

25 COMSR: Isn't all of that based on the
26 assumption that the pregnant women travel from wherever
27 they were to Hindmarsh Island. Where, I can't say.
28 Could it not easily be the circumstances that it was the
29 women in the immediate locality and that it didn't
30 involve crossing other clan's land? Is there anything
31 that suggests that?

32 MR ABBOTT: One asks how then were they impregnated
33 if they stayed in the immediate locality?

34 MR KENNY: Perhaps the whalers came to visit.
35 XXN

36 Q. Could you assist.

37 A. I can't deny that that is a possibility. Then, it would
38 not be a Ngarrindjeri belief, it would be a belief

1 restricted to a fairly small localised group. Although
2 there is three quite different groups on the island, I
3 can't discount that because there is no data to support
4 it. But I still can't discount that there may have been
5 a local variation. I think it extremely unlikely
6 though.

7 Q. We would be talking about a very small group of women,
8 wouldn't we.

9 A. Yes. In comparison to the whole population, it would be
10 a much smaller group, yes.

11 Q. You're aware, are you not, that Dorothy Wilson has given
12 evidence -

13 MR ABBOTT: I don't know whether you are aware -
14 it's in a private session that she has given evidence of
15 a practice. I'm in some difficulty about mentioning
16 this. Perhaps I should ask Mr Smith.

17 COMSR: It must be something that is within my
18 current terms of authorisations too. Anything you
19 mention, of course, has got to do within my current
20 terms of authorisations.

21 MR ABBOTT: In fact, I can deal with it another way.

22 MR KENNY: Perhaps if I may interrupt Mr Abbott
23 while he is going to a new topic. I renew my
24 application for the suppression of the evidence that has
25 been given this morning. If Mr Abbott said earlier that
26 his attack was directed on Dr Fergie's report in what we
27 have just heard, Mr Abbott, if I understand him
28 correctly, has attempted to demonstrate that the claim
29 that Aboriginal women went to Hindmarsh Island for the
30 purposes of abortions is wrong. Now that may or may not
31 be in the secret envelopes, I do not know. It's
32 reported that it is. He, Mr Abbott that is, has claimed
33 that it just could not be true that his questions are
34 directed specifically at that belief of the Ngarrindjeri
35 women. I again say that those women will find it quite
36 offensive to have that belief attacked in that manner
37 and I would ask that you suppress those parts. It's a
38 direct inquiry into their religious belief.

- 1 MR SMITH: The Terms of Reference -
- 2 MR KENNY: I understand s.35. I understand the
3 Terms of Reference. I'm simply saying that it would be
4 seen as extremely offensive. And there has been
5 considerable division within the community about the
6 effects of this Royal Commission. I don't wish to go
7 into it.
- 8 COMSR: There was a considerable problem before
9 the Commission started.
- 10 MR ABBOTT: This is not a myth or tradition. What
11 is being asserted is historical fact and it's not in the
12 myth or tradition realm of the Dr Fergie stuff. What I
13 put in the secret sacred envelopes, I invite them to
14 assume that's the claim that the Ngarrindjeri Aboriginal
15 women went to Hindmarsh Island for the purposes of
16 aborting themselves, either self-induced or with
17 midwives or others. I'm asking as a matter of
18 historical fact is it likely this could have happened
19 and is there anything in the literature that supports
20 it. This has nothing to do with myths or belief.
- 21 MR KENNY: Irrespective of all of those things, I
22 believe that a large number of Ngarrindjeri people, not
23 just women, find this very offensive. On that basis, I
24 ask you to suppress it.
- 25 MR SMITH: Mam, the difficulty - could I just
26 inform the Commission's point of view. The difficulty
27 with suppressing, in effect, any contest to the
28 assertions by the proponent women is that the same
29 argument would exist of Mr Kenny, and that is that
30 anything that has the ability of challenging the belief
31 that there is in existence women's business, secret
32 sacred women's knowledge, would be the subject of an
33 application for suppression and that would create
34 difficulties doing that as a matter of course.
- 35 COMSR: Of course, what I'm inquiring into is
36 the women's business in connection with Hindmarsh
37 Island. Does this step outside those Terms of Reference
38 that you say, Mr Kenny? As I understand it, what Mr

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1 Abbott is doing is exploring whether from a practical
2 point of view there could have been any impediments to
3 that occurring.

4 MR KENNY: I think it goes a bit further than from
5 a practical point of view. He is simply saying that the
6 claim just could not be true.

7 MR ABBOTT: From a practical point of view.

8 MR KENNY: He added that just now, 'from a
9 practical point of view'. As you pointed out, it could
10 be possible from a practical point of view he put one
11 argument about it.

12 MR ABBOTT: And the witness's conceded the position
13 that on the odd occasion a woman could have aborted
14 herself on Hindmarsh Island. So, if it's to be
15 reported, no doubt that qualification will also be
16 reported. But this is an inquiry and at present this
17 line of cross-examination is into facts.

18 MR KENNY: That's the point. It is an inquiry into
19 what women say is their belief and the facts of those
20 belief.

21 COMSR: We can believe something which has
22 absolutely no basis.

23 MR KENNY: Absolutely. The fact that God may have
24 created the world in seven days, we could hold an
25 inquiry into that. Factually, I could say I could call
26 sufficient scientific evidence to prove that that is not
27 true, but many people believe it.

28 MR SMITH: The question is whether it should be
29 suppressed, the debate about that.

30 COMSR: We are discussing something which has
31 been brought into the public arena, I think, by Dr
32 Kartinyeri herself, the subject of the fact about the
33 abortions on Hindmarsh Island. I think it is a
34 discussion as to whether or not there are some practical
35 difficulties in that having been a practice. I don't
36 think that goes to the religious belief itself. I mean,
37 in one conversation, a belief is entirely divorced from
38 a basis of fact.

- 1 MR KENNY: I agree with those suggestions, but I
2 simply say that it will cause offence.
- 3 COMSR: I suppose that is a possibility
4 virtually. It is hard to say what people will take
5 offence at, Mr Kenny. Whether it should be suppressed
6 in these circumstances where I understand it to be a
7 line of questioning which goes to factual matters rather
8 than to matters of belief. This is a factual basis, as
9 I understand it.
- 10 MR KENNY: Yes, it is an inquiry into the factual
11 basis of that belief.
- 12 COMSR: This line of questioning is devoted to
13 an examination of the factual basis.
- 14 MR KENNY: Of a belief, that is exactly right.
- 15 MR ABBOTT: Factual basis of a claim made by Doreen
16 Kartinyeri.
- 17 MR KENNY: It is not her alone. There are other
18 people that claim that as well.
- 19 COMSR: I think, as long as the line of
20 cross-examination is concerned with that, that there is
21 no basis on which to suppress it, Mr Kenny. I can see
22 what you are saying, that there is a fine line dividing
23 them, but I don't think it has stepped over that line,
24 at present.
- 25 MR ABBOTT: I will continue.
26 XXN
- 27 Q. Looking at p.141 of Berndt and Berndt, this is in the
28 section that deals with childbirth.
- 29 COMSR: How far are we going to go into this?
- 30 MR ABBOTT: Not far. I have only a couple more
31 questions on the practical topics.
32 XXN
- 33 Q. It is obvious from that section that Berndt and Berndt
34 conducted an extensive investigation into pregnancy and
35 birth, did they not.
- 36 A. That's correct.
- 37 Q. Looking at p.141, where the authors describe, first of
38 all, at about line 10, that `There was no embarrassment

1 on the part of men and women discussing such intimate
2 details.' Do you see that, at the end of the first
3 paragraph.

4 A. That's correct.

5 Q. Then, further down the page, just under halfway, I read
6 this out, because this is not embarrassing, nor s.35
7 material in any way shape or form, 'During the period of
8 her pregnancy, she would remain in the camp that she
9 shared with her husband, even to give birth. However,
10 in some cases, she was taken into the bush to a
11 specially prepared camp. Meyer, in the Woods edition in
12 1879, at pp.185 to 186, reported that a Raminyeri woman
13 near her confinement would leave the encampment with
14 some of the women to assist her.' In view of that,
15 there appears to be some evidence of at least some
16 localised movement of a pregnant woman, but more
17 specifically at the time as childbirth approached, is
18 there not, in some cases.

19 A. That's correct. It suggests a short distance of
20 movement.

21 Q. Is there any hint anywhere in any literature or any
22 notebook or documentation that the specially prepared
23 camp was at Hindmarsh Island.

24 A. None whatsoever.

25 Q. Looking at the page before, the part beginning the
26 section on childbirth, we read 'In spite of the dangers
27 facing an embryonic child most we were told achieved
28 entry into Kukabrak society.' In other words, most were
29 born. Do you see that.

30 A. That's correct.

31 Q. 'Prior to its arrival, however, the pregnant woman would
32 be kept under surveillance by the older women of her
33 camp who were acquainted with all the movement she would
34 be likely to make.' And that is borne out, I think, not
35 just by Berndt and Berndt, but by all the writings in
36 this area.

37 A. That is consistent, yes.

38 Q. Whilst you cannot, of course, discount that some

- 1 aborting of foetuses may have taken place, as a result
2 of liaisons, willing or unwilling, with white or partly
3 white people from the early part of the 19th century
4 onwards, does your study of the descent groups and the
5 genealogies indicate that a very, very considerable
6 number of half-caste offspring were born, in line with
7 this comment in Berndt and Berndt, that most embryonic
8 children achieved entry in the society.
- 9 A. That's correct. And I would like to point out that
10 probably 60 or 70 per cent of all Ngarrindjeri people
11 today are descendants from one or two sealers who were
12 on Kangaroo Island just prior to official settlement in
13 1836.
- 14 Q. Indeed, I think there is only one reference to aborting
15 half-caste - the results of unions with white people and
16 that is in Meyer and that is not a reference to
17 abortion, but infanticide.
- 18 A. That's correct.
- 19 Q. Looking at Meyer, 'The Aborigines of Encounter Bay
20 1846', in the Woods edition, at p.186.
- 21 A. I have the page.
- 22 Q. I think Meyer was the first and possibly the only writer
23 to make mention that 'This crime of infanticide was
24 increased by the whites, for nearly all the children of
25 European fathers used to be put to death.'
- 26 A. That's written in this.
- 27 Q. Is he the only person who has recorded that.
- 28 A. It is, for the very first wave of European settlement,
29 it has been recorded in some other parts of Australia,
30 but it is generally considered to be a very short-lived
31 phase of Aboriginal and European interaction.
- 32 Q. I meant vis-a-vis the Ngarrindjeri people. Was Meyer
33 the only person who recorded this practice that existed
34 apparently in 1846 or thereabouts.
- 35 A. That is the only one that I am aware of in relation to
36 European fathers.
- 37 Q. That specifically is a reference to infanticide, not
38 abortion.

1 A. That's correct.

2 Q. And anthropologically as well as every other way you
3 would agree there is a considerable difference between
4 infanticide and abortion.

5 A. Difference from the Aboriginal perception, certainly.

6 COMSR: Are we going to pursue that?

7 MR ABBOTT: No, I am not going to pursue it.

8 XXN

9 Q. If further information about that different perception
10 be required of you, I take it you would be prepared to
11 give it in closed section if it were required of you.

12 A. Yes.

13 MR ABBOTT: I don't pursue it. It is just that I
14 wouldn't want someone saying that there is no evidence
15 to back up a claim that there was a different
16 perception.

17 XXN

18 Q. There is evidence and, if necessary, you would be
19 prepared to provide it.

20 A. That's correct.

21 Q. I should mention another section in Berndt and Berndt,
22 at p.138, the practice of stones, stones being heated.

23 COMSR: I think you drew the witness's attention
24 to this section earlier.

25 MR ABBOTT: Yes, I did.

26 XXN

27 Q. But the practice which is detailed by Berndt and Berndt
28 is stones being used to heat -

29 COMSR: That might have been something that was
30 given in closed session, also.

31 MR ABBOTT: Not this. This is public.

32 COMSR: I know that, yes.

33 XXN

34 Q. I just want to put this by reference to that is a
35 practice described by Berndt and Berndt, vis-a-vis
36 inducing menstruation.

37 A. That is how it is discussed in this book, yes.

38 Q. Are you aware of any comment in Berndt and Berndt where

1 the same method or something similar is used to induce
2 abortion. I suggest that the previous pages are the
3 only section that deal with abortion or prevention of
4 pregnancies and it is not mentioned vis-a-vis abortion.

5 A. I don't believe it is here. I am just checking to make
6 sure. No, I don't believe it is here.

7 Q. Now going to the Saunders report, there is only a few
8 sections of this that I want to refer you to. At p.5,
9 just the paragraph in the middle of the page 'Protection
10 of the area is sought by the applicants on another
11 ground as well.' You will realise, of course, the
12 applicants are the then members of the Lower Murray
13 Aboriginal Heritage Committee, they were the applicants.

14 A. Right.

15 Q. It reads 'Protection of the area is sought by the
16 applicants on another ground as well, of great potential
17 significance. Representations to me, authorised by a
18 large representative group of Ngarrindjeri women, speak
19 of the spiritual and cultural significance of Hindmarsh
20 and Mundoo Islands, the waters of the Goolwa channel,
21 Lake Alexandrina and the Murray Mouth within the sacred
22 traditions of Ngarrindjeri women, crucial for the
23 reproduction of the Ngarrindjeri people.' Is that, in
24 your view, picking up nothing more than what is in the
25 Fergie report that we have seen so far.

26 A. It, to me, to my reading, it doesn't add anything other
27 than what is in the Fergie report.

28 Q. Is the balance of that paragraph, in essence, nothing
29 more than what we have already gone through in the
30 Fergie report about the bridge presenting a threat in
31 the form of a permanent and physical link and rendering
32 the cosmos and human beings within it sterile and unable
33 to reproduce.

34 A. That is my understanding.

35 Q. I think that the author, Professor Saunders, then goes
36 on inform say 'Knowledge of these matters', that is, the
37 ones in the preceding paragraph, 'lies largely within
38 the secret oral tradition of the Ngarrindjeri women.' I

1 think it is your opinion, as an expert, that such a
2 secret oral tradition does not exist.

3 A. Does not exist prior to 1994, that's correct.

4 Q. Did not exist prior to March 1994, or thereabouts.

5 A. That's correct.

6 Q. The author, Professor Saunders, then goes on to say 'A
7 more comprehensive account appears in a report prepared
8 for the ALRM by Dr Dr Fergie.' And is it your view that
9 Professor Saunders has almost exclusively relied on Dr
10 Fergie's report supplemented by her discussions with
11 Sarah Milera and Doreen Kartinyeri.

12 A. That is my reading of her report, yes.

13 Q. You will see, on p.12, there is more reference to Dr
14 Fergie. And the paragraph I have already read out to
15 you about Dr Fergie's confidential appendices and the
16 purpose of appendix 3 being 'to describe the threatened
17 impact of the bridge on Ngarrindjeri tradition and
18 sites. It conforms in all respects with the account
19 which Doreen Kartinyeri - ', that is the first appendix,
20 'It conforms in all respects with the account which
21 Doreen Kartinyeri gave to me.' You have already agreed
22 with me that that is hardly surprising since it is now
23 obvious that the material in that appendix came from
24 Doreen Kartinyeri and was acknowledged to have come from
25 Doreen Kartinyeri by Dr Fergie.

26 A. That's my belief, yes.

27 Q. At p.14, 'Aboriginal Consultation', the author says 'One
28 feature of most of the inquiry was the unanimity of the
29 Aboriginal people to whom I spoke described elsewhere.'
30 Is it your view that that unanimity is hardly surprising
31 given the small number of Ngarrindjeri women consulted
32 and the manner in which the consultation occurred.

