

E.M. FISHER XN(PRIVATE)
(SUPPRESSION ORDER LIFTED 22.8.95)

1 WITNESS E.M. FISHER, EXAMINATION BY MS SIMPSON CONTINUING IN
2 PRIVATE

3 Q. Looking at the statement, now before you, it is a copy
4 actually of a document which has a signature at the back
5 of it.

6 A. Yes.

7 Q. Do you recognise that as a copy of the statement that
8 you provided to the Commission and signed by you.

9 A. Yes, I do.

10 EXHIBIT 6 MFI 6 tendered by Ms Simpson. Admitted.

11 Q. You have told the Commissioner that the notebook and the
12 tapes of were left at the Aboriginal Legal Rights
13 Movement for Doreen Kartinyeri. Since the time that you
14 left them there, have you had access to them again, at
15 all.

16 A. No, I handed those to Doreen and said 'They now, they
17 are yours. They are the property of the Ngarrindjeri
18 women and do with them as you wish.'

19 Q. I think, during the 7.30 Report, last night, that is, on
20 7 August 1995, there was some film of tapes and
21 notebooks. Were they tapes and notebooks in your
22 possession during that interview.

23 A. They were actually produced by - they were the ones that
24 I had. You see, the notebook was not in my possession.
25 It is not in my possession. Has not been in my
26 possession since I took it to the office of the ALRM to
27 give to Doreen. And I said to Doreen on the phone
28 'That's yours.' And the tape is - seems like the tape
29 that was my, what would you call it? - donor's copy from
30 the Mortlock Library. When I say 'donor's copy', that
31 would be a small - not a reel-to-reel tape. It would be
32 a cassette, yes.

33 COMSR

34 Q. I am not quite clear about this: you are saying you
35 really can't say whether they were the tapes, your tapes
36 that you took or not; is that what you are saying.

37 A. The thing is that there was a donor's copy of the tape
38 which I gave to Doreen Kartinyeri. Reel-to-reel tapes

- 1 are put away safely, so I am assuming that that was my
2 copy of the donor's tape, unless she has made a copy of
3 it, you see. Unless she had made a further copy of it,
4 but, yes.
5 XN
6 Q. Looking at the document now before you, which I would
7 like you to compare with the copy that you have just
8 seen and tell the Commissioner -
9 A. That is the copy of it. This is the original.
10 Q. That is the original of the statement.
11 A. Yes, it has got the holes on the back from my IBM
12 typewriter. Yes, that is the one.
13 MS SIMPSON: I tender the original as part of that,
14 for completeness.
15 COMSR: Included in Exhibit no.6?
16 MS SIMPSON: Yes.
17 COMSR: I think we will remove the copy and
18 replace it with the original statement.
19 XN
20 Q. Have you got the copy in front of you now.
21 A. Yes.

Lines 22 - 36 Suppressed

- 37 Q. When you made this statement, did you refer to your
38 notebook or

- 1 were you simply recalling from memory.
2 A. When I made this statement?
3 Q. Yes.
4 A. I am trying to remember when I was sitting at my
5 typewriter typing this, quite frankly. And I can't
6 recall whether I typed this beforehand or afterwards.
7 So, it was probably afterwards, but I can't absolutely
8 be sure. I am terribly sorry, but I think it was
9 afterwards that I - after I had taken the tapes in,
10 because it was - what date in June was it that Sarah
11 Milera appeared on the front page? And I think I didn't
12 have time to type this then. It must have been later,
13 yes.
14 Q. Does it help you to refer to the fact that you have
15 addressed this statement to the Commissioner.
16 A. Yes, it must have been later, yes.
17 Q. The statement that you have -
18 A. Therefore, it is from memory you may say, yes.
19 Q. The statement covers a number of matters which I
20 understand do not cover, however, secret or sacred
21 information, is that right.
22 A. Yes.

Lines 23 - 38 suppressed

- 34 COMSR
35 Q. Just so that I am clear about this; the detail that you
36 propose to give me of the secret sacred women's business
37 - I think it has been put to you - is not included in
38 this.

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KC 8DPP

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32 CONTINUED

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1

5 COMSR

6 Q. Was that information given to you for the purpose of
7 recording.

8 A. This is 1967. Gladys wanted her to speak. She wanted
9 her to give this information to someone that she felt
10 she could trust. I only hope I'm not breaking that
11 trust.

12 Q. I understood you to say at that time you were doing work
13 on preparing what was an account of Aboriginal culture.

14 A. On Yorke Peninsula. Gladys asked me - and when Gladys
15 Elphick commanded, I obeyed. She had very much a
16 judicial air about her, if you don't mind me saying.
17 She would wave her walking stick and say `This is what
18 will happen', and that is it, you know.

19 Q. You might be able to help me to this extent: Are you
20 able to indicate which of that is published knowledge
21 and which of it is the secret.

22 A. I am at a very grave disadvantage. I have not studied
23 the Ngarrindjeri culture. I only wrote what Gladys
24 indicated I must write. I have no knowledge, in fact,
25 of the Ngarrindjeri culture in terms of, I have not been
26 permitted - although I was invited down there by ,
27 and now I regret with all of my heart that I didn't make
28 an attempt to go down every month and record those old
29 women as I recorded Gladys. I cannot - I wept. I
30 realised that I was alone. I had no intention - I am
31 not thrilled to be here -

32 Q. Don't get yourself upset.

33 A. I'm not working myself up, it's just that -

34 Q. I'm trying to -

35 A. I am back with those two wonderful women, you know.

36 Q. I'm just trying to clarify things for my own mind, you
37 understand, so that I don't misunderstand.

38 A. If I had only gone down there. You know, the regret of

- 1 it is so painful to me.
2 Q. Is this the situation: That if something is public
3 knowledge, I suppose that can scarcely be called a
4 secret to that extent.
5 A. That is true. You see, she referred to me, she talked
6 to me about aspects which are not in the notebook
7 because I didn't record it.

Lines 8 - 22 SUPPRESSED

- 23 Q. My concern is, of course, to try and distinguish, but
24 perhaps you might think about that over the luncheon
25 adjournment in any case.
26 A. To distinguish?
27 Q. To distinguish what is the secret part of it from the
28 part that is in the public arena, as it were, so that I
29 can ensure that -
30 A. Well, you understand the secret part of it was not the
31 specific words that I was told, but the ceremonial -

1

Lines 1 - 6 SUPPRESSED

7 Q. Well, we will take the luncheon adjournment now. I've
8 had to clarify in my mind which parts are absolutely,
9 you would say, secret and unknown and which parts are in
10 the public arena, as it were.
11 A.

15 MRS SHAW: Could I raise one matter? I wonder
16 whether or not, bearing in mind that we need an
17 adjournment after the evidence taken by Miss Simpson in
18 any event, whether it would be worthwhile sitting to
19 finish this part of the evidence - I don't know how long
20 it will take - and then adjourn?
21 COMSR: I think you might prefer that in any
22 case, so that we get to the end of this part of it and
23 then take a luncheon break.
24

Lines 24 - 34 SUPPRESSED

34 Q.

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Closed

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Lines 1 - 33 Suppressed

COMSR

- 34 Q. The rest of it is what you inferred from what she said.
35 A. Anything to do with - she didn't mention the words - she
36 never mentioned anything in words to do with 'This is
37 one of our stories'.

Pages 388 - 390

Closed

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RF 8FPP

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1

Lines 1 - 26 suppressed

COMSR

- 27 Q. Because she spoke in those terms, you read the
28 significance of those matters, did you.
29 A. Well, yes. I didn't ask any further when she said
30 `Can't talk, can't talk'. I knew she was then bordering
31 on being too close to very ancient lore, L-O-R-E.
32 Q. So you knew that there were secret matters that she
33 wasn't prepared to discuss.
34

Pages 392 - 402

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CJ 8HPP

E.M. FISHER XN XXN (MS PYKE)
(PRIVATE)

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1 RESUMING 3.23 P.M.
2

Lines 2 - 20 suppressed

CROSS-EXAMINATION BY MISS PYKE

- 21 Q. The interview that you had with , as I'll refer to
22 her.
23 A. I think it would be better if the court tried to refer
24 to her as Rebecca Wilson, or Rebecca, because only - I
25 haven't got permission for anyone else other than her
26 own people to call her ` '. I had permission. If
27 you don't mind, I'm sorry.
28 Q.
29 A.
30 Q. Mrs Wilson.
31 A. I'm not being, putting any importance on myself, it's
32 the question of practice, yes.
33 Q. The point is absolutely taken. Mrs Wilson we will call
34 her. Did you only have the one interview with her, if I
35 can put it that way.
36 A. Only the one interview where I recorded her in any way,
37 yes. I was concentrating on Gladys Elphick and her
38 people, yes.