33 A. That is the conclusion I draw, yes.

34 Q. We again have, as we had on p.5, a 'large representative
35 group of Ngarrindjeri women'. We have a repeat of that,
36 on p.15, a 'large representative meeting of Ngarrindjeri
37 women'. You would take strong objection to that being
38 used with reference to the group of 35, I take it.

1 A. Yes, I would.

2 Q. I now take you to p.23, and following. At the bottom of
3 p.24 the author says 'The application of the
4 definition', that is, of the meaning of tradition, 'is
5 likely to raise different issues in different reports
6 depending upon the circumstances of each application.'
7 Importantly for our purposes the author then says 'In
8 this report, the tradition claimed is largely a woman's
9 tradition, which has persisted despite the dispersal of
10 the Ngarrindjeri people.' Is there anything that you
11 read which indicated that it was anything other than
12 exclusively a woman's tradition.

13 A. Dr Fergie's report couches it in terms of being an
14 exclusive woman's tradition.

15 Q. The author, Professor Saunders, then quotes Dr Fergie as
16 saying 'This case demonstrates the resilience of
17 tradition in Aboriginal society. It demonstrates the
18 specificity and persistence of women's tradition in
19 Aboriginal society.' There is no doubt, is there, that
20 both Dr Fergie and Professor Saunders, in relation to
21 the claim of tradition that they were dealing with, were
22 dealing with a claim of a tradition that was
23 long-standing in terms of tens if not a century old. We
24 are not talking about some short-term tradition, are we.

25 A. No, the way it is described here suggests hundreds maybe
26 thousands of years.

27 Q. You know that Professor Saunders relied essentially on
28 the same informants as Dr Fergie.

29 A. That's my understanding, yes.

30 Q. That is, the same Ngarrindjeri informants. Connie
31 Roberts, Maggie Jacobs, Edith Rigney and Doreen
32 Kartinyeri.

33 A. That's correct, yes.

34 Q. I take it you make the same criticisms vis-a-vis the
35 Saunders report, in so far as it relied on those
36 informants, as you made in relation to Dr Fergie's
37 report.

38 A. Yes, my criticisms of the Fergie report carry over on to

1 this report.

2 Q. And it is obvious, is it not, that Doreen Kartinyeri was
3 central to both the Fergie report and to the Saunders
4 report.

5 A. That is my reading of both reports, yes.

6 Q. Indeed, Professor Saunders says so, at p.26. The
7 paragraph above halfway 'Doreen Kartinyeri'. 'She is a
8 Ngarrindjeri Elder, whose knowledge about the women's
9 business central to this report came from her
10 grandmother and her Auntie Rosie, her mother's older
11 sister.' Who was Doreen Kartinyeri's grandmother.

12 A. On which side?

13 CONTINUED

P.A. CLARKE XXN (MR ABBOTT)

- 1 Q. What are the alternatives. Presumably it's Grandma
2 Sally we are talking about, Sally Kartinyeri.
- 3 A. That's my understanding. I don't have a family tree in
4 front of me, but that's my understanding.
- 5 Q. Auntie Rose. You know of Auntie Rose, I think.
- 6 A. I've heard of her in the connection with this Hindmarsh
7 Island issue, yes.
- 8 Q. You know nothing of their history or genealogy which
9 would support the view that they were the custodians of
10 such secret sacred traditions to be able to hand them
11 on.
- 12 OBJECTION Mr Kenny objects.
- 13 MR KENNY: I ask that he asks what this witness
14 knows of this genealogy first.
- 15 MR ABBOTT: We can put their genealogy.
- 16 A. My knowledge of their life histories is that they have
17 been part of what I've described as a `mission culture',
18 particularly in the 20th century when Aboriginal people
19 came under a very restrictive legislation, the
20 Aborigines Act of 1911, which was updated at various
21 points through the 20th century.
- 22 XXN
- 23 Q. Indeed Grandma Sally was otherwise Sarah Varcoe.
- 24 A. That's my understanding yes.
- 25 Q. Born at Poonindie.
- 26 A. That's my understanding, yes.
- 27 Q. Not Ngarrindjeri.
- 28 A. Not as defined as a Lower Murray person, that's correct.
- 29 Q. I take you to p.31, s.3.1.3, `Significance of the area
30 as a whole'. You you know that the first sentence has
31 been, in essence, retracted by Professor Saunders, and
32 certainly the evidence before this commission has been
33 to the contrary in so far as Mr Jacobs is concerned. Do
34 you see that.
- 35 A. Sorry, can you read the sentence out? This is p.31, is
36 it?
- 37 Q. Yes, s.3.1.3.
- 38 A. Right, yes.

- 1 Q. `The final aspect of significance of the area identified
2 also by Mr S.J. Jacobs in his report to the current
3 government as potentially the most serious, involves the
4 secret knowledge of women'.
5 A. Yes, I see the sentence.
6 Q. You know that the author of this report has now, in
7 essence, retracted that claim, and it's been repudiated
8 by Mr Jacobs.
9 A. I'm aware of that through the media, yes.
10 Q. The author, Professor Saunders, then proceeds to gather
11 support for the view that she leads up to by referring
12 to other documentation in which one can see, if not the
13 same theme, then certainly the genesis. Do you see the
14 exercise that the author has gone through.
15 A. Yes, in that paragraph, yes.
16 Q. The sources that she has said support or provide some
17 support for her view are Mr Jacobs' report, which we can
18 now discount, and she says the Draper report of late
19 April 1994. You've read the Draper report, have you.
20 A. I've glanced over it, yes.
21 Q. Did you see anything in the Draper report that would
22 support this. There is a reference, you will remember,
23 to the meeting of the waters, etc.
24 A. I didn't see anything that I would consider, as an
25 anthropologist and ethnographer of the region, to
26 support the secret knowledge of women as it's described
27 here in the Draper report.
28 Q. The report of Mr Jacobs and the report of Dr Draper are
29 the only two sources that she provides for assistance in
30 saying `Well, there is some previous mention of what I'm
31 on about in my report', aren't they.
32 A. That's correct.
33 Q. She goes on to say, `In essence, the Ngarrindjeri women
34 regard the Murray Mouth area in general, and Hindmarsh
35 and Mundoo Islands and the surrounding and separating
36 waters in particular, as crucial for the reproduction of
37 the Ngarrindjeri people and their continued existence'.
38 I suggest that that is nothing more and nothing less

1 than Dr Fergie's line.

2 A. That would be my understanding, yes.

3 Q. It's almost word for word what is in Dr Fergie's report.

4 A. I wouldn't want to be in a position of having to check
5 every word. It's my understanding that it conveys the
6 same message.

7 Q. It is in no way dissimilar.

8 A. That's correct.

9 Q. The author continues 'This tradition is not mythological
10 but spiritual, and an actual reflection of traditional
11 practice, handed down from mother to daughter, drawn out
12 of the landscape itself'. What do you understand, as an
13 anthropologist, by 'This tradition is not mythological
14 but spiritual'.

15 A. It defies anthropological description. In a sense, this
16 statement does back up the Lucas report which claimed
17 that there was, or he claimed that he couldn't find any
18 recorded mythology for the region. If we accept the
19 fact that, from the words of Dr Kartinyeri, it's not a
20 dreaming, I would suggest that my explanation in terms
21 of the mother earth may well be supported by this
22 statement but, in the absence of any anthropological
23 explanation of how a belief like this cannot be a
24 dreaming, I just have to rely on my explanation.

25 Q. I mean in layman's terms - I don't say this is of
26 universal application - but dealing with what you know
27 of the Ngarrindjeri, their spiritual world was, to a
28 large extent, mythological.

29 A. That's correct. I don't believe you could separate the
30 two.

31 Q. So the Ngarrindjeri, like presumably most, if not all,
32 Aboriginal groups, had dreamings, which was their
33 spiritual world, not exclusively, but part of their
34 spiritual world which was, in that sense, mythological.

35 A. That's correct.

36 Q. The claim made here by Professor Saunders that the
37 tradition was not mythological but spiritual seems to
38 fly in the face of all that we know about Aboriginal

1 people, their dreamings and their spiritual life, does
2 it not.

3 A. It does in terms of the earlier literature but, as I've
4 already pointed out, it may fit very well with the
5 mother earth proliferation that I've described earlier
6 in the commission.

7 Q. It fits the model of a latter day invention of
8 tradition.

9 A. That's correct.

10 Q. As set out by the authors that you've already referred
11 to, but particularly in the book 'The Invention of
12 Tradition' by Eric Hobsbaum and Terrence Ranger.

13 A. The process of invention of tradition is in that book.
14 Other papers are by Deborah Bird Rose and Swain for the
15 more detailed accounts in relation to the Australian
16 landscape.

17 Q. The claim by the Professor Saunders that the tradition
18 was not mythological but spiritual would seem to put to
19 an end any assertion that it could be 40,000 years old,
20 because if it was 40,000 years old, it would have to be
21 almost mythological, almost by a process which one would
22 regard as axiomatic.

23 A. Yes. The statement is totally against the literature in
24 relation to earlier Aboriginal beliefs to do with the
25 landscape of the Lower Murray.

26 Q. She goes on to say, 'It was an actual reflection of
27 traditional practice handed down from mother to
28 daughter, drawn out of the landscape itself. In the
29 words of Doreen Kartinyeri, this is not just a dreaming
30 it's a reality'. Now without using emotive words, you
31 would, I suggest, as an anthropologist, have great
32 difficulty accepting that as making sense.

33 A. That's correct. The dreaming is a reality to an
34 enormous number of Aboriginal people, and I would
35 certainly never suggest otherwise.

36 Q. The suggestion that it's an actual reflection of
37 traditional practice drawn out of the landscape itself
38 is not a bad definition of a dreaming, is it.

- 1 A. That could be considered one definition of a dreaming,
2 simply put.
- 3 Q. To say it's not a dreaming really is a non sequitur,
4 isn't it.
- 5 A. That's correct.
- 6 Q. If Doreen Kartinyeri said that, it would imply that she
7 didn't know what she was talking about, wouldn't it.
- 8 A. In relation to what we know about dreamings, that would
9 be the case. It's difficult to know exactly what she
10 was talking about. In terms of what we know about
11 Ngarrindjeri dreaming, I would say that Dr Kartinyeri
12 made an error.
- 13 Q. Page 38, the last paragraph beginning 'The third aspect
14 of significance', read it through and let me know when
15 you've read it.
- 16 A. I've read the paragraph.
- 17 Q. Apart from the fact that we haven't had the benefit of
18 reading appendix three, which is said to 'offer the
19 broader cosmological significance of the Aboriginal
20 beliefs about the area', is that paragraph, in your
21 view, nothing more and nothing less than the line Dr
22 Fergie was putting forward in her report.
- 23 A. That's correct.
- 24 Q. Which, from all you've seen, leads right back to almost
25 exclusively one person, Doreen Kartinyeri.
- 26 A. That's correct.
- 27 Q. I think one of the difficulties you have accepting that
28 there may be secret sacred women's business somewhere in
29 the Ngarrindjeri community, is that whilst - do you go
30 this far; do you say that the existence of it is what
31 you believe would have been documented if it had
32 existed, as distinct from the details of it. Do you
33 draw a distinction between the documenting of the
34 existence of something and documenting the details of
35 something.
- 36 A. That's correct. I would expect that the existence of
37 the secret sacred women's business in the Lower Murray
38 would have been recorded in the literature concerning

1 the early period, and we can use Berndts book as a
2 benchmark there. So, beyond that, the question of
3 whether it existed up until the 1990s is hardly even
4 relevant in that situation.

5 Q. The Berndts and others, particularly the Berndts, were
6 setting out to write about an interpretation of the
7 entire Ngarrindjeri culture as they saw it, weren't
8 they.

9 A. That's correct, they were describing, or the title 'A
10 World That Was', was describing a whole culture, and the
11 perceptions that that culture had about the world that
12 they lived in.

13 Q. Their entire book, I would suggest, is predicated on the
14 basis that if there was such a major cultural event as
15 secret sacred women's business in relation to Hindmarsh
16 Island, such that it related to the cosmos, to
17 spirituality, their book, you could virtually throw it
18 away and say it 'Records a lot of things, but it's
19 really missed the biggest and best'.

20 A. Given that their book had that aim, I think to some
21 extent you would be right. It is a far greater omission
22 in the view that they were aiming to describe the
23 behaviour and the aspects of Ngarrindjeri society, which
24 would have included secret sacred women's business.

25 Q. But if one accepts, as one must, that they haven't
26 recorded in their book, and they haven't ever recorded,
27 the existence of it let alone the details of it, then
28 what the Berndts failed to even learn of by hint - put
29 aside details - is the cosmological significance of the
30 universe etc. in Ngarrindjeri life related to Hindmarsh
31 Island. They have completely missed all of that if this
32 tradition existed.

33 A. Yes, and all of the traditions and knowledge that would
34 have framed, existed around and supported that secret
35 sacred women's business, yes.

36 Q. Are there any other matters that you want to add to the
37 matters that I've put to you in relation to Professor
38 Saunders' report.

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- 1 A. In her report she lists major sources of information,
2 this is on p.17, 2.2. She lists, halfway down the page,
3 `Norman Tindale, an Ethnographer in the South Australia
4 Museum in the mid 1930s, whose principal informants were
5 members of the Tangani linguist group'. As far as I can
6 see, reading through this report, the wealth of data
7 that Norman B Tindale accumulated has not found its way
8 into this report, and I would consider that an omission.
- 9 Q. Are there any other comments you wanted to make about
10 the report that I haven't already covered with you.
- 11 A. Well, perhaps just to say, as an overview, that the
12 report is largely based on Dr Fergie's report, and
13 although I have no knowledge of legal matters, I find it
14 extraordinary that she did not act or use the Fergie
15 report more critically, and therefore come up with some
16 of the problems that we have come up with but, having
17 said that, I have no more comment on the Saunders
18 report.
- 19 NO FURTHER QUESTIONS

- 1 MR KENNY: I have taken some further specific
2 instructions on the questions I would like to put to the
3 witness. They are matters that I could have put before,
4 I agree with you, but, for the reasons that became
5 fairly obvious, I didn't. But I have now the specific
6 instructions on what Mr Henry Rankine in particular will
7 say one, of my clients. I've avoid these matters,
8 because of the obvious reasons.
- 9 MR ABBOTT: I object to this.
- 10 COMSR: You ask me for leave to re-open this?
- 11 MR KENNY: Only on a couple of points. It will be
12 subject to evidence given by Mr Rankine. And I informed
13 Mr Rankine that I will put the matters direct to this
14 witness for a chance to answer them.
- 15 MR SMITH: Could I speak to Mr Kenny about the
16 matters?
- 17 MR KENNY: I have no difficulty about speaking with
18 my friend.
- 19 COMSR: If it could be quick. I'm trying to
20 think how this witness's evidence touches this? You
21 want a few minutes?
- 22 MR SMITH: Mr Kenny will need your leave to bring
23 up the rear. I would like to find out what these topics
24 are and whether I would support an application by him
25 for leave to further cross-examine.
- 26 MR KENNY: I can tell you what the topics are.
- 27 MR SMITH: I would like Mr Kenny to he speak to me
28 in private.
- 29 MS PYKE: If I could flag one thing. What
30 happened is that from my client's perspective, that the
31 evidence this witness gave, the evidence-in-chief about
32 the criticisms of Dr Fergie, which were very general and
33 broad - and I refer you to the matters in the pages of
34 the transcript of what has gone on - is that this
35 witness spent another day in the witness boxes making
36 criticisms of Dr Fergie. That I haven't had the
37 remotest chance of getting instructions on this and have
38 had no opportunity to cross-examine. That is one of the

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1 difficulties that one confronts, I'm afraid -

2 COMSR: This is not a trial.

3 MS PYKE: I realise that. I flag that Dr Fergie
4 will have a great deal to say about the criticisms that
5 have been level at her, and I want it noted that I have
6 not been able to put nor, indeed, take instructions at
7 this stage on a vast number of what has arisen over the
8 last day or day and a half. Rest assured we will be
9 responding to it. I don't want my client to be
10 criticised because I haven't had the opportunity to
11 cross-examine this witness in relation to it.

12 MR SMITH: I will need five minutes to speak to Mr
13 Kenny.

14 ADJOURNED 11.18 A.M.

15 RESUMING 11.25 A.M.

16 MR SMITH: I don't raise any objection to Mr
17 Kenny's further questions.

18 FURTHER CROSS-EXAMINATION BY MR KENNY

19 Q. In your thesis, you report various information given to
20 you by Henry Rankine; is that correct.

21 A. That's - there is, yes, there are a couple of bits of
22 information in the thesis which I do acknowledge Henry
23 Rankine is the source of that information, yes.

24 Q. There's others that you perhaps don't acknowledge him as
25 well.

26 A. I'm not sure really how you define `sources of
27 information'? As I think during our last time we
28 touched on these questions, that much of my information
29 is an overview and as an overview it was not possible to
30 carve out little bits and pieces.

31 Q. I'm not asking you to do that. There is some very
32 specific information in there that you received from
33 Henry Rankine. That is correct, isn't it.

34 A. Yes. And as acknowledged, yes.

35 Q. Did you at any time tell him you're putting that
36 information in your thesis.

37 A. How which information? The information that I have in
38 the thesis is information from Henry Rankine that was

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1 published as a published source of information. That is
2 public domain.

3 Q. I'm not asking you that. I'm asking you: did you tell
4 Henry Rankine you were putting information that
5 originally came from him, whether published or not, in
6 your thesis.

7 A. He was aware that I was putting information that he had
8 given and was published I was putting that in the
9 thesis. We never discussed -

10 Q. The question is very direct -

11 COMSR: I think that is an answer to it.

12 Perhaps if the witness can -

13 MR KENNY: He is not saying that he ever did. He
14 said that he was aware.

15 XXN

16 A. There were conversations that I had where I made it
17 quite clear what I was doing and what I was likely to
18 put it in the thesis, but -

19 Q. I put it to you that you never told Henry Rankine in any
20 clear terms that you were putting information that
21 originated from him in your thesis.

22 A. Well, I deny that.

23 Q. You say that you did.

24 A. I made it clear that I was putting information that came
25 about through my interaction with Mr Rankine and a large
26 number of other people in my thesis.

27 Q. What did you say to Mr Rankine.

28 A. I'm going back over quite a few years, quite a few
29 conversations in which we were talking about a wide
30 range of things. He knew what was going on in the
31 thesis. It was never formalised. I haven't got a
32 statement to say that this bit of information can and
33 this can't. There's nothing formalised.

34 Q. You never sought any permission from him to use
35 information that you received from him.

36 A. I made him aware of what I was doing and he did not
37 decline.

38 Q. The question is: Did you seek permission from him to -

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REXN (MR SMITH)

1 A. Which suggests formal?

2 Q. Yes.

3 A. Verbal contract and whatever. And as I have already
4 said, I did not go that formal way of asking for,
5 formally requesting certain bits of information. But,
6 as I already said, that is public domain information, so
7 to actually ask for something he has already told
8 thousands of people and which is being used in the
9 Education Department and a wide variety of things that
10 are at Signal Point, it would almost be rude to ask for
11 permission for something that he has already given to
12 the world at large, and so I never formally requested to
13 use the information that was already there being
14 publicly consumed.

15 Q. The answer is: no, you didn't. Is that correct.

16 A. In the formal sense of a particular bit of information.

17 But, as I said, I made it quite clear what I was doing
18 and he raised no objections.

19 COMSR: I think what the witness is saying is
20 quite clear.

21 MR KENNY: I think it is too. I think the witness
22 is clearly saying that he did not formally asked him if
23 he could use that information.

24 RE-EXAMINATION BY MR SMITH

25 Q. In questions directed to you by Mr Meyer, your attention
26 was drawn to Exhibit 172, which was an agenda of the
27 Lower Murray Aboriginal Heritage Committee relating to
28 the Highways Department proposal to build a road, et
29 cetera, at Tailem Bend and Wellington.

30 A. That's correct.

31 Q. Was the Museum consulted in respect of that.

32 A. Yes, we were.

33 Q. Did you have personal involvement in those consultations
34 in connection with that road.

35 A. Yes, I did.

36 Q. They were consultations that were instigated by an
37 approach by the Museum. By whom or what.

38 A. We were approached by both sides, from the members of

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1 the Lower Murray Aboriginal Heritage Committee and phone
2 calls from people working within the Highways Department
3 who had been put on to myself and Steve Hemming
4 presumably to help both in the consultation and the
5 provision of information.

6 Q. The minute or the agenda, if you like, for the committee
7 is not dated. Would you be able to tell us when it was
8 that this issue of the road between Tailem Bend and
9 Wellington came to your attention at the Museum.

10 A. I believe it was around 1990. There is a plaque that
11 commemorates the whole activity, the Aboriginal
12 involvement by the side of the road. I would have to go
13 through notebooks to come up with a more precise date.
14 I believe it was around 1990. Certainly it was from, my
15 memory, at least three, four years ago. Back before
16 then.

17 Q. Well before the Hindmarsh Island Bridge dispute.

18 A. Yes, very much before that.

19 Q. Did you have contact yourself with the members of the
20 Lower Murray Aboriginal Heritage Committee - or perhaps
21 I will rephrase that. Who were the members of the Lower
22 Murray Aboriginal Heritage Committee, if you know, who
23 were involved in negotiations relating to this stretch
24 of road.

25 A. Mr Victor Wilson, Mr Milera I believe, there was Mr Tom
26 Trevorrow was involved - and I'm not sure, I assume he
27 was on the committee then it's a changing thing, Mr
28 Robert Day was quite heavily involved at that time.
29 Steve Hemming and I were doing that Lower Murray site
30 recording project and Mr Day had a role of the Highways
31 Department job as well.

32 Q. Were you the only person on the Museum staff involved in
33 consultations relating to this road development.

34 A. Steve Hemming had a more major role in the actual
35 consultation. My - although I was involved, my
36 expertise came in in terms of finding names of the parts
37 of the landscape and helping with the plaque and
38 participating in a couple of the field trips with the

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1 Highways Department personnel and Mr Robert Day and Mr
2 Steve Hemming looking for potential sites that were
3 going to be or possibly would need to be moved or may
4 have been threatened of damage.

5 Q. Finally, I think the matter was resolved on the basis
6 that some compensation was paid to the Aboriginal
7 interests and the roadway went ahead; is that right.

8 A. I believe that has been the case. I heard more from
9 that end from the Aboriginal Heritage Branch staff who
10 said some form of compensation had been paid.

11 Q. Can I take you to one last topic. Was the Museum
12 consulted in respect of the problems that arose with the
13 Aboriginal communities concerning towers on the summit
14 at Mount Barker.

15 A. Yes, we were. There's been several disputes. The
16 earliest one we were called in - that is Mr Steve
17 Hemming, Mr Philip Jones and myself - called in from the
18 Aboriginal Heritage Branch, then in the Department of
19 Environment and Planning. We were called in and asked
20 to evaluate the heritage issues involved with the
21 mountain, and we were there during one of the
22 consultations that the Department of Environment and
23 Planning had with Aboriginal people who, at that stage,
24 were camped on the summit.

25 Q. Again, were the Ngarrindjeri people and in particular
26 any members of the Lower Murray Aboriginal Heritage
27 Committee involved in this.

28 OBJECTION Mr Kenny objects.

29 MR KENNY: I object to the question. It doesn't
30 assist you any further. It's a completely different
31 matter and a different area. If we are going to embark
32 upon this, I need to consider all the negotiations that
33 these people have undertaken. It would open a huge area
34 to select small bits.

35 MR SMITH: We are not opening any huge areas. This
36 is an isolated topic of whether any members of the Lower
37 Murray Aboriginal Heritage Committee, common to the
38 committee, who protested about a lack of consultation

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1 about the bridge were involved in the Mount Barker tower
2 dispute.

3 COMSR: How does that help?

4 MR KENNY: I can take my friend's earlier question
5 to the compensation of Aboriginal interests to the road.

6 Is he looking at the whole question of compensation?

7 There's some suggestion there that there was a
8 compromise by the payment of money. I'm extremely
9 concerned about those sorts of suggestions.

10 MR SMITH: There is nothing untoward about that
11 topic. The point being made, if I have to establish the
12 relevance of this.

13 MR KENNY: It's hearsay and -

14 COMSR: No, the witness has been asked about
15 consultations which he had taken with the same group.

16 MR SMITH: Yes. The questions is focused on the
17 Lower Murray Aboriginal Heritage Committee who were
18 common to the group negotiating in respect of the
19 bridge. There is an obvious relevance in that that I
20 don't want to debate in open hearing now. I suggest
21 it's there -

22 COMSR: I will take the questions on that basis.

23 REXN

24 Q. Can you tell us then whether the Ngarrindjeri people
25 were represented in that dispute concerning the Mount
26 Barker summit, were they not.

27 A. Yes. I'm talking about the first dispute and that was
28 before the Aboriginal Heritage Act and, therefore, there
29 was not a Lower Murray Aboriginal Heritage Committee in
30 existence. That is before then.

31 Q. We are talking about before then. Means about when.

32 A. I think it was of the order of 1984, 1985, thereabouts.

33 Q. Were personnel who became members later of the Lower
34 Murray Aboriginal Heritage Committee involved in that
35 dispute.

36 A. Not at that dispute at that time.

37 CONTINUED

1 Q. But later.

2 A. I believe more recent consultations regarding tours,
3 extension of tours, have involved members or people who
4 at one time were part of the Lower Murray Aboriginal
5 Heritage Committee.

6 Q. Who were they.

7 A. Mr Victor Wilson, Mr George Trevorrow. They are the
8 main names.

9 MR SMITH: I have nothing further. And now Dr
10 Clarke could be released.

11 MR STEELE: I am not in anyway suggesting that Dr
12 Clarke should not be released, nor am I suggesting that
13 I should cross-examine, but I just want to make the
14 point that my silence in respect to cross-examination
15 should not be taken by you as an acceptance of the
16 evidence of Dr Clarke and I align myself with the
17 cross-examination undertaken by Ms Nelson, in
18 particular.

19 NO FURTHER QUESTIONS

20 WITNESS RELEASED

21 MR SMITH: The next witness is Mrs Jenny Grace.
22 She is primarily to be cross-examined, but there is some
23 additional evidence that is to be led from her.

24 Statements have been handed out not long ago today.

25 COMSR: What is the nature of her evidence? Can
26 it be taken in public hearing or closed hearing?

27 MR SMITH: Yes, it can be taken in public hearing.

28 MS SHAW: Unless she wants it in private session.

29 MR SMITH: The additional evidence ought to be
30 taken in private session.

31 COMSR: Restricted to women?

32 MR SMITH: No, there are other reasons of
33 sensitivity that I can elaborate on with you later.

34 COMSR: I accept that you would be in a position
35 to know, yes.

36 MR KENNY: I have read the statement and,
37 considering the evidence that has come out on this
38 morning and what I consider to be the sensitivity of

1 that evidence, this is nowhere near it. So, I would ask
2 for an elaboration on that.

3 COMSR: Are these matters not within the public
4 domain?

5 MR SMITH: There are other matters that I can draw
6 your attention to that are sensitive from the
7 Commission's point of view that I don't care to
8 elaborate upon in open hearing, but I can do so with
9 you.

10 MS SHAW: I think that might be wise.

11 MR KENNY: Perhaps we can discuss the matter.

12 MR SMITH: No, it is not going to be discussed with
13 anybody. I ask that the session be private.

14 COMSR: That is what I intend to do, to now
15 close the public -

16 MR KENNY: I am mystified as to why this should
17 be -

18 COMSR: No doubt if you are a little patient, Mr
19 Kenny, you will find out.

20 I will close the public hearing. We will move into
21 private session while this matter is being heard.

22 HEARING CONTINUES IN CLOSED SESSSION

Closed Hearing

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J.C. GRACE XXN (MR KENNY)

- 1 HEARING CONTINUES IN OPEN SESSION
2 MRS SHAW There is no imputation against Mr Kenny
3 about the transcript being distributed.
4 XXN
5 Q. You've told us you're on the Mannum Aboriginal
6 Development Committee, is that correct.
7 A. Yes.
8 Q. You're concerned about protection of Aboriginal sites, I
9 think you mentioned that in your statement.
10 A. Yes.
11 Q. What do you mean by `sites'.
12 A. I mean like our heritage sites, like burial grounds,
13 middens, artifacts.
14 Q. So physical sites.
15 A. That, as far as I'm concerned, is our heritage.
16 Q. So you're saying that there are no sites other than
17 sites of physical significance, if you understand what I
18 mean.
19 A. Yes.
20 Q. So you are saying, as far as the Ngarrindjeri people are
21 concerned, in your belief there are no sites that have
22 any significance, apart from those on which there is
23 physical evidence of them being there.
24 A. Well, that's how I see it. Any spiritual type things I
25 think has been left behind, and the only proof we have
26 got of our heritage is like burial sites and things like
27 that, artifacts.
28 Q. So you're unaware of any other sites of a spiritual
29 significance.
30 A. No. The spirit things that I've heard about, I mean
31 dreaming stories and myths and things like that, I've
32 learned them as an adult. I was never told anything
33 like that as a child. I mean I've done some Aboriginal
34 studies and things, and I didn't really agree with what
35 they were telling me because I was thinking well, if I
36 don't know myself, I don't want to be told by white
37 people.
38 Q. So, in your Aboriginal studies, you didn't accept a lot

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- 1 of things that they taught you there.
- 2 A. A lot of them. I believe that Aboriginal people had an
3 explanation of how the earth come to be like it is but,
4 you know, as far as I'm concerned, it's gone.
- 5 Q. So as far as you're concerned, any spiritual beliefs of
6 the Ngarrindjeri people are gone.
- 7 A. Well, yes, things like - I mean the landscape of things
8 and that sort of thing, yes. I mean, see, like I can't
9 understand how - I mean as an adult, I've learned about
10 the Ngurunderi, legs supposed to be spread along the
11 Coorong, and I think that includes down there, so I
12 don't understand how a woman's body can be there.
- 13 Q. You've heard of the Ngurunderi belief, haven't you.
- 14 A. Yes.
- 15 Q. You don't believe it, you think that is just a relic
16 from the past.
- 17 A. I believe that people used that - like I said, they had
18 an explanation of how the earth is like it is and all
19 that, how the river come to be there, that was probably
20 before white people come here.
- 21 Q. Most Ngarrindjeri people know that belief, the
22 Ngurunderi belief.
- 23 A. Probably as adults they would have seen it on video like
24 I did.
- 25 Q. But it's pretty widely known and believed by the
26 Ngarrindjeri people now, is that correct.
- 27 A. Yes, it would be, yes, on video and books probably.
- 28 OBJECTION Mrs Shaw objects.
- 29 MRS SHAW: Mr Kenny's question was 'known and
30 believed'. It was double-barrelled question.
- 31 COMSR: Her answer goes to the known and not to
32 the believing.
- 33 XXN
- 34 Q. And they believed. (NOT ANSWERED)
- 35 COMSR: I don't think this witness can talk
36 about anyone else's beliefs other than her own.
- 37 A. I don't know about other people, whether they believe it
38 or not.