- 1 Q. Is the situation this: That in the course of your
2 interview of Gladys that day, you had several
3 conversations with Mrs Wilson, but it was only on that
4 one day that the conversations relating to what you have
5 given evidence about took place.
6 A. Yes.
7 COMSR
8 Q. Was there more than one conversation with Mrs Wilson.
9 A. Throughout the tape, you can hear Rebecca Wilson saying
10 `Yes, yes', but it's something Gladys is saying and just
11 agrees with in terms, in general terms, about the things
12 she was saying. They were very close friends and each
13 knew about the other's day-to-day problems.
14 XXN
15 Q. If I can put it this way: As I understand what your
16 evidence is, that some of your conversation with Mrs
17 Wilson took place while Gladys was there and whilst you
18 were interviewing Gladys.
19 A. Yes.
20 Q. Some of your conversation with Mrs Wilson took place
21 while Gladys was in the bedroom.
22 A. Yes.
23 Q. And she might have been able to hear what was going on,
24 but you were talking to Mrs Wilson.
25 A. Yes.
26 Q. That's the part of the conversation that is on the tape.
27 A. Yes.
28 Q. In addition to her comments while you were interviewing
29 Gladys.
30 A. Yes.
31 Q. And then, there was a further conversation that you had
32 with Mrs Wilson in the lounge room.
33 A. Yes, that is not on tape.
34 Q. This is not on tape.
35 A. No.
36 Q. And is the conversation that took place in the lounge
37 room that you recorded in your note book.
38 A. Yes. I asked if I could and Gladys insisted, kept on

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- 1 urging to tell me, tell me, and told her 'Write it
2 down. Our kids need to know'.
3 Q. Your notebook doesn't relate to that period of time when
4 you were in the kitchen with the tape recorder going.
5 A. No.
6 Q. The interview that took place in the lounge room, was
7 that mainly your interview with Mrs Wilson or were you
8 speaking to Gladys about some things as well.
9 A. Gladys would come in with a cup of tea. She would say
10 'Go on, tell Betty. You have got to tell Betty'.
11 Q. Whilst the conversation -
12 A. That sort of thing.
13 Q. Whilst the conversation in the kitchen revolved around
14 Gladys, the conversation in the lounge room revolved
15 around Mrs Wilson; is that right.
16 A. Yes.
17 Q. Although Gladys was certainly present in the coming and
18 going in the lounge room.
19 A. Yes.
20 Q. How long did your interview with Mrs Wilson take in the
21 lounge room; what sort of time are we talking about.
22 A. Haven't even considered it, I'm sorry. It was a full
23 tape that I was - must have been fairly early in the
24 day. It's a full reel, a full reel.
25 Q. In the lounge room -
26 A. I'm saying that was filled that day, so it would have
27 been after that - and I had to go home and get dinner,
28 so it would have been, it was about May, I think -
29 March, might have been February, so it would have been a
30 light, summery sort of day. I was writing like fury.
31 It could have taken less than an hour.
32 Q. You have referred to Mrs Wilson as being upset or
33 crying, or words to that effect.
34 A. Yes. When we first sat down, she was already at - Gladys
35 turned to her and we said a few things, I suppose, but
36 Gladys turned to her and said 'Now, you know, take the
37 chance, , tell Betty now', and that's when she
38 started, her face clouded over and she said 'Oh, I can't

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- 1 Gladys', and Gladys turned to her and she said 'What is
2 it?', and Gladys said - said 'They're digging up',
3 and Gladys said 'They're ploughing up our history'. She
4 had a way of being very forthright. In the end,
5 was persuaded to sit down and start talking.
6 Q. Was she crying at that stage.
7 A. Yes. She did weep a few times throughout the time.
8 Q. So, is it fair to say that she was crying before you
9 actually started the interview at the -
10 A. Yes, she - yes, I wanted to leave, you see, because I
11 didn't want to - I wanted to leave them together, but
12 Gladys said 'No, sit down Betty, you have got to hear
13 this'. She said 'Sit down Betty, you have to hear
14 this'. Then, she said ' , come on'.
15 Q. Did Mrs Wilson seem to compose herself a little.
16 A. Yes.
17 Q. And then, was there another time in your conversation
18 with her when she started to cry.
19 A. Yes. Yes.
20 Q. If we can -
21 A. Where she's saying that some things were gone or were
22 all gone, already all gone, you know, and made reference
23 to a time when old men cried and -
24 Q. Did she say what she was talking about when she said
25 'all gone already', or whatever.
26 A. She was talking about - it was apparent to me that she
27 was talking about places that had been removed, maybe
28 for housing, maybe for something, or that - I don't
29 know, somebody developing something, somebody ploughing
30 up or somebody going straight across an object and
31 ignoring signs that would have been obvious to an
32 Aboriginal person.

Lines 33 - 36 suppressed

- Rebecca Wilson was not a woman who
37 normally became agitated. She was a very strongly
38 Christian woman. A very strong, highly organised, neat,

1 shy, low-spoken woman. Whereas Gladys was a - beside
2 her, by comparison, Gladys Elphick was a strong little
3 lion, you know, and was very self-possessed and
4 she didn't cry convulsively. She wept and the tears
5 came and she put her hand up.

6 Q.

Lines 7 - 8 suppressed

9 Q. So, she had been crying and then you say she composed
10 herself in a general sense and started crying again when

11

12 A. She became upset the more that she spoke and in - then
13 she said 'Can't say, can't say' and in the end she just
14 said 'Can't say any more' and that finished it, you see.

15 Q. During that time that were you talking with her, how
16 many times would she have become upset to the point, for
17 example, of crying or tears.

18 A. I think as soon as they began to - I didn't sort of - I
19 didn't note it precisely. I noted that - the memory of
20 it I have is a very strange one of an Aboriginal woman
21 actually immediately beginning to, tears beginning to
22 fall and immediately she started discussing a place.
23 Because, as a rule, Aboriginal people don't get
24 immediately upset. It seemed to me perhaps you are
25 saying that she would have considered it a long time
26 before in order to get to that state of weeping. I
27 don't know whether that is true or not, I can't say, but
28 she was upset.

29 Q. You have referred to her saying things such as 'Can't
30 say', or was that during the period of time that you
31 were talking with her, was that something that she said
32 quite often during that interview.

33 A. Yes. I mean, all Aboriginal women, if you - if you have
34 the honour of being in their confidence, they will say
35 like that (), they will make a gesture and
36 that means 'I'm not saying any more about that'. You
37 don't ask, you don't go on with it like that. Or, in a
38 group, they will make a hand motion, or an eye motion or

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1 a lip motion. I can't do it, but it will mean no more
2 about this, finish. And I don't know all of those -
3 they have a body language which is so quick, I don't
4 pick it up.

5 Q. With Mrs Wilson, did she actually say 'I can't say', or
6 did you make that out from her body language.

7 A. She's going like that (), and then she said
8 'Can't say', and she was like there, you know. And then
9 Gladly would say 'Go on, tell her, tell her'.

10 Q. Your interview with her stopped when she said finally
11 'Can't say'.

12 A. 'Can't say any more, can't say any more'.

13 Q. Was she upset at that stage when the interview came to
14 an end.

15 A. Sort of stony face, but still she had - let me say she
16 wasn't sobbing convulsively or throwing herself around,
17 she was sitting in a composed way with tears coming and
18 wiping them off and still tears coming and wiping them
19 off. She wasn't a woman to throw herself about or
20 anything like that. She was a very staid, very correct
21 sort of person. And I was, yes, I was a bit concerned
22 that I had brought it on, but Gladly said I hadn't brought
23 it on, it was what she wanted to say, and she said
24 'Come, needs to say this'.

25 NO FURTHER QUESTIONS

26 COMSR: Does anyone else propose examining this
27 witness?

28 MRS SHAW: I do. I could ask some questions today,
29 but if anyone else proposes to cross-examine, obviously,
30 they should go before me.