J.C. GRACE XXN (MR KENNY)

- 1 MR KENNY: Her statements is full of comments on
2 other people's beliefs.
- 3 MRS SHAW: She has answered it. She said during
4 that that she didn't know whether other people believed
5 it or not.
- 6 XXN
- 7 Q. With respect to the women's business, in your statement
8 you say that none of the women you have ever spoken to
9 have ever heard of it, is that correct.
- 10 A. Correct, and what I would have liked -
- 11 Q. Sarah Milera -
- 12 COMSR: I don't know that the witness had
13 finished her answer before you asked the next one.
- 14 A. Women's business are you talking about?
- 15 XXN
- 16 Q. Just Hindmarsh Island.
- 17 A. So that specific business about Hindmarsh Island?
- 18 Q. Yes.
- 19 A. No. No-one I've spoken to except - I mean Sarah's, you
20 know, been involved there, so if you must have a belief
21 about it -
- 22 Q. So Sarah says she believes this.
- 23 A. In a way. Sometimes she says, you know, that, you know,
24 about the spiritual waters and all that, like I said
25 before, she said the spiritual waters, but then again
26 she will come out with something like `The waters are
27 spiritual because my brother got drowned in the river'.
- 28 Q. Have you ever heard of other Ngarrindjeri women's
29 business.
- 30 A. Not Ngarrindjeri. I've heard of women's business in
31 other areas, but not here.
- 32 Q. You haven't spoken to Maggie Jacobs, I presume, about
33 women's business on Hindmarsh Island.
- 34 A. No.
- 35 Q. It was reported, I think, on TV, we have seen her, that
36 she says she's been told about it by her grandmother.
- 37 OBJECTION Mrs Shaw objects.
- 38 MRS SHAW: What is the question?

J.C. GRACE XXN (MR KENNY)
(MS PYKE)

- 1 A. I don't know.
2 Q. Dr Kartinyeri clearly believes in it.
3 OBJECTION Mrs Shaw objects.
4 MRS SHAW Mr Kenny can put to the witness
5 statements these people have made somewhere else and ask
6 her if she has got a comment, but to make statements
7 like he is making and expecting a response in my
8 submission is to not a proper way of questioning
9 someone.
10 MR KENNY: I will amend it, I have no difficulty.
11 I'm leading on to something else.
12 XXN
13 Q. You're aware that there are a number of women who
14 believe there is women's business associated with
15 Hindmarsh Island.
16 COMSR: Who have said that they believe.
17 A. I'm aware that women have made a stand to say that there
18 is women's business on Hindmarsh Island.
19 XXN
20 Q. You have, I think, told us a fair bit about Sarah Milera
21 and her fantasies.
22 COMSR: I thought that wasn't -
23 MR KENNY: I'm not going to ask anything about
24 that.
25 XXN
26 Q. But you haven't made any mention about Doug, have you.
27 A. No, not really.
28 Q. Have you ever heard Doug say things that are clearly not
29 true.
30 A. No. I mean not like, you know, outright lies I haven't
31 heard him.
32 CROSS-EXAMINATION BY MS PYKE
33 Q. You've said that you know Doug and Sarah Milera very
34 well, that you've been friendly with them, as I
35 understand it, over very many years.
36 A. Yes.
37 Q. Are you aware that Doug is an alcoholic.
38 A. Yes.

- 1 Q. It's something that's reasonably well-known within the
2 Ngarrindjeri community, isn't it.
- 3 A. Yes.
- 4 COMSR
- 5 Q. I wonder if I might clarify something before we go on,
6 has he been an alcoholic for some time.
- 7 A. Well, for years - I mean he's always drank when he's got
8 the opportunity, maybe fortnightly he'd have a break in
9 between, but in the last year or so it's sort of got
10 worse, I think.
- 11 XXN
- 12 Q. I mean the reality is have you yourself seen Doug
13 substantially affected by alcohol from time to time.
- 14 A. Yes.
- 15 Q. Do you know him well enough to know whether he seems to
16 drink more when he is stressed or upset, or are you not
17 able to comment about that.
- 18 A. I think he does, and I think this is why he's been - I
19 mean it's sort of been worse in the last, maybe about a
20 year.
- 21 Q. That's something you've observed yourself from your
22 contact with the Mileras.
- 23 A. Yes.
- 24 Q. In your statement, you refer to the fact that you
25 travelled up and down the River Murray as a young girl
26 growing up. Did you come down as far as Goolwa and
27 Hindmarsh Island at all during your growing up years.
- 28 A. My mother said that we did go to Hindmarsh Island, but I
29 couldn't remember, but I can remember like people along
30 the way, like the Loves down at Wellington, and I can
31 remember being there because we'd stay there for maybe a
32 couple of months at a time.
- 33 Q. Is that about as far down as you can actually remember
34 travelling, that is to Wellington.
- 35 A. Yes.
- 36 Q. Did you go to Point McLeay at all whilst you were
37 growing up.
- 38 A. We visited Point McLeay, but not by boat. I mean I

J.C. GRACE XXN (MS PYKE)

1 don't remember going there by boat. We had a car for a
2 while, and we used to visit down there sometimes.

3 Q. So is it the situation that, in terms of you, you had
4 little contact with the people who lived on Point
5 McLeay.

6 A. Yes. I wouldn't have had that much contact with the
7 people living on Point McLeay as much as other people
8 camped on the river, like at Talem Bend.

9 Q. So your contact, certainly as a young girl growing up,
10 up to the time, say, that you were married, tended to be
11 with people as far down as Wellington, but really not
12 much further, and little contact with the Point McLeay
13 people. (NOT ANSWERED)

14 COMSR

15 Q. I think you nodded your head. You have to give an
16 audible answer.

17 A. Sorry, yes.

18 XXN

19 Q. Reading your statement I had the impression, and correct
20 me if I'm incorrect in this, but in fact travelling
21 along the river as you did with your parents and your
22 brothers and sisters, you didn't of a lot of contact
23 with other Aboriginal families as you were growing up.
24 Is that accurate.

25 A. No. Like my father had four sisters and a brother, they
26 all lived on the river too. They did some of the same
27 things that we did, like travelling around, seasonal
28 work, trapping water rats and things like that, so there
29 was - like they did it. The daughter of Pinkie Mack,
30 you know, we used to go there and visit along, so she
31 used to be one that lived just out of Taillem Bend.

32 CONTINUED

J.C. GRACE XXN (MS PYKE)

1 Other people along the river, you know, did fishing and
2 that. We see them fairly regular. Sometimes we'd camp
3 with other people.

4 Q. Was that something that just so - give me an idea of the
5 daughter of Pinkie Mack. How often would you have
6 visited her or, indeed, she came and visited your family
7 over that time, up until, say, you got married.

8 A. Probably three or four times at Tailem Bend. Other
9 times when they would come to Bow Hill or come to
10 Nildottie, and, you know, Bow Hill they did fruit
11 picking there, seasonal work when it was there. We'd
12 come up to Nildotti and visit them up there.

13 Q. When you say 'they', the daughter of Pinkie Mack and
14 whom.

15 A. And my uncle, my mum's uncle.

16 Q. Again, is that something that happened. I'm trying to
17 get some idea of how much contact you actually had with
18 the daughter of Pinkie Mack over those years.

19 A. Over those years, I wouldn't have sat down and talked
20 about things then because, I mean, I spent time with her
21 daughter, but my mother would have.

22 Q. I'm talking about you at the moment. Is it fair to say
23 - and again feel free to disagree if you think I'm
24 putting this incorrectly - that while you had some
25 contact with the daughter of Pinkie Mack, you, yourself,
26 didn't have a great deal to do with her in those years
27 up until you were married.

28 A. Well, I mean, I had as much to do with her as any - I
29 mean, she was like family to us, so.

30 Q. I'm talking - I'm not questioning the relationship
31 between you. I'm actually trying to ascertain, in fact,
32 in terms of seeing her or visiting her or her visiting
33 when you were present, in reality, there wasn't a lot of
34 contact, was there, over those years.

35 A. There would have been more contact than contact with,
36 say, my grandmother over at Point Pearce. We would have
37 had more contact with her like those people on the
38 river.

- 1 Q. Are we talking about perhaps contact a couple of times a
2 year with the daughter of Pinkie Mack, if you averaged
3 it out.
- 4 A. Yes, maybe.
- 5 Q. Once or twice a year.
- 6 A. Yes.
- 7 Q. Over that time.
- 8 A. Yes.
- 9 Q. As to your grandmother, she was at Point Pearce.
- 10 A. Granny Rosy, she lived in Point Pearce and we didn't get
11 there very often to see her.
- 12 Q. Can you give us some approximation of over the years,
13 and again using until you got married as a convenient
14 point, how often you saw your Granny Rose.
- 15 A. Probably from an age it would probably be about five or
16 six times.
- 17 Q. The visits to Granny Rose, were they - would you stay an
18 extended period of time there, or would it be a matter
19 of shorter visits than that.
- 20 A. No, probably be a week or two weeks maybe at a time. My
21 dad, we'd go and he would go duck shooting and things
22 like that with my grandfather when he was alive. And
23 then after, I think, Granny Rose moved back to Point
24 Pearce, and I mean I don't think we spent that much time
25 when we went to visit and maybe stay a night or
26 something like that.
- 27 Q. Would it be fair to say in terms of your Granny Rose and
28 the daughter of Pinkie Mack, that whilst you might not
29 have felt a close family bond or connection with them,
30 in terms of your actual contact with them, it wasn't
31 very much.
- 32 A. No, not like people living in the same town or something
33 like that, because, you know, it was a fair distance
34 away, especially when most of the time we only had a
35 boat.
- 36 Q. There is no criticism implied in any of the questions.
37 I'm trying to establish the actual contact. Again, the
38 impression that I have from your statement and the

- 1 article 'Women of the Centres' is that you had a fairly
2 close relationship with your father.
- 3 A. Yes.
- 4 Q. That you seemed to spend a lot of time with him.
- 5 A. Yes.
- 6 Q. That you were - is it the fact that you were quite
7 interested in a lot of the things that he was doing,
8 either the trapping and the fishing and the -
- 9 A. Yes, I was interested in, you know, the things that he
10 did.
- 11 Q. Again, from your statement, is it the situation that you
12 didn't spend as much time with your mother as you did
13 with your father.
- 14 A. I spent a lot of the time my mother. She would do what
15 we did. There was only myself there at that time for
16 the first nine years of my life before I had a brother
17 and a lot of the time she would have been with us as
18 well.
- 19 Q. Again, from reading your statement, I have the
20 impression that, indeed, you received, particularly from
21 your father, a lot of information about what I might
22 term the physical aspects of Ngarrindjeri culture or
23 traditions to do with fishing and hunting, but you
24 hadn't had much background in the mythological or the
25 spiritual elements of it.
- 26 A. No.
- 27 Q. You have set out in your statements some of the various
28 things that your father in particular told you, the
29 Willie Wagtail, the Mulywonk, and those sorts of things.
30 When you were a young girl growing up, did you believe
31 in those myths that were, or stories that were told you
32 by your father.
- 33 A. Yes, I did.
- 34 Q. Is it the situation that you no longer believe them.
- 35 A. I still believe them, but I don't use them because, I
36 mean, we don't live the life where we have to use them,
37 I don't think.
- 38 Q. So, do you still accept that those beliefs that you set

1 out in your statement are part of the Ngarrindjeri
2 traditional beliefs.

3 A. Yes.

4 Q. You still believe them and believe in them.

5 A. Yes.

6 Q. But they don't have much application to your day to day
7 life; is that a summary of what you are saying.

8 A. Yes.

9 Q. Are there other people, other Ngarrindjeri people, that
10 you understand also believe in these stories and myths.

11 A. Yes.

12 Q. Do you accept that there might be people who have a
13 broader knowledge of beliefs than you do, that they
14 might know more things about Ngarrindjeri tradition and
15 beliefs than you do.

16 A. I don't know, I can't really answer that.

17 Q. What I put to you is this: You are not suggesting that
18 you know all the beliefs and the stories told you, the
19 myths of the Ngarrindjeri.

20 A. No, I don't know them all, yes.

21 Q. You wouldn't suggest for a moment, because you don't
22 know about it, that someone who did know about it might
23 not have a genuine belief in it.

24 A. Yes.

25 Q. You talked about - you're asked a question, I think,
26 about whether you have viewed your life on the river as
27 a traditional life, and you said 'semi-traditional' was
28 the phrase that you used. What do you mean by - I will
29 ask you about 'traditional' first. What do you mean
30 when we talk, when you talk about 'traditional'.

31 A. I call 'traditional' before white people were here. But
32 semi, I think, is, you know, we were drinking tea
33 smoking tobacco and things like that, so it's not really
34 something that was done before white people come here.

35 Q. When you say 'semi-traditional', what you are saying is
36 that there are some things that come from what was in
37 existence before the white people arrive and some things
38 that have been acquired from whites since white people

- 1 arrived.
- 2 A. Yes.
- 3 Q. You would distinguish between those two periods of time.
- 4 A. Yes.
- 5 Q. I want to ask you this: Language, Ngarrindjeri
- 6 language, were you aware of any language or words when
- 7 you were growing up, or, indeed, subsequently.
- 8 A. Some words, but I wouldn't be able to, not a full
- 9 sentence or anything like that.
- 10 Q. Have you ever had contact with someone whom you formed
- 11 the view is reasonably fluent in Ngarrindjeri language.
- 12 A. Can you repeat that?
- 13 Q. Do you know in your years and contact with Ngarrindjeri
- 14 people, is there anyone you know whom we might term as
- 15 fluent in the language.
- 16 A. No.
- 17 Q. Do you know a lot of people who have some words.
- 18 A. Yes.
- 19 Q. Some who know a bit more than others.
- 20 A. Probably, because I've seen it written and I know that
- 21 people have tried to learn the word. But, I mean, I've
- 22 only used words that I've heard before. I wouldn't take
- 23 it out of the book or that.
- 24 Q. Is your situation this, and this harks back to something
- 25 that Mr Kenny asked you about: From your point of view -
- 26 and I'm only asking you about yourself, not others -
- 27 that you feel uncomfortable with aspects, learning
- 28 aspects of Ngarrindjeri culture from white people.
- 29 A. Yes, I do. Because I think if you don't know it
- 30 yourself, you know, why should white people tell you
- 31 what you believe, and that sort of thing.
- 32 Q. So, is what you are saying this: If it's something that
- 33 is heard from a white person, you don't accept that that
- 34 is Ngarrindjeri traditional culture, or that you,
- 35 yourself, won't accept it for yourself.
- 36 A. I won't accept it.
- 37 Q. For yourself or not part of Ngarrindjeri tradition and
- 38 culture if you heard it from a white person.

1 A. No, I wouldn't think it was our culture if it was white
2 people told us about it. It's probably like the
3 language you were talking about before, I heard that a
4 group of ladies and men, Ngarrindjeri people, went up to
5 Darwin a few years ago to learn how to twist their
6 tongues around Ngarrindjeri words, and they are taught
7 by someone overseas.

8 Q. Do you accept that it might have, at some time, been
9 part of the Ngarrindjeri tradition or language or
10 culture even if it's imparted by a white person, or do
11 you say that the fact that you first hear it from white
12 persons means, from your point of view, couldn't have
13 been a part of the Ngarrindjeri tradition and culture.

14 A. Certain things may be - there's things that are written
15 that I have missed out on and that would have been
16 written by white people. But a lot of things, I think,
17 if you, you know - like, I mean I haven't been that
18 interested in reading things out of books and all of
19 that. If I don't know anything, I just leave it at
20 that.

21 Q. Is it the situation - and again this is not meant in any
22 critical sense - that for many, many years of your life
23 you haven't had a particular interest in your
24 Ngarrindjeri history and culture.