31 COMSR: Will you be cross-examining Miss Nelson?

32 MS NELSON: I will need to consider that. It's a
33 bit difficult for me to take instructions.

34 COMSR: I appreciate that apart from those who
35 saw the television interview last night, this would not
36 have been something that you would have foreseen. I
37 must say that Mrs Fisher was co-operative enough to come
38 in today at short notice. I thought to interpose her

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1 because, clearly, this is a matter which will have to be
2 put, perhaps, at some time in some oblique form to the
3 anthropologist, but it seemed that rather than her give
4 evidence, the others give their evidence and have to
5 recall them to put anything that flows from this
6 evidence, that this would be the more efficient way in
7 the long run.
8 MS NELSON: I don't have any examination at this
9 stage. It is conceivably possible that after I have had
10 an opportunity to take some instructions from my client,
11 which I have to be pretty sensitive about because he is
12 a man, I may possibly have. It's unlikely, but it's
13 possible. So, I certainly wouldn't want to direct any
14 questions for the sake of doing it, so I would prefer
15 not to.
16 COMSR: Your client is an anthropologist?
17 MS NELSON: That's correct.
18 COMSR: I suppose it possible that at least he
19 can be asked what is in the purpose arena and -
20 MS NELSON: That's right. I will certainly put that
21 to him.
22 WITNESS: May I say something?
23 COMSR: Yes, go on.
24 WITNESS: To say a couple of things that I may
25 have omitted, even if it repeats itself?
26 CONTINUED

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1 COMSR

2 Q. Yes, go on.

3 A. What I wanted to preface this with was that at no time
4 have I considered myself the owner of this material. I
5 should have written a book, I didn't write a book.
6 Every time I started to write it, consider writing it,
7 my own life became disrupted in one way or another. I
8 would like to say that at all times Gladys and and
9 all their friends - their women friends, insisted,
10 emphasized, repeated, underlined, stressed, whatever you
11 like to call it, that these things must never be
12 discussed with men.
13 , they don't interfere with us. In society, we go
14 along not walking in front, not walking behind, walking
15 along side by side. In white people's environment
16 that's what we want to do. But you cannot speak side by
17 side unless you pay respect to each other, and, without
18 respect, we cannot begin. And that's a repetition of
19 Gladys Elphick's words, with which and many other
20 Aboriginal women agreed. I hope I have done no
21 disrespect to them today. And I hope that the males,
22 some of whom know the material I hold, are not disturbed
23 that it is a woman who is holding them, because they are
24 now in the possession of men, and will remain in the
25 possession of men, that which I have recorded for and on
26 behalf of men. So I would like to make that clear, in
27 case the males - the men in the Aboriginal community are
28 in any way concerned. It is very important.
29 Q.

Lines 1 - 17 suppressed

- 18 Q. I appreciate your reservations. You have made a
19 promise.
20 A. I promised. In my other white world, of course, but
21 this is - I knew Gladly Elphick for a long time.
22 Q. Yes, I am sure that Ms Nelson has understood what you
23 are saying concerning these matters.
24 A. The men need have no problems about what is concerned in
25 the tapes about men. It will be in the hands of men.
26 It will never be revealed, apart from to elders among
27 the men. So they can have no problems about that. I
28 know the rules, you know, overtly, that Gladly told me,
29 and I keep to them and I always have.
30 Q. I appreciate your situation in respect of this.
31 MS SIMPSON: Perhaps the commencement time could be
32 delayed until about 11 o'clock tomorrow morning. Would
33 that be inconvenient?
34 WITNESS: And you want me present? That would
35 certainly suit me.
36 COMSR: That may mean, if we start at 11, we may
37 have to sit a little later to make up the time and you
38 might be glad, if it is possible, to get all your

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1 evidence through on the one day by doing so. Is there
2 any problem about a late start? It might even suit the
3 convenience of counsel in some way.

4 MS PYKE: I don't think we will be complaining.

5 MRS SHAW: Just one matter, we were awaiting for
6 some material from Ms Simpson that might pertain to this
7 witness. I am not sure that that will be here by
8 tomorrow.

9 MS SIMPSON: I think that will be available.

10 COMSR: In case it is necessary to do so, I will
11 just make an order that the transcript of this evidence
12 be made available to counsel and legal representatives.
13 Permitted to remain in the hearing whilst this evidence
14 was taken in private. Is there anything else that
15 requires attention?

16 WITNESS: Just one aspect, I have no female
17 counsel at the moment.

18 COMSR: No, you are not a party. You are a
19 witness.

20 WITNESS: Yes, I realise that, but I have a
21 counsel who is a male.

22 COMSR: Mr Wardle.

23 WITNESS: Yes. I was wondering how we can
24 overcome that.

25 MS SIMPSON: Perhaps if I have a word to Mrs Fisher
26 after the hearing.

27 ADJOURNED 3.47 P.M. TO WEDNESDAY, 9 AUGUST 1995 AT 11 A.M.

1 COMSR STEVENS

2

3

4 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

5

6

7

8 WEDNESDAY, 9 AUGUST 1995

9

10

11

12 RESUMING 11.40 A.M.

13 WITNESS E.M. FISHER, EXAMINATION BY MS SIMPSON CONTINUING

IN

14 PUBLIC

15 COMSR

16 Q. Mrs Fisher, this hearing is now in public again.

17 A. Yes.

18 XN

19 Q. Mrs Fisher, I now produce to you a tape recording. Is
20 that a copy of the tape recording that you made with
21 Gladys Elphick and Rebecca Wilson.

22 A. It is a copy of that, yes, made at the Mortlock Library,
23 yes.

24 Q. The copy was made at the Mortlock Library, is that
25 right.

26 A. Yes.

27 Q. I understand you now produce the copy of that tape you
28 made to the Commission.

29 A. Yes.

30 Q. Are there some restrictions that you understand should
31 be placed on the playing of that tape and the persons
32 who hear the material on the tape.

33 A. Yes. Your Honour, this is presented on the
34 understanding, first of all, that it contains a great
35 deal of my very amateur interviewing with Gladys
36 Elphick, in the main, but I haven't timed it. It is
37 between 12, 15 minutes of time with - in the presence of
38 Rebecca Wilson, whose name she gives as Koomi.

1 That her descendants have allowed me to present you with
2 this on certain conditions. These are that the words of
3 either - first of all, the words of Rebecca Wilson be
4 heard by no-one but women closely associated with the
5 court, and that the words of Gladys Elphick must in no
6 way be related to or told to anyone other than women of
7 the Narrunga people. As since Gladys is not relevant to
8 this Commission, other than she was my teacher on
9 Aboriginal affairs, and the Narrunga people are not
10 involved in this case and - I beg your pardon, of the
11 Aboriginal people. If I'm stating that incorrectly, I
12 hope I'm not stating that incorrectly.

13 COMSR

14 Q. Now, the part of the tape which records an interview
15 between yourself and Gladys, did you say.

16 A. The whole tape is predominantly myself and Gladys
17 Elphick.

18 Q. You say that that has nothing of relevance to this
19 Commission.

20 A. No, unless it's just to indicate that I knew Gladys very
21 well and that Koomi was present in her house when it was
22 made, and she lived at 30 York Terrace, Ferryden Park.

23 Q. I want to get this clear. The part of the tape which is
24 between yourself and Gladys has nothing in it that is of
25 relevance to the Commission.