25 A. I have been interested all right, yes. I mean, I'm - I
26 still try to go back to, you know, like holiday times, I
27 go and I camp on the river and my husband drops me off
28 and I spend a week or even a fortnight sometimes on the
29 river alone, or sometimes I take one of the kids with
30 me.

31 Q. Is that something that in more recent years - I'm not
32 suggesting that that is your situation now as clearly
33 you are very interested in your history and culture.

34 A. Yes.

35 Q. I suppose that there has been a period in your life when
36 you, through either circumstance or whatever, have not
37 been as interested.

38 A. No, I don't think so.

J.C. GRACE XXN (MS PYKE)

- 1 Q. When you say you are interested, whom would you talk to
2 to get your knowledge and your information.
- 3 A. Other people who are interested in the same thing as I
4 am.
- 5 Q. Can you remember any that you have spoken to.
- 6 COMSR: Is this going to help me much?
- 7 MS PYKE: I think, yes, certainly it's of
8 relevance to my client, the extent to which the various
9 Aboriginal women have had contact with traditions and
10 beliefs and what their views are about it and whether
11 they are interested, and, if so, where they got their
12 information from.
- 13 XXN
- 14 Q. I was asking you, you say that you were interested and
15 that you would ask or make enquiries.
- 16 A. Yes.
- 17 Q. Can I ask this: Was that from a member of your family
18 that you would do that, or from particular people whom
19 you know have an interest in giving that information to
20 you.
- 21 A. To different female relatives, like aunties, uncles;
22 people usually living around the river area, you know.
- 23 Q. I want to put a couple of things to you and I'll put
24 them all and you can tell me whether you were growing up
25 when any of the things were discussed with you. I think
26 we have talked about language. Ngarrindjeri songs.
- 27 A. No.
- 28 Q. The smoking of dead bodies.
- 29 A. No.
- 30 Q. You have talked about smoking, but that is yourselves.
- 31 A. Yes.
- 32 Q. The Ngurunderi myths. I think you said you learnt
33 later in life.
- 34 A. Yes.
- 35 Q. Did it surprise you that your parents didn't talk to you
36 about Ngurunderi so that you would have know about it.
- 37 A. It did surprise me when I first - I mean, like a lot of
38 things I suppose, I was flabbergasted to know how come I

J.C. GRACE XXN (MS PYKE)

- 1 missed out, how come I hadn't heard of anything, of a
2 hint of the things like that. My mother says the same
3 thing, that she learnt about, you know, Ngurunderi and
4 that since only a few years ago, and she's 68.
- 5 Q. It's a fairly important myth from the Ngarrindjeri
6 people.
- 7 A. Yes.
- 8 Q. Scorcery practices, anything about that ever spoken to
9 you.
- 10 A. No, not really.
- 11 Q. Nothing to do with initiation practices, male or female.
- 12 A. No.
- 13 Q. You hesitated a bit there.
- 14 A. No. Well, I was - anything with initiations,
15 initiations of men, I can't - I mean, I don't know how
16 long ago initiations would have happened in our area,
17 but I was told by someone up in the Flinders like a
18 Utnamutna man -
- 19 Q. I don't want you to go into any detail. What you were
20 told about initiation did not relate to Ngarrindjeri,
21 that was from someone from another tribe.
- 22 A. Yes.
- 23 Q. I think you have said in your statement that certainly
24 nothing, as I understand it no-one else spoke to you
25 about issues to do with childbirth, menstruation and
26 that sort of thing.
- 27 A. Probably our cousins. My mother never did. The
28 cousins I grew up with, older cousins and that.
- 29 Q. You certainly know now of Connie Roberts, Maggie Jacobs,
30 Doreen Kartinyeri and Edie Rigney. They are names that
31 you are now reasonably familiar with, I would imagine.
- 32 A. Yes.
- 33 Q. Have you known those women for very long other than in
34 the context of -
- 35 A. I haven't known them well. I have known them, yes.
- 36 Q. It would have been that you have known of them or as
37 acquaintances rather than a personal -
- 38 A. Acquaintances.

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J.C. GRACE XXN (MS PYKE)

- 1 Q. Certainly not in a position of any intimacy in the sense
- 2 of talking about personal matters, or -
- 3 A. No.
- 4 CONTINUED

J.C. GRACE XXN (MS PYKE)

1 Q. The daughter of Pinkie Mack, we talked about up to the
2 time that you got married and you refer in your
3 statement to staying with the daughter of Pinkie Mack
4 for about a month back in 1971.

5 A. Yes.

6 Q. How old would you have been then.

7 A. Twenty-one.

8 Q. Did the daughter of Pinkie Mack talk to you about
9 anything to do with the history or culture of
10 Ngarrindjeri people.

11 A. Yes, probably. Talking about the culture and all that.
12 I mean -

13 Q. You say 'probably', do you remember it.

14 A. No, I don't specifically remember, but she may have
15 talked about the river, or something, you know.

16 COMSR

17 Q. I suppose she may have talked about a lot of things.

18 A. Yes.

19 Q. But can you remember her talking about anything
20 specifically.

21 A. No.

22 XXN

23 Q. You had contact with the daughter of Pinkie Mack, as I
24 understand your statement, over the period of three
25 years.

26 COMSR: I think that appeared in the evidence
27 earlier, Ms Pyke.

28 MS PYKE: Yes, I just want to make sure I
29 understood it correctly.

30 XXN

31 Q. You lived in Murray Bridge for a period of time. Have
32 you got your statement in front of you.

33 A. Yes.

34 Q. Para.3.5 is the paragraph that I am referring to and I
35 just want to make sure I have understood it correctly.

36 COMSR: Yes, it is fairly fully covered on
37 p.1314, Ms Pyke.

38 MS PYKE: Yes.

1 XXN

2 Q. Is what you are saying this, you worked for about five
3 years in the Murray Bridge area in total as a family
4 support worker and a family care worker.

5 A. Most of those years we lived in Murray Bridge and for
6 just certain periods of time that I worked, yes.

7 Q. I am not trying to be too thick about this, but how many
8 years did you live in Murray Bridge, that might be the
9 easiest way for me to ask you.

10 A. We moved, we moved a couple of times. We lived down at
11 Middleton for a couple of years. Cadell, up near
12 Waikerie, we lived there for about a year. And
13 Millicent for maybe a year and a half, but, apart from
14 that, it was in Murray Bridge.

15 COMSR

16 Q. Do you agree with your previous evidence that you lived
17 in Murray Bridge on and off for about 20 years.

18 A. Yes, it would be.

19 MS PYKE: I hadn't quite understood that, I must
20 say.

21 XXN

22 Q. And you say that you saw the daughter of Pinkie Mack
23 quite often. What do you actually mean by that in terms
24 of regularity. Are we talking about once a week, or
25 once a month or something more than that.

26 A. I would try and see her maybe once a fortnight.

27 Q. You would have known other people who knew the daughter
28 of Pinkie Mack.

29 A. Yes.

30 Q. Was she generally speaking well-regarded and respected
31 by other people.

32 A. Yes.

33 Q. Was she understood by you to be someone who did have a
34 lot of knowledge about Ngarrindjeri tradition and
35 practices and culture.

36 A. Yes.

37 Q. She was an Elder.

38 A. Yes.

J.C. GRACE XXN (MS PYKE)
(MR SMITH)

- 1 Q. Do you understand that.
2 A. As far as knowledge and all that, yes, I would class her
3 as an Elder.
4 Q. Over these twenty years when you would visit, say, once
5 a fortnight, would they be brief visits, or you would
6 pop in to see how she was going.
7 A. Sometimes it was just for a cup of coffee. Sometimes,
8 like I said, I would drop her down the river for
9 fishing, and sometimes we would meet for weekends and
10 fish for a while together.
11 Q. Until this issue arose about secret sacred women's
12 business as it has been referred to in this Commission,
13 had you had any knowledge of Hindmarsh Island.
14 A. I went to Hindmarsh Island about twenty-two years ago.
15 Q. Its significance to Aboriginal Ngarrindjeri people until
16 this issue arose of the secret women's business.
17 A. I hadn't heard of any significance when I was there the
18 last time.
19 Q. Of any description.
20 A. No.
21 Q. Did you know that it was connected with Ngarrindjeri
22 people.
23 A. No.
24 Q. In any way, shape or form.
25 A. No.
26 CROSS-EXAMINATION BY MR SMITH
27 Q. Did Sarah Milera ever speak with you about Richard Owen,
28 a man by the name of Richard Owen.
29 A. Yes, they introduced us to Richard Owen, because he had
30 the shack next door to the Mouth House.
31 Q. And Richard Owen was introduced to you as a friend of
32 Sarah's, was he.
33 A. Yes.
34 Q. Or in what context was it.
35 A. Just a friend, I think she said that, yes.
36 Q. In the time that you spent with Sarah around about this
37 time of the bridge dispute was Richard Owen someone she
38 talked about a lot, or not.

- 1 A. Not really, not to us.
2 Q. One other matter: is it the case that a lot of
3 Ngarrindjeri people are reading the Berndt book, that
4 you know of.
5 A. Yes.
6 Q. You yourself own a copy of the Berndt book, do you.
7 A. No.
8 Q. But some of your friends have it and are reading it, are
9 they.
10 A. Yes.
11 Q. In that sense, are reading about their own culture.
12 A. Yes.
13 Q. As you understand it, is that right.
14 A. Yes.
15 MR SMITH: I have no further questions of Mrs
16 Grace. I ask that she be released.
17 COMSR: Yes, you are released, Mrs Grace. You
18 are free to go.
19 NO FURTHER QUESTIONS
20 WITNESS RELEASED

1 MR SMITH CALLS

2 PHILIP GEOFFREY JONES SWORN

3 MR SMITH: My attention has been drawn to the
4 status of the evidence of the last witness and what part
5 of it is suppressed and what isn't.

6 The evidence in open session, of course, is not
7 suppressed.

8 COMSR: That is not suppressed.

9 Yes, it is not quite clear to me what is the basis
10 and I haven't really enquired into it as to on what it
11 is suggested that there is a small portion of it
12 relating to a matter of sensitivity and Sarah Milera and
13 the suggestion that she was inclined to tell stories, if
14 I can put it that way.

15 That is the only area that is being suggested I
16 should suppress, at this stage, isn't it?

17 MR SMITH: Yes.

18 MS SHAW: That is so.

19 COMSR: For the time, until I can work out what
20 is involved in that issue, the rest of Mrs Grace's
21 evidence can be released and that will not be subject to
22 a suppression order.

23 I don't want to stop, at this time, Mr Kenny,
24 because I am anxious to get this witness's evidence
25 through. So, if you wish to address me on that, I would
26 prefer to get on with the evidence.

27 MR KENNY: Certainly.

28 EXAMINATION BY MR SMITH

29 Q. I think your current and present position is that you
30 are the senior project officer in the Division of
31 Anthropology in the South Australian Museum, is that
32 correct.

33 A. That's correct, yes.

34 Q. I think you took up that appointment on 13 June 1995.

35 A. Yes.

36 Q. The project relates to the Aboriginal Cultures Gallery,
37 which was part of a Government grant.

38 A. Yes, that's correct.

- 1 Q. I think, prior to taking up that appointment, you were
2 head of the Division of Anthropology at the South
3 Australian Museum as and from 14 February 1994.
- 4 A. That's correct.
- 5 Q. From about July of 1984 you have been also a curator of
6 the anthropology archives, including the Tindale
7 collection, is that right.
- 8 A. Yes, not confined to the archives, but the ethnographic
9 collections as well.
- 10 Q. The Tindale collection, in particular, you are the
11 curator of.
- 12 A. That is not an official position, but in a substantive
13 way, yes, that's true.
- 14 Q. To say the obvious, the Tindale collection contains a
15 great deal of data related to the Lower Murray River
16 area, does it not.
- 17 A. Yes.
- 18 Q. In connection with this inquiry you have provided a
19 statement to this Commission, have you not.
- 20 A. Yes.
- 21 Q. Looking at Exhibit 18, now before you, I think it is the
22 statement provided by you to the Commission and dated
23 and signed by you on 30 July 1995.
- 24 A. I can't see a date on this, but, yes, I accept that.
- 25 Q. You accept that it is -
- 26 A. It has actually got 23 July on it.
- 27 Q. Have you a copy of that in front of you.
- 28 A. Yes.
- 29 Q. In its completed form.
- 30 A. Yes.
- 31 Q. I think the statement is constructed in three parts, is
32 it not. First of all, some formal matters, which
33 include your expert opinion.
- 34 A. That's correct.
- 35 Q. About the questions raised for this Commission.
- 36 A. Yes.
- 37 Q. The second part is a group of attachments, or a bundle
38 of attachments, is that right.

- 1 A. Yes.
- 2 Q. The third part is a two page narrative of certain
3 central events that you were a witness to, or a party
4 to, is that right.
- 5 A. Yes.
- 6 Q. Can I take you to the attachments, first of all,
7 quickly: p.1 of the attachments sets out your curriculum
8 vitae and your qualifications, does it not.
- 9 A. Yes.
- 10 Q. P.2 sets out your employment experience.
- 11 A. Correct.
- 12 Q. At p.2 of the attachments.
- 13 A. Yes.
- 14 Q. Pp.3 to 5 list publications of yours being completed
15 publications, works which are in press and reviews and
16 some works that are in the state of preparation.
- 17 A. That's true.
- 18 Q. Then pp.6 to 7 of the attachments are details of
19 exhibitions, field work and collections that you have
20 worked in connection with.
- 21 A. Yes.
- 22 Q. Then finally you have provided for our assistance I
23 think on pp.8 and 9 what you have called 'The
24 Organisational Structure of the South Australian
25 Museum'.
- 26 A. Yes.
- 27 Q. I take you to the last section of your statement. I
28 want to ask you some questions about that, which is the
29 narrative of events that you played a part in at about
30 the time the Hindmarsh Island bridge dispute was,
31 perhaps I will say, at its zenith, would you agree with
32 that.
- 33 A. Yes.
- 34 Q. I think the first event you have given details of is an
35 event surrounding the visit to the museum of Professor
36 Saunders.
- 37 A. Yes.
- 38 Q. Were you given any notice of that visit as head of the

1 Division, at that time.

2 A. No, I wasn't and neither, to the best of my knowledge,
3 was the Director of the museum.

4 Q. You make the point in your statement that just prior to
5 visit by Professor Saunders you received a telephone
6 call from Doreen Kartinyeri.

7 A. Yes.

8 Q. I think we are talking about June of 1994 here, are we.

9 A. Yes, it would be mid June.

10 Q. Tell us what was said in the conversation with Doreen
11 Kartinyeri.

12 A. Doreen informed me of the impending visit, which I
13 think, at that stage, was to take place the following
14 day and didn't indicate that Professor Saunders had any
15 interest in speaking to me or to anyone else in the
16 Division particularly, but did indicate that she would
17 be wanting to look at relevant material, relevant
18 material to the Hindmarsh Island issue. She next asked
19 whether it was possible for me to locate, I don't know
20 whether she used those words, exactly, a burial platform
21 from Hindmarsh Island. This took me aback, because I
22 knew that we didn't have such a thing in the museum
23 collection. And, after gathering my thoughts, I
24 suggested that what she perhaps had in mind was
25 something of that nature from Salt Creek, which is well
26 to the south on the Coorong. In fact, in the vicinity
27 of Camp Coorong, I think. And so I brought that
28 information to her attention and asked her where she had
29 got the information from that the burial platform was
30 from Hindmarsh Island. She told me it was from Steve
31 Hemming. I was surprised, because I knew that Steve
32 probably had a pretty good knowledge that it was from
33 Salt Creek and I suggested that perhaps she was maybe
34 misrepresenting Steve in that matter. But, no, no, she
35 was convinced that it was from Hindmarsh Island and I
36 just repeated to her that it wasn't and that it was
37 misleading of Steve, if he had suggested that, to make
38 that connection.