26 A. No, only in terms of understanding Aboriginal people
27 generally, but nothing of relevance to this -

28 Q. To the Terms of Reference of this Commission.

29 A. No, that's right.

30 Q. What you're asking is that it not be played at all
31 except to Narrunga women, is that it.

32 A. Yes.

33 Q. The balance of the tape is between yourself.

34 A. Yes, and Rebecca Wilson.

35 Q. And Rebecca Wilson. You say that that portion of the
36 tape should only be played -

37 A. In the presence of women with the permission of -

38 Q. To remain in the hearing room.

- 1 A. The descendants of, with the permission of the
2 descendants of Rebecca Wilson, yes.
- 3 Q. Perhaps I'm having a little bit of difficulty following
4 that.
- 5 A. I'm very sorry. I'm in a bit of a state myself. I've
6 heard at quarter past 11 of a death in my own family.
- 7 Q. I'm very sorry to hear that.
- 8 A. I had just been advised that.
- 9 Q. Is this the situation, just to see that I have got it
10 correct: The balance of the tape between yourself and
11 Rebecca Wilson is not to be played, except in front of
12 women permitted to remain at the hearing.
- 13 A. Yes. I think that would be appropriate, but it must
14 remain for women. And I have been given permission by
15 the descendants, the family of Rebecca Wilson to so
16 speak, on my understanding of it.
- 17 MR MEYER: If that is tendered on that basis, I
18 have a minor difficulty with that. My question is that
19 this -
- 20 COMSR: I don't know that it is tendered at
21 present. I'm trying to ascertain what the witness has
22 said. I haven't made any ruling as yet.
- 23 XN
- 24 Q. Yesterday you told the Commissioner that during the
25 conversation with Rebecca Wilson, you made some notes.
- 26 A. Yes.
- 27 Q. Three pages of those notes related to secret women's
28 business.
- 29 A. They were secret. They are sacred to women. They are
30 absolute in - they must not be read, other than
31 precisely determined between Rebecca Wilson's
32 descendants and the Commissioner herself. And they give
33 me to understand that they cannot submit those notes
34 other than to the Commissioner herself on the
35 understanding that it will not go further than the
36 Commissioner. I point out to them they would need Miss
37 Andrea Simpson also to hear them, and they said they
38 would discuss that at length, and said that if only two

1 women hear it, they will submit, but otherwise they
2 cannot submit.

3 COMSR

4 Q. Are these your notes that you took.

5 A. That I made, yes. I've given it to them. That is their
6 property.

7 XN

8 Q. When you say 'to them', you are referring to Veronica
9 Brodie and Dr Doreen Kartinyeri in the main.

10 A. No, I'm sorry, no. Veronica Brodie and Maggie Jacobs,
11 her relatives.

12 Q. Is it the case then that Veronica Brodie and Maggie
13 Jacobs knew of your notebook, including the three pages.

14 A. They have not got it in their possession. They have
15 absolute say over what happens to it. Nobody will act
16 on it without their permission and they are consulting
17 as a family, because in Aboriginal culture the person
18 and their family ownership is quite different among
19 Aboriginal people. It's a person and their family owns
20 the culture associated with what was associated with the
21 person who gives them. I think that's the way to
22 describe it.

23 Q. Is it the case that overnight you had the opportunity to
24 speak to Veronica Brodie and Maggie Jacobs about
25 producing your notebook to the Commission.

26 A. I have discussed with them, not overnight, but
27 preparatory to this and I understand from Maggie that
28 their position has not changed on this.

29 MS SIMPSON: I now do seek to tender the tape which
30 is produced by Mrs Fisher.

31 WITNESS: May I say these are very heavy times
32 because, to me, a great deal of personal responsibility
33 lies. My own credibility within myself lies on handing
34 over anything that belonged to Gladys Elphick and I have
35 kept silent and this is the first time I have handed her
36 words over to anyone adjudicating another law other than
37 Aboriginal people.

38 COMSR: Are you seeking to tender the whole of

E.M. FISHER XN

1 the tape or a portion of it? As I understand it, it is
2 of no relevance to this.

3 MS SIMPSON: I do seek to tender the whole of it. I
4 understood Mrs Fisher to say earlier that it could be
5 heard, that is all of it could be heard, at least by the
6 Commissioner and possibly myself.

7 WITNESS: Yes.

8 MS SIMPSON: Although in her evidence this morning
9 she mentioned limiting it to Narrunga women, which would
10 not be practical.

11 WITNESS: Yes, I see. No, the book - if Veronica
12 says that the Commissioner and yourself may hear - may
13 see the words of Rebecca Wilson, then, yes, I see. I
14 think perhaps, Commissioner, that the words of Rebecca
15 Wilson could be heard in the court - I think I'm
16 interpreting them correctly - in the court, which is the
17 court in camera that you conducted yesterday with women
18 only, could possibly hear her words. But I am very
19 anxious about the Narrunga people and Gladys's words. I
20 have permission to speak, but they haven't all heard,
21 all of the Narrunga women haven't heard Gladys's voice
22 and that is what I'm anxious about. I don't want a
23 quarrel to arise.

24 COMSR: I appreciate that. I wonder about this
25 now. As to the first part of the tape, are you saying
26 that that has some relevance to the issue before me?

27 MS SIMPSON: It does have some relevance and the
28 relevance is, I think, as Mrs Fisher pointed out in her
29 earlier evidence, that while the conversation with
30 Gladys Elphick was taped, Rebecca Wilson was present and
31 you can hear her voice from time to time saying `Yes' in
32 the course of that conversation. And then the Rebecca
33 Wilson conversation follows on in a short space of time.
34 That is on the same day and within 15 or 20 minutes from
35 that of Gladys Elphick. In my submission, the whole
36 tape is relevant. Although, as I understand it, Mrs
37 Fisher says that the contents of what Gladys Elphick
38 says is not relevant to any issues before this

E.M. FISHER XN

- 1 Commission, but certainly the fact of the taping of the
2 conversation at the time was and that it was in close
3 proximity to Rebecca Wilson's conversation and, in my
4 submission, that is relevant.
- 5 WITNESS: It is what Aboriginal women call, they
6 call it 'whitefella validation' that you hear it. I
7 think I can -
- 8 COMSR: What are you doing in respect of this
9 tape at this time?
- 10 MS SIMPSON: At this time, I'm tendering it on the
11 basis, at least - and I think Mrs Fisher would agree
12 with this - that the Gladys Elphick conversation,
13 although it goes into evidence not as to the contents of
14 it, because that is not relevant as being from another
15 group of Aboriginal people, but the fact of it being
16 taped is certainly relevant and, therefore, it must be,
17 in my submission, that the Commission is able to hear
18 that conversation and hear it in proximity with the
19 conversation of Rebecca Wilson.
- 20 WITNESS: That adequately describes the position.
- 21 COMSR: You are tendering it as an exhibit, are
22 you, at this stage?
- 23 MS SIMPSON: Yes.
- 24 COMSR: Are you tendering it on the basis of the
25 restrictions which the witness has indicated she seeks
26 to have applied?
- 27 MS SIMPSON: Yes, I am, and those restrictions, as I
28 understand it, restrict -
- 29 COMSR: I understand what the restrictions are.
30 I don't know if any other counsel wishes to make
31 submissions as to this? The tape will be admitted into
32 evidence and marked.
- 33 EXHIBIT 20 Tape recording of Mrs Fisher with Gladys
34 Elphick and Rebecca Wilson, tendered by
35 Miss Simpson. Admitted.
- 36 MR MEYER: I indicate that at some later stage I
37 want to address further argument in relation to that.
38 To assist you, I think we should put thought into

1 putting argument to you dating back to the authority of
2 the case of Attorney-General of the Northern Territory v
3 Maurice, as to the sort of release of this sort of
4 information. I don't make an objection now, but I
5 foreshadow that I will ask that the matter be argued.

6 NO FURTHER QUESTIONS

7 NO CROSS-EXAMINATION BY MS NELSON IN PUBLIC

8 CROSS-EXAMINATION BY MR ABBOTT

9 Q. You said that you put all the stuff, including your
10 reel-to-reel tapes and your notebook, in the Mortlock
11 Library.

12 A. No, I'm so sorry if that impression has been given. No.
13 I read an article in some journal in 1990 that described
14 the problems associated with tapes that had been kept
15 for more than 15 years, and there was a problem of
16 degradation or possible degradation of those tapes after
17 some time. I became a bit alarmed about this and rang
18 up the relevant people in the Narrunga group who were
19 with me when I - from time to time when I saw Gladys and
20 those who were part of Gladys Elphick's family, I told
21 them that I was worried and said 'Look, I want to put
22 them in the Mortlock Library'. And they said 'Give us
23 time to think about it'. And they had a discussion and
24 rang me back a day or two later and told me that, okay,
25 there's nowhere else and I wished there was a Gladys
26 Elphick Memorial or some sort of safe, but we haven't
27 got that and it would have to go into the Mortlock
28 Library. We will have to make it clear that under no
29 circumstances can they keep it there. They will be,
30 what do you call it, a temporary, in charge of the
31 proper conditions for keeping such things, so that they
32 don't degrade. And so in May, I took them to the
33 Mortlock Library.

34 COMSR

35 Q. In May when.

36 A. May 1990, I'm sorry.

37 XXN

38 Q. What was put in the Mortlock Library.

- 1 A. They were the tapes, all the tapes that I made from
2 Gladys Elphick.
- 3 Q. Including the one tape reel-to-reel tape that -
- 4 A. They were all reel-to-reel tapes.
- 5 Q. Including the one reel-to-reel tape that had your
6 interview with Koomi.
- 7 A. With Rebecca Wilson. I'm sorry, can I call the
8 attention of everyone, including the media, to the fact
9 that you have to have permission to use the person's
10 name that is used among their family and their people,
11 and I have permission, but I shouldn't have introduced
12 that name possibly. She must be referred to as Rebecca
13 Wilson, sorry. I'm so sorry, Mr Abbott, I thought I
14 made it clear. I obviously didn't.
- 15 Q. You hadn't made it clear and, indeed, I shall now -
- 16 A. I apologise. I know you wouldn't willingly make such an
17 error.
- 18 Q. That is an explanation I gleaned from what you said,
19 that you were requesting us to refer to her as `Koomi'.
- 20 A. I'm so sorry about that. I didn't mean to give that
21 impression. It's just a question of respect among
22 Aboriginal people that you ask permission and -
- 23 Q. I will refer to her as Rebecca Wilson.
- 24 A. I am sure you wouldn't contravene that.
- 25 Q. Your notebook, did that go to the Mortlock Library.
- 26 A. No. That remained in the bottom of a box in my house
27 that is among things that I regard as very important.
- 28 Q. When did you get your notebook from the place you kept
29 it and do something with it.
- 30 A. Well, I wasn't going to tender anything. I thought -
31 you see, Mr Abbott, I thought I was a little tiny cog in
32 the huge wheel of wonderful history -
- 33 Q. You will be permitted to tell us all that you want to
34 tell us, but it would be far quicker if you tell us the
35 date, first of all, what you got your book, your
36 notebook, out of its container.
- 37 A. I wasn't going to submit anything and then the `Tiser
38 featured on the front page - I'm sorry to use that

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1 expression, the press featured on the front page a large
2 photograph of Sarah Milera and I knew that her husband
3 was a great nephew of Gladys Elphick. This immediately
4 drew the Kurna people and the Narrunga people into the
5 insult.

6 COMSR

7 Q. I wonder if we could get a little closer to the date,
8 the year.

9 A. Well, it was -

10 XXN

11 Q. During 1995, wasn't it.

12 A. Whenever that appeared, yes. I'm sorry, I am a bit
13 shocked today. I'm wandering a bit. It's the death in
14 the family half an hour before I arrived here. It's
15 shaken me up a bit, I'm sorry.

16 MR ABBOTT: I wonder if it is appropriate to
17 continue?

18 COMSR

19 Q. Are you able to continue.

20 A. Yes, I'm sorry.

21 XXN

22 Q. What was that date -

23 COMSR: June 1995.

24 A. Yes, whatever the date of that newspaper was.

25 XXN

26 Q. You then went to the Mortlock Library.

27 A. No.

28 Q. You got your reel-to-reel tapes out, did you.

29 A. No, not that day, no.

30 Q. You took your notebook.

31 A. Yes, and I had the Kurna copy of the tapes.

32 Q. That's the tape that has been tendered; that is the
33 donor copy.

34 CONTINUED

E.M. FISHER XXN (MR ABBOTT)

- 1 A. No. Wait a minute, yes. I beg your pardon. Yes, that
2 is the donor copy.
- 3 Q. The tape that you produced this morning -
- 4 A. Is the donor copy of that tape.
- 5 Q. Was one of the tapes the Mortlock Library made for you.
- 6 A. Yes.
- 7 Q. From the reel-to-reel tapes that you had deposited
8 there.
- 9 A. Yes, yes.
- 10 Q. So you have got a number of donor tapes, but only one of
11 them is relevant to this inquiry.
- 12 A. Yes, there is a box full of them.
- 13 Q. So, in June 1995, you took your donor tape, Exhibit 20,
14 and your notebook, and you took them to the Aboriginal
15 Legal Rights.
- 16 A. No. I took them to a place that Doreen Kartinyeri asked
17 me to take them. I rang her at the Aboriginal Legal
18 Rights centre because I expected her to be there,
19 because I had read the newspapers she was there.
- 20 Q. Where did you take them.
- 21 A. I went, with my husband, and took them into the
22 Aboriginal Legal Rights building, addressed to Doreen
23 Kartinyeri.
- 24 Q. That was my question. You took them to the Aboriginal
25 Legal Rights office and left them there for Doreen
26 Kartinyeri.
- 27 A. Yes, but I was leaving them for Doreen.
- 28 Q. Had you spoken to her.
- 29 A. On the phone earlier, yes.
- 30 Q. Had you told her that you had these tapes.
- 31 A. Yes. I told her that, among the tapes that I had of
32 Gladys - Gladys Elphick, was one with Koomi speaking,
33 with Doreen Kartinyeri speaking - with - I will get it
34 in a minute - with Rebecca Wilson speaking.
- 35 Q. Was this the first time since 1990 that you had told
36 anyone that you had this tape and the notebook.
- 37 A. I think I probably told about two or three people who
38 came to my house as regular friends, who saw me working

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1 on various papers, that I had recorded Gladys, but they
2 did not see the tapes, and certainly nobody saw the
3 notebook and nobody saw that box that I had the notebook
4 in.

5 Q. Was this the first time that you had told anyone -

6 A. Yes.

7 Q. Having left them there for Doreen Kartinyeri, did you
8 hear from her after that.

9 A. I heard from Chris Charles of the Aboriginal Legal
10 Rights Movement.

11 Q. Did you leave them with a note saying 'No-one's to look
12 at this material'.

13 A. No. I left them - I said on the telephone 'I'm going to
14 give these to your people. Will you see that these go
15 to the appropriate women?' And she said 'Yes, I'll do
16 that. May I look at them? May I listen to the tape?' I
17 said 'You ask them and it's up to them'.

18 Q. Did Doreen Kartinyeri discuss the content of this tape
19 and the notebook with you.

20 A. Not at that time. She hadn't seen them.

21 Q. But later on.

22 A. Later on I may have heard from her, and she may have
23 said -

24 COMSR

25 Q. Can you remember if you did hear from her.

26 A. I rang her and said 'Have you got the tapes?' - 'Have
27 you got the tape and the notebook?' This is after some
28 time. She wasn't available. I kept ringing back and I
29 finally got her. She said 'Yes. I'm going to ring and
30 ask if I can listen to the tape and read the book'. And
31 I assume she did, because later I spoke to her and she
32 said 'What a wonderful thing it is to be able to hear
33 someone like Koomi'.

34 XXN

35 Q. Did Doreen Kartinyeri discuss with you going public on
36 the existence of this book and the tape.

37 A. I said - I asked Doreen 'What is Veronica's wishes?' She
38 said 'So far there is no hope that anyone can hear it or

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- 1 see it'. I said `Good'.
- 2 Q. Did Doreen subsequently discuss with you about going
3 public.
- 4 A. No, no. It was always a question of my saying to either
5 Maggie Jacobs or to - but certainly Maggie didn't come
6 into it early in the piece - any time I met Doreen I
7 said `Are they still happy about keeping all that
8 silent?' Doreen has never asked me questions. I've
9 asked her questions. I have never known Doreen to
10 initiate queries to me. She answers questions rather
11 than initiating queries.
- 12 Q. Were you aware of a media conference that the ALRM were
13 going to conduct on Friday, 23 June.
- 14 A. No. A media conference?
- 15 Q. Yes.
- 16 A. No.
- 17 Q. To `Set the record straight.'
- 18 A. What date was that?
- 19 Q. 23 June 1995.
- 20 A. No. I'm sorry, I didn't, no. I had no idea.
- 21 Q. You were never asked -
- 22 A. No.
- 23 Q. Either to participate -
- 24 A. No.
- 25 Q. Or for your permission in relation to the material you
26 provided to Doreen Kartinyeri.
- 27 A. Well, I wouldn't have regarded myself to have needed
28 permission. I had given back to Aboriginal people what
29 belonged to them, and I wouldn't have expected - no, I
30 didn't.
- 31 Q. Did you make any copy of any page of your notebook.
- 32 A. That was what happened. That's why I couldn't put it
33 into Doreen's hands. You see, she said `Look' -
- 34 Q. Did you make a copy of any page.
- 35 A. Yes, ultimately, because I had to satisfy myself that
36 they could read it. My scribble is terrible.
- 37 Q. How many copies.
- 38 A. One.