1 Q. Did Dr Kartinyeri tell you what she was, in general
2 terms - or, if you can remember, more specifically -
3 what she was looking for in that telephone call, apart
4 from information about the burial platform.

5 A. The impression I had was that she was still really
6 casting in a general way for any fragment of relevant
7 material in the collections or in an archival setting
8 that would build a case for Hindmarsh Island being
9 interpreted as a very special place for Professor
10 Saunders, yes. And I suppose in a general sense she
11 couched it in terms of looking for anything that could
12 help Professor Saunders.

13 Q. Did Doreen Kartinyeri in that conversation at least
14 mention anything to you about women's business or any
15 such topic.

16 A. I certainly don't recall it, no.

17 Q. I think you make it clear in your statement that it was
18 a few weeks later that this phenomenon of women's
19 business made its first appearance to you at least.

20 A. Yes.

21 Q. What was the context in which that happened.

22 A. It is difficult to be absolutely precise, but there was
23 certainly on one occasion a conversation in my office, a
24 conversation which involved Steve Hemming and Philip
25 Clarke. We were talking about another matter, or
26 perhaps a related matter, in a sense, which was a
27 request that we had had to provide a data document
28 relating to Aboriginal land relationships on the Murray
29 River for the Attorney-General's Department.

30 CONTINUED

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1 In discussing that matter, or having actually reached
2 the end of the discussion on that matter, the
3 conversation turned to Hindmarsh Island, the issue
4 involved there and, by that time, I suppose there had
5 been some mention that someone had made of women's
6 business and, in the connection of our small discussion
7 in that room, Steve Hemming made the remark, almost
8 unsolicited, I think, that he could recall, or that the
9 Lower Murray and the lakes area bore some resemblance,
10 in mythological terms, to something to do with a woman,
11 a woman's body. I was very surprised and put to Steve
12 that such a connection was not evident in the
13 ethnography. Steve's response was that he had seen it
14 written somewhere, a pretty vague statement, but one
15 that didn't altogether surprise me, because I'd heard
16 Steve make some statements of that kind before, and
17 quite often sometimes he was able to find material to
18 back up an assertion like that. In this case, I was so
19 convinced that there wasn't anything of this kind that I
20 pressed him on that point, and he suggested firstly that
21 it was written somewhere, and secondly that it was, in
22 fact, contained in the ethnographic detail recorded by
23 the Berndts. Again I questioned that quite strongly
24 because of my role in editing that volume, and also
25 because of the conversations that I'd had in person with
26 the Berndts, in company with Phillip Clark and Steve
27 Hemming back in the mid 80s and, from my memory, Steve
28 pressed the point by suggesting that the Berndts had
29 actually made that connection themselves in the tea
30 room, the site of many differences of opinion in the
31 past, and that this would have taken place in the mid
32 80s on the visits of the Berndts to Adelaide. It would
33 have been a discussion - these are not Steve's words,
34 these are mine - a discussion undertaken in the
35 connection of developing, planning and concept
36 development for the Ngurunderi exhibition, and Steve's
37 point was that one of the Berndts, in the course of that
38 kind of conversation, had indicated that the landscape

1 and a woman's body somehow connected.

2 Q. Steve Hemming had indicated to you that that indication
3 had been given by one of the Berndts in one of the tea
4 room gatherings at the South Australian Museum.

5 A. That's right, yes. This conversation, I believe, didn't
6 take as long as the retelling of it is now, but I did
7 quite consciously, as head of division, I suppose
8 wearing the head of division hat, think to myself `Here
9 is an anthropologist, who knows the literature, making
10 an assertion which, if true, would certainly make a fool
11 out of me and, from Philip's response at that time,
12 would also have made a fool out of him' and, on the
13 basis of that difference of opinion, I suggested to
14 Steve that he do his best to locate that reference,
15 which he remembered having seen somewhere, as quickly as
16 possible, so that we could see it.

17 Q. Has he done so.

18 A. No.

19 Q. Those gatherings of some of the staff of the museum and
20 the Berndts in the tea room of the South Australian
21 Museum, were they a regular occurrence.

22 A. No, quite rare, but I think maybe in that period, say
23 from, I would guess from late 1984 through to perhaps
24 1988, perhaps 1989 - I forget actually, I think Ronald
25 Berndt passed away in 1990 - they occurred with
26 unvarying degrees of frequency, perhaps once or twice a
27 year as the Berndts passed through Adelaide on their way
28 east or west.

29 Q. Were the Berndts considered, by people such as yourself
30 in the museum, celebrities.

31 A. Yes, I think that would be a reasonable description. I
32 think a group of us regarded ourselves as privileged to
33 have contact with people like the Berndts and Norman
34 Tindale himself, who visited Adelaide a couple of times
35 during that period because, in a sense, they were the
36 last generation of anthropologists who had made close
37 and concerted and detailed contact with Aboriginal
38 people who had a window into the immensely rich

- 1 traditions of south-eastern Aboriginal Australia.
- 2 MR MEYER: The witness answered one question which
3 I think was answered in a confused way. The question
4 came out of a reply, 'Did he do his best to find out the
5 material', this is in relation to Steve Hemming, 'That
6 he had referred to, did he locate it', or something like
7 that, and the answer was 'No'. It could have been 'No,
8 he didn't do his best', or 'No, he didn't locate the
9 material'.
- 10 A. I'm still waiting, put it that way.
- 11 XN
- 12 Q. Your evidence is, I think, isn't it, that you asked
13 Steve Hemming to locate the reference that he referred
14 to as supporting the notion.
- 15 A. He was quite confident that he could locate it, and I
16 suggested that he do so and we'll have a look at it, and
17 I've never seen it.
- 18 Q. You mentioned that you expressed surprise that the
19 Berndts would say anything like that to Mr Hemming, and
20 you mentioned that you'd had something to do with the
21 Berndts' book. What was that exactly.
- 22 A. Well, my relations with the Berndts probably stretched
23 back, I guess, to the end of 1984. This takes me into
24 another area, but basically in undertaking research for
25 the Ngurunderi exhibition, which is still in place on
26 level five of the museum, I had done a pretty extensive
27 literature search and, in the course of that, I had
28 unearthed Ronald Berndts' article which was published in
29 1940, the Oceania journal, dealing with just this
30 subject, the Ngurunderi epic and, at that time, being
31 pretty new to the game, I wasn't even aware that Ronald
32 Berndt was still alive and, as my knowledge base
33 broadened, I suppose, and we made some enquiries - at
34 that time the anthropological division consisted, as far
35 as the Australian section goes, of essentially just
36 almost two and a half full-time people, so it was
37 difficult to even form an impression of what
38 anthropologists were still active around the country -

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- 1 but during the course of the next few months, we became
2 aware of Ronald Berndts' existence and his position in
3 Western Australia at the University of Western
4 Australia. I wrote to him and let him know that we were
5 intending using this particular piece of ethnography,
6 and he wrote back. So from that point on we felt as
7 though we had a green light to go ahead with at least
8 his version of what he recorded, and I suppose I paid
9 particular attention to the details, the nuances and the
10 ingredients of that particular epic to the extent that
11 later, when the book, 'A World That Was' came to be
12 prepared, I found myself in a position where I was asked
13 to play a major role in editing that manuscript.
- 14 Q. So, in that sense, you're familiar with the text.
- 15 A. Yes, I am.
- 16 Q. Beyond merely reading it.
- 17 A. Yes.
- 18 Q. Can I take you to 30 May 1995, which was the broadcast
19 of an interview which you gave to the journalist Chris
20 Kenny on Channel 10.
- 21 A. Yes.
- 22 Q. Following that, I think Dr Kartinyeri came to your
23 office and remonstrated with you, did she not.
- 24 A. Yes, she subjected me to the sort of standard haranguing
25 which a number of people have been at the other end of
26 during the course of this business, and she suggested,
27 on top of that, that I'd betrayed her by speaking out
28 publicly on the matter.
- 29 Q. This conversation took place in your room at the museum,
30 did it.
- 31 A. Yes.
- 32 Q. Go on, tell us what else was said.
- 33 A. Well, apart from the details of that, which I suppose I
34 let sort of wash over me to some extent - she was keen,
35 I suppose, at that stage, to still sort of put me right,
36 to actually engage with the content of the issue rather
37 than just simply putting me in my place - to the extent
38 that we actually got talking about her understanding of

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- 1 what the women's business consisted of. She didn't go
2 in many details, but did stress to me that the lakes
3 region and Hindmarsh Island bore this resemblance to a
4 woman's reproductive organs, and I asked her where on
5 earth she got that idea from. I admit she didn't give
6 me a full answer but, I suppose in casting around for an
7 authority with which I might sort of moderate, or in
8 response to which I might moderate my stance, she told
9 me that she had heard it from Steve Hemming, that he had
10 supported her in constructing that analogy.
- 11 Q. Were the Berndts mentioned in this conversation as being
12 also -
- 13 A. Yes, she - I can't recall exactly whether she said that
14 she had independent knowledge that Catherine Berndt had
15 drawn this analogy, but I tend towards thinking that
16 what she did say was that Steve had suggested to her
17 that Catherine Berndt had recorded this somewhere in her
18 notes, and the reason that I think that is that I
19 remember thinking 'Ah, well, that's the missing piece
20 that Steve's perhaps been looking for', not that he'd
21 ever seen Catherine Berndts' notes but I suppose, in an
22 extreme case of wishful thing, he probably hoped that
23 that's where it was, if it was anywhere.
- 24 Q. Was that the gist, if you like, of the discussion that
25 took place between you and Doreen Kartinyeri.
- 26 A. Yes. I mean I should say that - I mean she stormed out
27 of the office and slammed the door, but I felt that at
28 that stage that we were still on speaking terms, and
29 that, you know, we'd get back to have another
30 conversation about this later, but I don't I think,
31 perhaps with one exception, we have spoken since.
- 32 Q. Now I think on the following day a deputation arrived at
33 the museum, did it not.
- 34 A. Yes, apparently. I didn't actually see this, but it was
35 reported to me by a couple of people that I think
36 Doreen, accompanied by, I think it was Muriel Van Der
37 Byl and Val Power, came specifically from ALRM to the
38 museum to speak with the director about the Channel 10

1 interview.

2 Q. The director being Dr Christopher Anderson.

3 A. Dr Christopher Anderson, yes.

4 Q. Did you learn from Dr Anderson what the purpose of this
5 visit was.

6 A. Yes, it was - I mean I think in several senses it was a
7 letting off steam episode but, in a particular sense, I
8 think a couple of points were put, and one was that I
9 shouldn't occupy my position any longer as head of the
10 division, and secondly that the museum's collections of
11 Ngarrindjeri objects would probably be demanded to be
12 returned to Ngarrindjeri people.

13 Q. In any event, nothing like that - well, that didn't
14 happen, did it.

15 A. No.

16 Q. You remained the head of division, and the artifacts
17 remained in the museum.

18 A. Yes.

19 Q. Can I take you now to another incident, which was to do
20 with Allan Campbell and some information about his
21 forebears.

22 A. Yes.

23 Q. I think that this incident was tripped off, as it were,
24 by the receipt by you of a memorandum from inside the
25 museum from Andrew Hughes, is that right.

26 A. That's correct, yes.

27 Q. Looking at this copy document produced to you, do you
28 recognise that as a memorandum from Andrew Hughes, of
29 the anthropological division, dated 16 March 1995,
30 concerning a telephone enquiry from Allan Campbell in
31 Sydney.

32 A. Before I say yes, to that, this is, in fact, a fax from
33 Allan Campbell to Andrew Hughes.

34 Q. Yes, sorry.

35 DOCUMENT PRODUCED TO WITNESS

36 A. This is the memorandum from Andrew Hughes to myself
37 dated 16 March, yes.

38 Q. So you're looking now at an internal typewritten

- 1 memorandum of the museum.
2 A. Yes.
3 Q. In response to that, what did you do.
4 A. Well I guess -
5 Q. Did the museum -
6 A. Sorry?
7 Q. Sorry, if I could just take you to the next step it
8 would be easier; I think, following that internal
9 memorandum to you, a fax indeed arrived from Allan
10 Campbell elaborating on the problem, did it not.
11 A. Yes.
12 Q. Tell us, first of all, the internal memorandum from
13 Andrew Hughes to yourself dated 16 March 1995, canvassed
14 what topic.
15 A. Well, it was clearly to do with Hindmarsh Island, but
16 the immediate point of concern expressed by Allan
17 Campbell was his apprehension that Doreen Kartinyeri had
18 his original or copies - it's not quite clear - of his
19 genealogy at her house, and that he feared for its
20 security.
21 CONTINUED

- 1 Q. That memorandum came to you from Andrew Hughes.
2 A. Yes.
3 Q. Then, the fax followed from Allan Campbell, did it not.
4 A. Yes; addressed to Andrew Hughes.
5 Q. That sets out Allan Campbell's complaint which, in a
6 nutshell, was what.
7 A. Well, that he had received - he alleged that he had
8 received a threat from Doreen that - and perhaps I quote
9 from it.
10 Q. Yes.
11 A. `In her conversation she had with me whilst I was in
12 Adelaide three weeks ago, she told me if I don't stand
13 with her on this women's business, we, the Campbells,
14 will never see those documents on the Campbell clans'.
15 So, it was genuine concern expressed about the
16 possibility of documentation relating to Alan Campbell's
17 family history.
18 Q. As head of the division, that matter was raised with you
19 as being a serious matter. Was it regarded as serious.
20 A. I regarded it as an extremely serious matter.
21 Q. Did you respond, as head of division, to Alan Campbells
22 fax.
23 A. I did, yes.
24 Q. Looking at this copy facsimile produced to you, do you
25 recognise that.
26 A. Yes, I do. I made it clear to Allan Campbell that I did
27 regard this as a serious matter, but that at the same
28 time that I didn't really - well, I didn't share his
29 extreme concern, in that I put it down to quite a bit of
30 the pressure that Doreen had been under and that she
31 was, as I suppose she can be inclined to do, was
32 speaking rather more harshly than she intended to act.
33 Q. Your note back or your fax back to Allan Campbell made
34 it clear that you would investigate the matter, but that
35 as Doreen was on leave, it would take you a day or so.
36 A. Yes.
37 Q. You did say, did you not, in there that Doreen's remark
38 to you was probably a spur-of-the-moment reaction.

1 A. Yes.

2 Q. And that she had some surgery recently and has been
3 under some stress.

4 A. Yes.

5 Q. Did the matter clear itself up.

6 A. I believe it did. I mean it was - I was reassured that
7 Doreen was working with copies, that the originals were
8 quite safe - which is what I suspected all along - and
9 that there was no great cause for alarm. But what did
10 concern me was that a staff member had made a threat of
11 that kind.

12 MR SMITH: I tender the group of documents and ask
13 they be marked 18A to be included with Exhibit 18.

14 COMSR: The document will be admitted at part of
15 Exhibit 18 and be marked at Exhibit 18A, B and C.

16 MR SMITH: Those documents being: 18A, the internal
17 memorandum to Philip Jones from Andrew Hughes dated 16
18 March 1995; 18B will be the fax to Andrew Hughes from
19 Allan Campbell, handwritten, two pages, dated 16 March
20 1995; 18C will be the fax to Allan Campbell from Philip
21 Jones, the typewritten fax, dated 16 March 1995.

22 XN

23 Q. Can I take you to the third to last topic in the
24 narrative of events and which is headed in your
25 statement 'Statutory declaration demand'.