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- 1 Q. And where's the copy.
2 A. I've given it to them. I don't know.
3 Q. You gave them a copy much later, or a copy with the
4 original.
5 A. No, on that day. On that day. That's what made me
6 late. And I didn't give it to Doreen herself because
7 there was a death somewhere, you see. She had to go.
8 Q. It was the person we have been referring to as the
9 daughter of Pinkie Mack.
10 A. Pardon me? I don't understand that.
11 Q. The situation is this then, that you had neither your
12 tape, that is the donor copy -
13 A. No.
14 Q. Nor your notebook or any copy thereof -
15 A. No.
16 Q. Since June 1995, when you handed it over to -
17 A. I didn't want it.
18 Q. The original and the donor copy of the tape over to
19 Doreen Kartinyeri.
20 A. No, I didn't want it back. It's their material.
21 Q. On the 7.30 Report the other night some footage was
22 shown of a tape recorder utilising a tape. I don't know
23 whether you saw the 7.30 Report.
24 A. A tape recorder?
25 Q. Yes.
26 A. Was there a tape recorder on there? I thought there
27 were tapes.
28 Q. And a tape recorder.
29 A. I didn't see a tape recorder, I'm sorry.
30 Q. Have you seen the 7.30 Report.
31 A. Yes, I saw it. I will have to look at it again. My
32 son's taped it for me.
33 Q. It is the one that you took part in.
34 A. Yes.
35 Q. Was your notebook produced to the ABC.
36 A. I have no idea how that happened. I have no idea.
37 Q. Was it your notebook.
38 A. Yes.

E.M. FISHER XXN (MR ABBOTT)

- 1 Q. Was your donor copy of your tape produced to the ABC.
2 A. Yes, but not by -
3 Q. You have no idea how that happened.
4 A. Not by me. No, I haven't. I'm sorry. Please, my
5 credibility is at stake, and I have no idea how that
6 happened.
7 Q. It is a mystery to you how your notebook and your tape -
8 A. It is not a question of being a mystery. It was no
9 longer my notebook or my possession. It was someone
10 else's.
11 Q. Doreen Kartinyeri's.
12 A. No.
13 Q. It was in her possession, wasn't it.
14 A. No. Veronica. Veronica and Maggie must have given
15 permission. It is not my material. I'm not trying to -
16 Q. I understand. This tape, Exhibit 20, the one that only
17 women can hear the part that deals with your interview
18 with Rebecca Wilson -
19 A. Yes.
20 Q. When you listened to the 7.30 Report, did you hear part
21 of that very tape being played.
22 A. Yes, yes.
23 Q. This is the tape that is so secret that only certain
24 women can hear it that is being played to the rest of
25 South Australia.
26 A. But that was precisely up to Veronica. I am conveying
27 what they have conveyed to me earlier. If Veronica has
28 since given permission to Channel 2 to play that, that's
29 her decision, not mine. I have only the right to tell
30 you and the court what they have told me. They have not
31 told me anything else.
32 Q. So you are, as it were, honouring the last instructions
33 that you understand you had from them.
34 A. Yes.
35 Q. And what they have done, in terms of broadcasting the
36 tape to the public at large, is their business.
37 A. Yes, but there is no problem about that with me. It's

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- 1 their permission - it is their possession, it is their
2 ownership.
- 3 Q. They can make a hundred copies and give them round to
4 every media station if they want to.
- 5 A. But that's their thing. I mean, it's theirs. It is not
6 mine. It was her voice, so I don't own it.
- 7 Q. Who are the people that, in your view, were able to give
8 Channel 2 permission, the 7.30 Report permission.
- 9 A. I'm sorry, you will have to find out. I can't tell you.
- 10 Q. You are the amateur anthropologist. Can you tell us who
11 are the custodians.
- 12 A. I'm sorry, I can't. I don't know who gave permission.
- 13 Q. I didn't ask you that. I asked you who, in your
14 opinion, are entitled to give the permission.
- 15 A. It is only my opinion. Entitlement is family, always.
16 So it would have to be family and female.
- 17 Q. You got some instructions last night from someone about
18 producing this tape.
- 19 A. No, no.
- 20 Q. That's what you said.
- 21 OBJECTION Ms Nelson objects on the ground
22 that was not witness's evidence.
- 23 Q. You got some instructions at some stage from someone
24 about producing this tape, Exhibit 20, to this
25 commission.
- 26 A. That is so.
- 27 Q. From whom.
- 28 A. The family of - the descendants of Rebecca Wilson.
- 29 Q. Could you tell us the names of the people you spoke to.
- 30 A. Veronica Brodie and Maggie Jacobs.
- 31 Q. In your opinion, if they want to make 20 copies of the
32 tape and deliver it to 20 television stations, that's
33 their business, they're allowed to do that.
- 34 A. Yes, yes. The permission they gave me was previous to
35 the 7.30 Report, I think you will probably find. I
36 can't help - I'm sorry if you think I'm confused, but
37 the concept is that permission is the last thing that
38 must be quoted.

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- 1 Q. The 7.30 Report shows a shot of you undoing a box.
2 A. Yes, with my -
3 Q. In the Mortlock Library.
4 A. With my great great grandmother's scissors, yes.
5 Q. Was that a reconstruction of what you'd done.
6 A. Well, it was an attempt by the media of a reconstruction
7 of what I had previously done. I had taken them
8 actually to the Jodie Somerville collection, but they
9 wanted that.
10 Q. Presumably you agreed with all of that. You were a
11 willing party.
12 A. Yes. I had been given permission to do that.
13 Q. Why. I mean, why were you a willing party to being
14 involved in a reconstruction of you getting your tapes
15 out of the Mortlock Library. Did you feel that
16 appropriate.
17 A. Is there something shameful in that?
18 Q. I am not suggesting anything shameful. I am just
19 wondering why.
20 A. Because Channel 2, being the media, have their devoirs,
21 and I certainly wanted to feel not to be an
22 obstructionist, as I am trying not to be an
23 obstructionist here.
24 Q. So the reel-to-reel tapes that were shown, they were
25 your original reel-to-reel tapes.
26 A. Yes.
27 Q. And you've now got those.
28 A. I have them in safe keeping, yes. I feel very
29 responsible for them.
30 Q. You have them in your safe keeping.
31 A. Yes.
32 Q. And you allowed the 7.30 Report to see them.
33 A. I asked permission from all the people concerned that if
34 the cameras came on they would see the outside of the
35 tapes, there would be no words, and they gave permission
36 for me to do that.
37 Q. Who were they.
38 A. The Nurrunga people.

1 Q. No, who.

2 A. Must I?

3 Q. I would like to know their names.

4 A. They are not relevant to this inquiry. Louis O'Brien.

5 Q. Who else, if anyone.

6 A. Yes. Paul Hughes and Katrina Power, who did not
7 immediately give permission but consulted with Nurrunga
8 women.

9 Q. She told you she had done that and you accepted that she
10 had.

11 A. Yes, indeed. It was too important a business for an
12 Aboriginal woman to fabricate in any way.

13 Q. The notebook that was filmed, you have told us that was
14 your notebook, and you have got no idea how it got there
15 in the film.

16 A. But I -

17 Q. You have told us that.

18 A. Yes.

19 Q. When the ABC interviewed you for the 7.30 Report -

20 A. Yes.

21 Q. Did they have the notebook, or was it not produced
22 during the course of your dealings with them.

23 A. I have not seen the notebook since it left my hands. I
24 have no idea.

25 COMSR

26 Q. I am not quite sure that is the question Mr Abbott
27 asked. You didn't see it on the occasion of your
28 interview with Channel 2. Is that what you are saying.

29 A. No, and I have not been interviewed at Channel 2.

30 XXN

31 Q. Where were you interviewed.

32 A. I was interviewed in the office of Mr Douglas Wardle,
33 and then at the library, at the Mortlock Library, but in
34 the office - in the first instance at the office of Mr
35 Douglas Wardle, my solicitor.