26 A. Yes.

27 Q. I think as head of the division of anthropology on 19
28 June, you had occasion to deal with the complaint made
29 to you by two staff members, Niva Wilson and Michelle
30 Cole, who worked with Doreen Kartinyeri in the
31 Aboriginal Family History Unit of the division.

32 A. That's correct, yes.

33 Q. Would you tell us the nature of the complaint.

34 A. They complained to me individually, I think, and then as
35 a pair, that Doreen Kartinyeri had approached them and
36 demanded that they sign a statutory declaration on the
37 following day to the effect that they would not copy
38 family history data, Aboriginal family history data of

1 the sort recently supplied to an individual and use it,
2 which had come to Doreen's ears.

3 Q. You learnt of the nature of the request that had sparked
4 off this complaint.

5 A. Yes.

6 Q. What was it.

7 A. Well, without going into any of the details, it was a
8 request from an individual who had come into the Museum
9 and had produced, to the satisfaction of staff in the
10 Aboriginal Family History Unit, evidence that the person
11 was Aboriginal, of Aboriginal descent, and was linked to
12 a particular family, and the request was for data
13 relating to that particular family. As that data was
14 best recorded, or had been recorded in a published
15 volume, published under Doreen's name but available in
16 public libraries, the two staff considered that they
17 were within their rights, as the work itself was out of
18 print, to copy it and make a copy and give it to the,
19 supply it to the person making the request. So, it was
20 a perfectly legitimate procedure.

21 Q. That was the Rigney Family Book, was it not, which was
22 one of Doreen Kartinyeri's publications.

23 A. Yes.

24 Q. These two staff members informed you as head of the
25 division, I take it, that Doreen had indicated that they
26 had to sign a statutory declaration or some consequence
27 would flow, was it.

28 A. Yes.

29 Q. What was the consequence they complained of.

30 A. The consequence that was complained of was that Doreen
31 told them that if they didn't sign the statutory
32 declaration, they would be subpoenaed to appear in
33 court.

34 COMSR

35 Q. That's not before this Commission.

36 A. No. This sent something of a chill down my spine, as
37 I'd heard this same course of action suggested as having
38 been involved in the final weeks of the daughter of

1 Pinkie Mack's life.

2 XN

3 Q. You had to take some action in respect of this matter as
4 the head of this division, did you not.

5 A. I felt that I should take immediate action, yes.

6 Q. I think you sent a memorandum to the director seeking
7 that Doreen be censured in respect of this.

8 COMSR: Where is this leading?

9 MR SMITH: It links with other things that you have
10 before you and it's nearly finished.

11 MR ABBOTT: It shows the length which Doreen
12 Kartinyeri will go when it suits her to disseminate
13 information.

14 XN

15 Q. Looking at that document produced to you, that's the
16 message that you sent to the director in relation to
17 that matter; is that right.

18 A. Yes, it is.

19 Q. I think the problem caused by that complaint was
20 mediated by Barry Craig in your division.

21 A. Yes.

22 Q. And it was resolved, was it not.

23 A. Yes.

24 FACSIMILE MESSAGE DATED 19 JUNE 1995 INCLUDED IN EXHIBIT 18
25 AND MARKED EXHIBIT 18D.

26 Q. Can I take you to the first section of your statement
27 which is really your opinion as an historian relating to
28 - an historian/anthropologist relating to the question
29 of women's business.

30 A. Yes.

31 Q. Can I ask you to deal, first of all, with two matters
32 shortly, if they can be dealt with shortly. First of
33 all, your view in short as to the existence of women's
34 business, that is secret women's knowledge or sacred
35 women's knowledge in the Lower River Murray. Could you
36 articulate, if it be possible, your short view about
37 that topic.

38 A. My short view about it is that there is not the

1 slightest shred of evidence to suggest that it exists,
2 or it existed, I should say. The question of what
3 exists since 1994 is another issue.

4 Q. If it exists in 1994, your view about it is what.

5 A. Since 1994, it's quite clear that there are a number of
6 people who want to believe in it, there are some people
7 who do believe in it and there are a great many people
8 who don't believe in it.

9 Q. That it's come about in 1994 in what way.

10 A. I say 1994, but I think probably my more complex and
11 longer view is that by gradual process, I guess, the
12 ground has been prepared for this emergence and that
13 that process has been proceeding for, probably for
14 several decades. Sorry, I didn't answer your question.

15 Q. Yes. I was asking you to account for its emerge since
16 1994, or thereabouts; bearing in mind your earlier view
17 about it, about not being, not having previously existed
18 in an anthropological or historical sense.

19 A. Well, I think we look at a raft of reasons. It's
20 difficult to separate them out, but I would suggest that
21 as a generality, what we are looking at with Aboriginal
22 heritage issues is, in South Australia, is in many
23 senses a complex situation that unfolds from the
24 application of an across-the-State piece of legislation
25 which was dreamt up by several committees and which
26 probably doesn't fit adequately any particular part of
27 the State. And that ultimately what happens in some
28 parts of the State where Aboriginal people, such as in
29 southeastern South Australia -

30 COMSR: We can't deal with other areas.

31 A. Those people are extremely conscious of the richness of
32 their history, the great complex of archaeological sites
33 which, taken together, tell a story about their culture
34 which is distinctive in relation to other parts of the
35 country. That those people also have the latitude under
36 the heritage legislation to fit concepts onto those
37 sites which are perhaps more applicably relevant to
38 sites in Central Australia or the west of the State, for

1 example.

2 XN

3 Q. You are there referring, I think, aren't you, to the
4 definition of 'Aboriginal tradition'.

5 A. Yes.

6 Q. In the Aboriginal Heritage Act 1988, which, to some
7 extent, accommodates evolution or development of
8 customs, beliefs and the like, doesn't it.

9 A. Yes, as it should. I've no doubt about that.

10 Q. I think you know, do you not, that the evolution or
11 development has to be from a base of tradition.

12 A. Yes.

13 Q. Bearing that in mind, do you regard the women's business
14 as having evolved or developed from attrition in the
15 sense of customs and beliefs dating back in time.

16 A. No, I don't. I've looked pretty hard and I haven't
17 found it.

18 Q. Can I take you into your statement then, and I'm not
19 going to take you through it word by word or anything,
20 but can I take you to p.2 of your statement, the first
21 paragraph, which you head 'Secondly, during 1981, I
22 completed an inventory', et cetera.

23 A. Yes.

24 Q. Can you tell us in relation to that, what you have said
25 there in that paragraph, whether the material culture
26 that you completed an inventory in relation to the
27 Ngarrindjeri people provides any indication of the
28 nature of the society, the Ngarrindjeri society, and in
29 particular whether or not there was any secret or
30 sacredness about aspects of the culture.

31 A. Well, it's a difficult question to answer. We, the
32 South Australian Museum, and other large State Museums
33 around the country hold collections from right across
34 the country. It's the case, I think, through my
35 experience with this project and through understanding
36 and having a good look at collections in Melbourne and
37 in Sydney, that southeastern Aboriginal Australia is not
38 represented in those Museum collections by ceremonial

1 material to any marked or notable extent. So, right
2 from the beginning, we are looking at a lack of
3 representation of secret, sacred ceremonial objects. If
4 you look for an explanation for that, I believe there
5 are probably two or three. One is that at the time at
6 which concerted collection by ethnographic institutions
7 began, which I would put in the 1880s and the 1890s in
8 the case of this area, ceremonies had virtually come to
9 a halt. So, there's that. But I think beyond that, we
10 can pick out qualitative and qualitative differences,
11 differences in kind between the material culture, I
12 guess, generated by Central Australian Aboriginal
13 societies and by Aboriginal societies of eastern and
14 particularly southeastern Aboriginal Australia.
15 CONTINUED

- 1 Q. Just to be clear about this: when you talk of
2 southeastern Australia, you are talking about the Lower
3 River Murray peoples and the Ngarrindjeri people, are
4 you not.
- 5 A. In particular I am, but I am also more broadly speaking
6 about an area which takes in I suppose southeastern
7 Australia including practically all of Victoria and the
8 broad band of New South Wales, yes.
- 9 Q. You were saying that the lack of ceremonial artefacts
10 indicates, first of all, that the collecting of those
11 stopped in the late 1800s.
- 12 A. Yes.
- 13 Q. But does it have any other significance in terms of
14 determining whether we are here dealing with a society
15 which was, in some senses, secret and sacred.
- 16 A. I think it is possible to put that evidence together
17 with the evidence that is in the ethnography. And I
18 think that is the value of looking at this category of
19 information. That, if you put it together with the
20 ethnographic record, you find that there simply wasn't a
21 great corpus of secret sacred material being generated.
- 22 Q. Some indication of a lack of secrecy or sacredness in
23 the culture generally, some indication.
- 24 A. Yes, some indication. It is a difficult point, because,
25 if you look at the Tiwi, who are the people of Nelville
26 and Bathurst islands, they are also characteristic for
27 not having a secret sacred category of women's life.
28 The ceremonies that they did and do undertake throw up a
29 great amount of material culture which is in museums.
- 30 Q. Perhaps just for the sake of the record, we are dealing
31 with the area of your statement or your opinion which
32 concerns some particular work that you did in the Lower
33 Murray region and, in particular, the Hindmarsh Island
34 area, are we not. That is, if you come back to -
- 35 A. We are talking about a bibliographic work, yes.
- 36 Q. I take you to the second paragraph, on p.2, where you
37 detail that you have undertaken archaeological field
38 work with Dr Roger Leubbers where you were working with

1 him with Aboriginal people in the Coorong.

2 A. Yes.

3 Q. In September and October of 1981.

4 A. Yes.

5 Q. And also for four weeks during March and April of 1982.

6 A. Yes.

7 Q. You there set out that two excavations were dug and
8 worked on by you and Dr Leubbers. Did that give you any
9 indication of the sort of culture that existed in that
10 area, the results of that archaeological work.

11 A. I think very definitely. I should stress I was working
12 as a field assistant on that, on those excavations, with
13 Dr Leubbers. And what we were doing essentially was
14 excavating a midden site consisting of archaeological
15 debris I suppose, mostly deposited through people's
16 daily life, cockel shells and bones, charcoal deposits
17 from the cooking fires and a great amount of residue of
18 people's daily life, which gave us an insight, later
19 written up by Roger Leubbers, into the daily life of
20 people as it happened in a period from about 3,000 years
21 ago or 2 and a half thousand years ago through to the
22 1890s.

23 Q. Did that insight provide any - some evidence, one way or
24 the other, as to the sort of society and culture which
25 existed then.

26 A. In a sense it did as far as the issue of gender is
27 concerned, I suppose, because what we were looking at
28 essentially were the products of a day's or a week's
29 hunting and gathering by men and women, as far as it
30 could be reconstructed from looking at the ethnographic
31 data collected at the beginning of last century, which
32 tells us what the main categories of work were that were
33 being undertaken by men and women. So you had fish
34 bones represented, kangaroo bones from the hunting,
35 cockel shells, bird bones, reptiles and all sorts of
36 food sources, except perhaps vegetable foods, which
37 don't tend to survive in the archaeological record. But
38 the picture that was built up was of a society that ate

1 together, slept together and spent their social life
2 together, with perhaps the exception of some excavations
3 or some surface work that we did on the sand dunes,
4 which were between the lagoon, the Coorong lagoon and
5 the sea, which indicated that that area was being used
6 by women primarily on their daily trips to collect
7 cockles from the Coorong.

8 Q. Some evidence of a lack of separation of business, is
9 that the point.

10 A. Certainly, I mean, having since worked quite extensively
11 in the Simpson Desert where it is possible to, using
12 accepted archaeological practices, to discern the
13 relative visibility in the archaeological record of men
14 and women in relation to the stone tool data that is
15 left behind, for example, if pieces of grinding stone
16 are found at a camp interspersed with the sort of stone
17 tool chippings that come from the manufacture of carving
18 implements, for example, it is a reasonable deduction
19 that men and women operated together at those places.
20 But quite often one finds, not so much in the Simpson,
21 but further west, that there is a separation. That
22 perhaps the grinding stone is just found on its own and
23 the chippings, on the other hand, are found without the
24 grinding stone. So, it is a device that archaeologists
25 have used.

26 Q. I take you to the third paragraph there, on p.2, which
27 details the work done by you, Steve Hemming, Philip
28 Clarke and Doreen Kartinyeri on the Ngurunderi
29 exhibition at the museum.

30 A. Yes.

31 Q. Doreen Kartinyeri helped in the construction of that
32 Ngurunderi gallery, did she.

33 A. Not in the actual construction, but she was certainly
34 involved, as an adviser, I guess. Not perhaps for any
35 particular knowledge that she had, but because she was a
36 point of contact with the Ngarrindjeri people who were
37 being consulted. At that time, we also had one or two
38 other Aboriginal people working closely in the Division.

1 One of whom probably took a more prominent role in
2 advising, because she was, at that time, connected with
3 the Education Department. But on various points and
4 matters relating, for example, to genealogical data, in
5 particular, Doreen's advice was sought and gladly given.
6 And, I suppose, furthermore, she had a very, I would
7 say, a very close awareness of the direction that the
8 gallery was unfolding in. She was aware of the attempt
9 that we were making to map the travels of Ngurunderi
10 down the River Murray, down the Coorong as far as
11 Kingston, up the seaward side of the Coorong, across the
12 Murray Mouth, in the vicinity of Hindmarsh Island and
13 eventually around to the Victor Harbor region and down
14 to Cape Jervis. So, she was perfectly aware of the
15 extent to which we were passing over that cultural
16 landscape in a creative sense in terms of generating a
17 new cultural product for people to consume in the
18 museum.

19 Q. Was Doreen Kartinyeri any assistance to you, or provide
20 any assistance to you concerning knowledge of the
21 culture of the Ngarrindjeri people.

22 A. She probably worked more closely with Steve, at that
23 time, and she may well have provided that support to
24 Steve. I found that it was primarily an exercise that
25 was based on the literature and the various written
26 sources. Some sound tapes that we had that were
27 recorded in the 60s with Aboriginal people were also
28 helpful and these were people, I suppose, of a perhaps
29 half a generation on from Albert Karloan and these
30 individuals.

31 Q. My question really is, to your knowledge, did Doreen
32 Kartinyeri provide any information about the culture to
33 the group of you who had a hand in setting up this
34 exhibition, or did she take a position about her
35 knowledge, one way or the other.

36 A. I would say that she was, in fact, quite self-effacing
37 about her lack of ability in that area and that she
38 tended to suggest that she simply didn't have the data

1 to assist with those sorts of questions. And we knew
2 what her strengths were. They were in genealogy and
3 family history.

4 Q. She made that clear to you, did she.

5 A. Yes.

6 Q. In the fourth paragraph on p.2 of your opinion, you draw
7 attention to the experience you gained working in the
8 applied anthropological area in eastern Central
9 Australia and you apply that to what you have said about
10 the Lower River Murray. Could you explain that for us.

11 COMSR: It is not going to involve us in any
12 discussion of other areas? I mean, I can pick it up
13 from the report, itself.

14 MR SMITH: No, it is not going to encroach on any
15 sensitive areas.

16 XN

17 Q. I just want you to draw the analogy you make with the
18 Lower River Murray area.

19 A. It is simply a matter, I suppose, that through
20 undertaking a fair amount of work, a number of field
21 trips up in the Birdsville Track, Simpson Desert, Lake
22 Eyre region, since 1985, I have come in contact with a
23 group of Aboriginal people who expressed their -

24 COMSR: I must say, I get a little uneasy when
25 we start talking about these areas, in view of the
26 limits of your authorisation.

27 MR SMITH: There is going to be no divulgence in
28 contravention of Aboriginal tradition of matters
29 relating to Central Australia or anywhere.