36 Q. The video clip also showed what appear to be some typed
37 transcript.

38 A. Yes. Yes, that's true.

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- 1 Q. Had you seen those before you saw the video clip.
2 A. That's my typed transcript that I typed on my IBM
3 Selective typewriter. That's a copy of it, I think. I
4 don't know if it is a copy, but it looked like a copy.
5 It didn't look - but then, was it smudged or was it
6 original? I don't know what happens on television,
7 whether it smudges, because it is an old fashioned
8 typewriter.
9 Q. So you have attempted to reduce to typewritten form some
10 of the words on this tape, Exhibit 20.
11 A. But I thought I'd told you that, that I sat down and I
12 typed this before I submitted it to Doreen Kartinyeri.
13 Q. No, you haven't, but -
14 A. I was trying to tell you that before, that I rang
15 Doreen. I said 'Do you want this material?' 'What is
16 it?' I said 'It's a tape. It's got Rebecca Wilson's
17 words on it, and it's a notebook that I made of it.'
18 Q. Do we learn now that you delivered your -
19 A. And I typed it.
20 Q. Your typed transcripts as well as your notebook and the
21 tape.
22 A. Please, can I finish the description? I said to Doreen
23 'I can't give it to you without typing my copy. You
24 won't understand my scribble'. She said 'Okay, but I
25 might have to go because I think there has been sorry
26 business', which is an Aboriginal expression meaning
27 death. So I rushed in to my typewriter and I typed an
28 exact copy, word for word.
29 Q. Of what's in your notebook.
30 A. Yes. Then I wrapped them all up and took them up to
31 Doreen Kartinyeri at ALRM, but she'd gone, so I had to
32 leave it there with Cheryl.
33 CONTINUED
34

- 1 Q. So, you have not made a transcript of the voice on the
2 tape.
- 3 A. No, I am sorry if I am causing - I don't know exactly -
4 Madam Commissioner, what do you describe as a
5 typewritten copy of what is in the notebook? It is not
6 a transcript, is it? It is a typed copy.
- 7 COMSR
- 8 Q. I suppose that is as good.
- 9 A. Yes, it is a typed copy. I made a typed copy, but I
10 have not made a transcript of what is on the tape.
- 11 XXN
- 12 Q. So, what the television showed - and you can see the
13 words -
- 14 A. Yes.
- 15 Q. Was a typed copy -
- 16 A. Yes.
- 17 Q. Of the words in your notebook.
- 18 A. Yes, that's right.
- 19 Q. Again, it is a mystery to you as to how Channel 2 have
20 ended up with it.
- 21 A. It doesn't become a mystery. I am sorry. There is no
22 mystery to this. No mystery whatsoever. What they
23 choose to do with it is their own concern. I am sorry,
24 but -
- 25 Q. Didn't you ever ask them.
- 26 A. No, why should I?
- 27 Q. Have you ever said to them 'Look, I have been keeping it
28 secret and here you are putting it on television.'
- 29 A. But that is their concern, it is not mine. It is their
30 material. I don't own it.
- 31 Q. I understand that.
- 32 A. Why should I be mystified? They are fighting as an
33 oppressed people. They can - please, they can surely
34 use their an ancestors' words, with respect?
- 35 Q. Of course. In any event, you have not discussed, with
36 any Aboriginal person, how it came about that the ABC
37 television on the 7.30 Report were able to display to
38 all the people in South Australia who wanted to watch

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- 1 the 7.30 Report parts of your notebook and parts of the
2 typed version of your notebook which you prepared.
- 3 A. You see, Madam Commissioner, I really have no interest
4 in what Aboriginal people - I have a great interest in
5 it, but I have no specific ownership concern. It is
6 their material, it is not mine. It is her voice. I
7 don't own it. I have no rights. I don't want rights.
8 I never regarded myself as an owner with rights. It
9 doesn't come into the equations, I am sorry.
- 10 Q. Was the answer yes or no.
- 11 A. I am sorry, you had better repeat the question.
- 12 Q. My question was whether you have discussed with anyone,
13 spoken to any Aboriginal person, about the fact that the
14 ABC television published to all of South Australia -
- 15 A. Before it came on the television?
- 16 Q. No, on the 7.30 Report -
- 17 A. You mean, did I discuss it with them before or after?
- 18 Q. No, before or after, the fact that it was going to be
19 broadcast to the public of South Australia.
- 20 A. No.
- 21 Q. Could I ask you some questions, further questions about
22 the notes that you typed out. When you took these
23 notes -
- 24 A. Yes.
- 25 Q. The three pages that deal with your discussions with
26 Rebecca Wilson -
- 27 A. Yes.
- 28 Q. Where were you, in what room of the house.
- 29 A. I was - I was in the lounge room of Gladys's house, and
30 Koomi was there (INDICATES), Gladys was there (INDICATES)
31 and I was here (INDICATES), in a little chair.
- 32 Q. You have said three pages.
- 33 A. There are three pages amongst a small notebook, a memo
34 book and it is -
- 35 Q. I just want to get it clear; are we talking about three
36 sides or three whole pages, ie six sides.
- 37 A. No, three sides.
- 38 Q. Three sides.

1 A. Yes.

2 Q. And, of the total discussion in that notebook that
3 relates to Rebecca Wilson, three sides only relate to
4 Rebecca Wilson.

5 A. No, the whole of that notebook, except for the first
6 seven pages, relate - the first seven pages relate to
7 Narrunga people. They are Gladys's people, so I cut them
8 out, because I - you know, you don't mix cultures. So,
9 I cut them out before I sent them in and I still have
10 those.

11 Q. The rest of the notebook -

12 A. Yes.

13 Q. Are your handwritten notes of your discussion -

14 A. Yes.

15 Q. With Rebecca Wilson.

16 A. Yes.

17 Q. How many pages altogether were left in the notebook.

18 A. I don't know. It might be a 30 page notebook. It might
19 be 27. It would be about that. It is a little
20 (INDICATES) - and -

21 Q. And, of the 20 something pages, 20 odd pages that record
22 your discussion with Rebecca Wilson -

23 A. Yes.

24 Q. Only three of those pages relate to what you have
25 described as secret women's business.

26 A. No, the whole of the notebook is very secret, but the
27 sacred part is emphasised and detailed in the three
28 pages.

29 Q. The three pages.

30 A. Yes, the sacred - the very sacred and secret and
31 absolutely must not be -

32 Q. Revealed unless those who own the knowledge want it
33 released.

34 A. Which they never will.

35 Q. We don't know. They have given some of it to Channel 2.

36 A. No, those three pages were not on Channel 2. They have
37 assured me of that. But I don't need assurance, but
38 they have assured me.

- 1 Q. In any event, you take your view that it is their right
2 to do with it as they please, don't you.
- 3 A. Indeed. It is their ancestors.
- 4 Q. I just want to find out where these three pages fit in
5 in the 20 or so pages of the notes. Are they three
6 consecutive pages.
- 7 A. Yes.
- 8 Q. And are they towards the back, middle or the beginning
9 of the -
- 10 A. They are about, I suppose, two-thirds of the way through
11 perhaps.
- 12 Q. In any event, both your typewritten version of the
13 notebook and, in particular, these three pages and the
14 20 pages containing the three pages were last seen by
15 you when you dropped them off -
- 16 A. Yes.
- 17 Q. At ALRM for Doreen Kartinyeri.
- 18 A. Yes. I did say, Madam Commissioner, that I had asked
19 permission, didn't I? Because I had very carefully
20 asked permission to do that.
- 21 COMSR
- 22 Q. Yes, I understand you to say that.
- 23 A. Thank you. That is very important.
- 24 XXN
- 25 Q. You told us, in giving your evidence - and I think I am
26 correctly summarising it - that, in essence, you had two
27 separate discussions with Rebecca Wilson on this day.
- 28 A. It was a continuous - I mean, I was in Gladys's house and
29 we were discussing matters regarding Point Pearce and
30 Narrunga business and -
- 31 Q. Let me just put this to you by way of summary and see if
32 you agree with it. You are discussing matters not
33 relevant to this Commission with Gladys Elphick in the
34 presence of Rebecca Wilson.
- 35 A. Whether she was there all the time, but, certainly -
- 36 Q. But generally -
- 37 A. Yes.
- 38 Q. That was the situation.