30 COMSR: Yes, because those matters I can read in
31 the report itself.

32 MR SMITH: Yes, I will ask Mr Jones to deal with it
33 very generally.

34 XN

35 Q. The thrust of what you say there is, what, exactly.

36 A. I suppose it is just that, through that course of time,
37 I became aware of the way in which a fairly distinctive
38 Aboriginal culture operated in the distant past and how

1 it had come to terms with European history and the
2 trauma of events in the late 1870s, in particular, when
3 several documented episodes of violence occurred in the
4 region. And, since then, and working closely with
5 Aboriginal people who were often articulate about the
6 accommodations that they had had to make as essentially
7 perhaps second-class citizens on cattle stations in the
8 region, for example, and, yet, through all that, had
9 maintained a distinctive culture, which didn't
10 necessarily reside in a set of traditions thrust upon
11 them through the media, but resided in a quiet
12 confidence in their ability to comprehend their history.
13 And, in understanding that and contrasting it with the
14 Lower Murray region, I can detect some very important
15 similarities in the way in which Aboriginal people have
16 come to terms with their history, without the
17 requirement for conforming to some media-driven notion
18 of what their history might be.

19 Q. Is the point you are making there that there is a clear
20 distinctiveness between the cultures that you perceived
21 existed in the central Australian area and the Lower
22 River Murray.

23 A. Yes, I would say, apart from those similarities which I
24 am talking about which are probably historical in
25 nature, that, going back to looking at the actual
26 traditions which existed and, to some extent, still
27 exist in that region, there are clear differences.

28 Q. I think, moving on then, you make the point then in the
29 second paragraph on p.3, you lay some emphasis on
30 Ngurunderi -

31 A. Yes.

32 Q. Being one dominating ancestor with peculiar
33 characteristics in comparison to the mythological beings
34 which are important in other cultures. Could you just
35 explain that quickly for us.

36 A. Yes, it is an area which hasn't received much attention
37 in the literature, I think. Partly because a lot of the
38 field work in southeastern Australia was undertaken last

1 century and, with the exception of the Berndt - I
2 suspect that will be one of the outcomes of the
3 publication of the Berndt volume. And you can already
4 see it is starting to happen. That anthropologists
5 which are trained and knowledgeable about other parts of
6 Australia will be having a closer look at southeastern
7 Australia. And I suspect that one of the major
8 differences which will emerge between the perception of
9 the religious life of southeastern Australia and those
10 that now have substantial documentation from Central
11 Australia lies in the fact that, in southeastern
12 Australia, instead of Aboriginal people relating to a
13 grid or a network of sites to which they are aligned
14 through their birth in relation to proximity to
15 ancestral paths which transect the country, that, in
16 southeastern Australia, instead people took their
17 relationships to land through heredity, through their
18 inheritance from their parents. And these localised
19 clan estates were different in character to the great
20 web of connections that Aboriginal people tend to carry
21 with them, for example, in the western desert. Taking
22 that a bit further, it is perhaps symbolised by the
23 difference in a single prominent ancestor, not to the
24 exclusion of all others, but certainly a single
25 prominent ancestor, such as Ngurunderi, who, in
26 southeastern Australia, operates in conjunction with
27 four or five other prominent ancestors who were male in
28 the great band of southeastern Australia that I am
29 talking about in contradistinction to the western
30 desert, where you have a proliferation of ancestors
31 often associated with particular animals or plants, but
32 not invariably.
33 CONTINUED

- 1 In south eastern Australia, the ancestor Ngurunderi
2 comes from an outside region, moves through a region
3 that has already been created, and eventually returns,
4 not into the ground, but goes up into the sky.
- 5 Q. I think that the paragraph just above the heading
6 'Women's Issues', you, having dealt with that, make the
7 point that east of the Mount Lofty ranges you conclude
8 that there is considerably less secrecy in the culture,
9 and you draw attention to perhaps only two areas of
10 secrecy that you've detected in your own researches
11 relating to the lower River Murray peoples, that being
12 to do with initiation and sorcery, is that right.
- 13 A. Yes.
- 14 Q. Can I take you to the part of your opinion dealing with
15 women's issues and to p.4. You draw attention, at the
16 top of p.4, to the female anthropologists and the work
17 done by those people in the women's area, if I could
18 call it that.
- 19 A. Yes.
- 20 Q. That's Catherine Berndt, Dorothy Tindale and Alison
21 Harvey. I take it that Dorothy was the wife of Norman
22 Tindale.
- 23 A. She was the first wife, that's correct, yes.
- 24 Q. I think in your researches you have, in the archives at
25 the museum, the notes of Dorothy Tindale concerning her
26 work in the lower River Murray, is that right.
- 27 A. Yes, that's true, yes.
- 28 Q. Looking at this bundle of copy documents produced to
29 you, do you recognise that bundle of notes.
- 30 A. Yes, I recognise it as a copy of an extract from her
31 notes, yes.
- 32 Q. These are the notes of Dorothy Tindale.
- 33 A. Yes.
- 34 Q. I think apart from some areas that I'm going to ask you
35 to elaborate on, these detail some sensitive material,
36 do they.
- 37 A. Yes, they do.

1 COMSR

2 Q. They deal with the issues that are before me, do they.

3 A. Very definitely, yes.

4 MR ABBOTT: One of them is to do with one of my
5 clients.

6 MR SMITH: I'm only saying that some of it is
7 sensitive because some of these people who were
8 interviewed, I think Mr Jones - perhaps I could ask the
9 witness a question.

10 XN

11 Q. I think some of the people that are the subject of notes
12 - there being 50 women interviewed, were there not, by
13 Dorothy Tindale.

14 A. As part of a much broader survey across the country
15 where perhaps up to six - I wouldn't like to speculate,
16 but it's probably several hundred women were
17 interviewed.

18 Q. And some of them are still alive.

19 A. Yes.

20 Q. So in the sense that these women have told Dorothy
21 Tindale matters, it's sensitive in the sense that it's a
22 personal interview with them.

23 A. Yes. They are intimate, personal details I would
24 suggest, yes.

25 MR ABBOTT: I ask that there is an additional
26 embargo on this material.

27 COMSR: I haven't even received it yet, have I?

28 MR ABBOTT: No, but it's been handed out to counsel,
29 and I ask that it be retrieved from counsel unless
30 counsel give undertakings that it will not be supplied
31 in any way, shape or form to their clients.

32 COMSR: If it has personal details, counsel
33 could return it and, if they need to see it -

34 MR ABBOTT: I certainly wouldn't want a copy of this
35 material handed over to any client of any counsel or
36 solicitor here.

37 COMSR: It's the sort of of material that people
38 can come and inspect, is it not?

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- 1 MR SMITH: It doesn't need to be tendered.
2 COMSR: I'm talking about its distribution. Has
3 it been distributed?
4 MR SMITH: Yes, but we can recover it -
5 MS PYKE: If this witness is referring to it in
6 his evidence, I think it's only reasonable that I should
7 be able to take instructions from Dr Fergie about it.
8 MR ABBOTT: But not by copying it or making a copy
9 available to Dr Fergie.
10 COMSR: I think if it's personal, Dr Fergie is
11 here quite frequently, and it can be made available, I
12 think. How widely has this been distributed?
13 MR SMITH: Copies have been handed to counsel,
14 that's all.
15 COMSR: I think if it's sensitive and personal -
16 MR SMITH: Can we recover if for the moment and
17 then resolve it.
18 MS PYKE: My client has instructed me it's not
19 under embargo at the museum, and she has already got a
20 copy.
21 MR ABBOTT: It may not be, but I don't think it's
22 achieved wide circulation. It's got personal details
23 about a number of Aboriginal women, one or two of them
24 are my clients, and I wouldn't want this being the butt
25 of jokes or comment in any other area. It's material
26 that ought to at least be treated seriously because it
27 was collected for a certain purpose.
28 MS PYKE: I don't disagree with that, I'm simply
29 saying it's clearly available.
30 COMSR: If your client has access to it, no
31 doubt you won't need a copy.
32 MS PYKE: She tells me she has a copy. Indeed I
33 thought it looked a bit familiar.
34 MR ABBOTT: On that basis, I would be happy for your
35 Honour to receive a copy as an exhibit, but just not for
36 it to be passed around. I mean it's material that
37 Mrs Tindale collected which is relevant to this enquiry,
38 because it shows the personal nature of the enquiries

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- 1 that Mrs Tindale made and, for that reason, it is
2 relevant, very relevant, to your enquiry.
- 3 COMSR: Yes. As far as counsel needs to refer
4 to it, there will be a copy available for counsel's
5 inspection.
- 6 MR KENNY: I'm happy to make an undertaking not to
7 supply it to my clients, but I would like to at least
8 show it to Mr Tilmouth, but I will undertake to retain
9 possession of it. I appreciate this is personal,
10 detailed information.
- 11 COMSR: I'm not saying it can't be made
12 available to counsel, but I think that counsel can
13 inspect it by arrangement.
- 14 MR ABBOTT: I'm even happy for Mr Kenny to take a
15 copy to show Mr Tilmouth and then return it.
- 16 MR KENNY: It's just simply if it comes to a
17 question of submissions at a later date, Mr Tilmouth -
- 18 COMSR: I can't imagine that counsel would be
19 making submissions on it publicly.
- 20 MR KENNY: It's a matter of detail.
- 21 COMSR: You can discuss it with Mr Smith later.
22 XN
- 23 Q. I think the notes, for instance the notes you've located
24 of Dorothy Tindale and Alison Harvey indicate, as you've
25 pointed out in the statement, their exhaustive research
26 published and noted with no - (NOT ANSWERED)
- 27 COMSR: Were you tendering those notes.
- 28 MR SMITH: Yes, I tender the notes.
- 29 EXHIBIT 220 Copy of extract of notes of Dorothy
30 Tindale tendered by Mr Smith. Admitted
31 but to be suppressed.
32 XN
- 33 Q. Apart, then, from considerations dictated by the shyness
34 of those communicating, for instance, to Dorothy Tindale
35 and Alison Harvey, the notes appear to contain no
36 specific restriction on information or classification of
37 secrecy, is that right.
- 38 A. That's certainly the case, yes.

- 1 Q. I think, and I don't think Mr Abbott's clients have any
2 objection to this.
- 3 MR ABBOTT: No.
4 XN
- 5 Q. I think Dorothy Tindale interviewed, as her notes
6 disclose, amongst the 50 women the subject of the notes,
7 Bertha Gollen, is that correct.
- 8 A. I believe that to be the case, yes.
- 9 MR ABBOTT: Then aged 18.
- 10 A. She didn't go by that name then.
11 XN
- 12 Q. Mrs Gollen, as she then was, was 18 years of age at the
13 time.
- 14 A. Yes.
- 15 Q. The general topic of the notes relating to Mrs Gollen
16 relate to what.
- 17 A. Well, a number of the women who were being interviewed,
18 I suppose, expressed great dissatisfaction about their
19 standard of nursing, maternity nursing that they were
20 receiving in 1938 or 1939 at Point McLeay, which was the
21 time of this survey, and I think Mrs Gollen was among
22 those who expressed very strong opinions about the
23 standard of nursing, negative opinions, even suggesting
24 that the nurse in question could do with a good hiding.
- 25 Q. Is it the case that Catherine Berndt, Dorothy Tindale
26 and Alison Harvey were interviewing ladies from the
27 Ngarrindjeri people at about the time of the
28 construction of the barrages.
- 29 A. Yes, it is the case.
- 30 Q. Is there any indication in any of this material that
31 you've had access to in the archives from these ladies
32 that there was any concern expressed about the barrages.
- 33 A. None whatsoever, no.
- 34 Q. Isn't it the case that there was quite considerable
35 detail provided relating to women's matters, if I can
36 call it that, menstruation, conception, pregnancy,
37 birthing, that sort of thing.
- 38 A. Yes. I think possibly also in relation to the nursing

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1 comment it's worth noting that this was a group of women
2 who clearly had made the sort of accommodation that I
3 was speaking about earlier, that they had clearly come
4 to grips with and well understood the western system of
5 nursing as it was applied to them, and they made
6 critical and discerning comments about that quality of
7 nursing.

8 Q. Alison Harvey, for instance, she was not working alone
9 here, was she, to your knowledge.

10 A. No. In which connection are you talking?

11 Q. She was working in conjunction with an anthropologist, I
12 think, wasn't she.

13 A. Well, she tended to characterise her work at the time as
14 being undertaken in support of various other
15 anthropological investigations or surveys. I believe at
16 that time, or the time that she was working, which was
17 perhaps 1939, that she was herself perhaps barely 20,
18 and considered herself very much a novice. In relation
19 to these sorts of questions about what might be called
20 women's issues or women's business, with a very small
21 'b', it becomes evident that she is working mostly with
22 male anthropologists; John Burton Cleland is one who's
23 advising her and making suggestions, as he did also to
24 Daisy Bates at this period; Olive Pink in Central
25 Australia, H.K. Fry, Henry Kenneth Fry who was, in fact,
26 a social anthropologist working in Adelaide, and was the
27 city of Adelaide Public Health Officer, had a very
28 strong interest in these sorts of issues, Norman Tindale
29 himself.

30 Q. The anthropologist Mountford, was he -

31 A. Charles Mountford superintended Alison Harvey's
32 research, particularly in the Flinders Ranges.

33 Q. Did the Rockefeller Foundation have any connection with
34 this work that was being done, for instance, by Alison
35 Harvey.

36 A. It did in a funny sort of way. The Rockefeller
37 Foundation, which was a philanthropic organisation in
38 the States, eventually was responsible for funding

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P.G. JONES XN (MR SMITH)

- 1 Australia's first university chair of anthropology and,
- 2 for the first almost 10 years, I think that chair of
- 3 anthropology, which opened in Sydney in 1926, received
- 4 funding from the Rockefeller Foundation.
- 5 CONTINUED

- 1 The Rockefeller Foundation.
- 2 COMSR: Is this going to assist me?
- 3 MR SMITH: It's coming to it.
- 4 A. Two of the representatives visited Adelaide in 1925 and
5 following that contact, I guess to some extent, directed
6 the research that was coming out of Adelaide. One of
7 their principal research interests was people's
8 sexuality, and so that the impetus that they gave to
9 that subject was a subject of research which had its
10 analogy in North America and was directed primarily
11 through Adelaide and found its expression at Point
12 McLeay through the work of Alison Harvey, Dorothy
13 Tindale and some others.
- 14 XN
- 15 Q. So, the focus of the attention of these women, Alison
16 Harvey and Dorothy Tindale, was with the women's
17 business, with a small 'b' as a result of the director
18 of the Rockefeller Foundation.
- 19 A. Yes.
- 20 Q. Can I take you then to the large paragraph, the third
21 paragraph on p.4. You there did -
- 22 COMSR: We will have to adjourn.
- 23 MR SMITH: I haven't got far to go and this will
24 stop people taking Mr Jones step by step through his
25 report.
- 26 COMSR: I certainly wouldn't want to go over the
27 same ground. This is not a trial. This
28 cross-examination procedure is not really appropriate.
- 29 MR ABBOTT: I would ask whether or not Mr Jones
30 could read the cross-examination, whether he would be
31 supplied with a copy of my cross-examination of Dr
32 Clarke because, rather than to put the same material
33 again to this witness. I would like to know whether he
34 agrees with what Dr Clarke said as he wasn't here all
35 the time, at least in the area that I cross-examined Dr
36 Clarke.
- 37 MR SMITH: That can be done.
- 38 MR ABBOTT: As a shorthand way to save time,

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- 1 otherwise it would be several hours.
- 2 COMSR: I think we have other witnesses lined up
- 3 for tomorrow.
- 4 MR SMITH: We have got one other witness tomorrow.
- 5 ADJOURNED 4.33 P.M. TO FRIDAY 20 OCTOBER 1995 AT 9.30 A.M.