1 A. Yes.

2 Q. Gladys leaves the kitchen to go and get some more
3 material -

4 A. Yes.

5 Q. Or papers or whatever.

6 A. It is a small house. The bedroom was just over there
7 (INDICATES).

8 Q. And you, in her absence, in Gladys's absence, speak to
9 Rebecca Wilson.

10 A. Yes.

11 Q. At that stage, you had your tape recorder on.

12 A. Yes.

13 Q. And so, from that part of the interview, you are
14 recording it.

15 A. Yes.

16 Q. And that interview is on our Exhibit 20.

17 A. Yes.

18 Q. Gladys Elphick then returns.

19 A. Yes.

20 Q. And there is then a discussion between you, Gladys and
21 Rebecca, about moving to another room.

22 A. No, I am sorry, no, then there is a discussion between
23 Gladys and I for the rest of that tape about Point

24 Pearce, the production of Point Pearce and general

25 things regarding Point Pearce being a mixed farm and its

26 products and money value and so on, and how much it was

27 worth. 200,000 pounds went into revenue and they had to

28 wait a long time get their grant of something under

29 2,000 pounds. 1500.

30 Q. How long did that last for.

31 A. That lasted to the end of the time where it breaks off
32 and I said 'Well, I suppose it is time for me to go

33 home.' And Gladys said 'Look, can you record this?' -

34 I said 'Can I record anything further?' Gladys said 'I

35 want you to talk to Koomi.'

36 Q. And that is when you moved from the kitchen.

37 A. Yes.

38 Q. Into the lounge room.

- 1 A. Yes, and the tape was off.
2 Q. The tape had finished.
3 A. Yes.
4 Q. It had finished sometime before.
5 A. No, it had finished and then Gladys said 'Let's go into
6 the lounge room.' Yes.
7 Q. So, you shifted from the kitchen to the lounge room.
8 A. Yes.
9 Q. Specifically for the purpose of speaking to Rebecca
10 Wilson about something.
11 A. Gladys knew that, when we were moving, I didn't.
12 Q. But that is how it appeared to be.
13 A. Yes, I always obeyed Gladys.
14 Q. In the course of the tape being turned on, and, in
15 particular, when Gladys Elphick was out of the room and
16 you had your first discussion with Rebecca Wilson, did
17 she mention anything of a secret sacred nature in
18 relation to Hindmarsh Island. I don't want you to tell
19 me what it was, but did she mention that topic.
20 A. While the tape was turned on?
21 Q. Yes.
22 A. No, Gladys said -
23 COMSR
24 Q. Just a moment. The answer is no. You said 'No', she
25 didn't mention it while the tape was on.
26 A. While the tape was on Gladys said 'Turn the tape off',
27 and then she said 'I want you to talk to Koomi before
28 you go.' And so -
29 XXN
30 Q. But, hang on, the tape had run out.
31 A. No, this is before. She just said 'Turn the tape off',
32 (INDICATES) That (INDICATES) means turn the tape off.
33 And so I turned it off.
34 COMSR
35 Q. Just so I am clear; she didn't say 'Turn the tape off',
36 she made a motion.
37 A. She made a motion and I turned the tape off and she said
38 'I want you to talk to Koomi before you go.' And so we

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1 went on recording, but that was nothing, there was
2 nothing recorded of that. I said `Okay. I'll stay.'

3 XXN

4 Q. I just want to find out -

5 A. But they didn't mention Hindmarsh Island, no.

6 Q. So, what is on the paper is what you understood to be
7 secret sacred women's business.

8 A. No - well, Veronica says `I want people to hear my
9 mother's voice.' And by that I think she meant her own
10 people.

11 Q. But you are not claiming that what is on the tape is of
12 a secret sacred nature.

13 A. No, but -

14 Q. So, subject to Veronica's permission, there should be no
15 prohibition by way of gender on people hearing it.

16 A. Yes, but I haven't asked her if - look, I am a white
17 person. I have to - it doesn't matter if it goes into
18 the London Times, I still haven't got permission myself.
19 It is a question of Nunga priorities. It is a question
20 of etiquette with -

21 Q. I am not asking that you give your imprimatur to what
22 happens to the tape. I am just trying to explain or
23 trying to extract from you the status of the material on
24 the tape and we have learnt so far it is not secret
25 sacred material.

26 A. No, it isn't.

27 Q. And it is not material that you yourself should be
28 taking that no men should listen to.

29 A. I know I sound pettifogging, but, because in voice they
30 haven't told me, yes, I can reveal it, it is up to them
31 to tell me. I am remiss in asking, Madam Commissioner,
32 and I am sorry.

33 Q. I want to make quite sure that we are on the same level.
34 I am not talking about permission. I am talking about
35 content. They are two different concepts. I am not
36 asking you questions about who you feel should give
37 permission. I am asking you questions about the
38 contents of the tapes.

- 1 A. Yes.
- 2 Q. You then, as I understand it, after Gladys spoke to you
3 about wanting you to speak to Rebecca before you left,
4 moved into the other room.
- 5 A. Yes, in the lounge room, yes.
- 6 Q. Do we hear on the tape Gladys telling you to turn the
7 tape off, or saying anything about speaking to Rebecca.
- 8 A. No.
- 9 Q. That is missing from the tape, too, is it.
- 10 A. It is never mentioned - this is 1967, I - no, there is
11 nothing on the tape that indicates that.
- 12 Q. Then you moved to the other room.
- 13 A. Yes.
- 14 Q. So, the tape never ran out.
- 15 A. It must have. I mean, the tape was finished.
- 16 Q. You turned it off.
- 17 A. The tape had run out, the reel-to-reel had run out - or
18 I turned it off. I have not played the reel-to-reel
19 since I took it out of the Mortlock. I can't tell you.
- 20 Q. You see, we have got two different - you have said
21 different things about it. In your statement, you spoke
22 about it being turned off. In your evidence, you talked
23 about it running out. I just -
- 24 COMSR: It may not be inconsistent, at all.
- 25 MS PYKE: No, she said two different periods of
26 time.
- 27 XXN
- 28 Q. I just want to know what the situation is. When you
29 were in the kitchen and no secret sacred women's
30 business was mentioned by Rebecca Wilson -
- 31 A. Not while the tape was running under no circumstances.
- 32 Q. Not at all in the kitchen, was it.
- 33 A. No, in the lounge room.
- 34 Q. Did the tape actually finish, or did you just turn the
35 recorder off.
- 36 A. I am going to have to replay the original and, at the
37 moment, I am - to check that, but I do remember being
38 told this (INDICATES), turn it off. (INDICATES), turn

- 1 it off. That (INDICATES) always meant turn it off.
- 2 Q. So then you, as you told us, moved to the lounge room.
- 3 A. Yes.
- 4 Q. And you obtained permission to make notes in your
- 5 notebook.
- 6 A. She talked for a while and I said - finally I said to
- 7 Glady 'Hang on.' Then I asked Rebecca Wilson 'Can I
- 8 take some of this down, it is very important?' And she
- 9 shook her head and said 'No, no.' And Glady said
- 10 'Koomi, you have got to let people here this.' So then
- 11 she finally agreed to let me take notes, so I then took
- 12 notes.
- 13 Q. And that is the rest of the notebook that is filled up.
- 14 A. Yes.
- 15 Q. Including the three pages of secret sacred women's
- 16 business.
- 17 A. Yes.
- 18 Q. I would like to ask you some questions about the 7.30
- 19 Report.
- 20 MR ABBOTT: Is it possible to play the tape of the
- 21 7.30 Report interview?
- 22 COMSR: It is. We may need to set the room up
- 23 first.
- 24 MR SMITH: We will just have to get some television
- 25 monitors in here, but it is possible.
- 26 MR ABBOTT: That can be done after lunch, can't it?
- 27 MR SMITH: Yes.
- 28 MR ABBOTT: I will leave that until after lunch
- 29 then.
- 30 XXN
- 31 Q. If I could just ask you some other more general
- 32 questions. This women's business that you have had the
- 33 discussion with Rebecca Wilson and which occurs on the
- 34 three pages -
- 35 A. Yes.
- 36 Q. You use the description, 'secret sacred women's
- 37 business', do you, for that.
- 38 A. I do.

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- 1 Q. What categories of women's business do you recognise.
2 A. `Can't tell' business. `Can't tell' is an indication of
3 being extremely secret.
4 Q. This three pages, the material on the three pages fell
5 into that category.
6 A. Yes, secret and very sacred.
7 Q. I don't want to know what it was, but -
8 A. She says that they -
9 Q. On what basis, apart from the topics mentioned, did you
10 understand it was secret sacred women's business. Was
11 it words or inflection or actions on the part of
12 Rebecca.
13 A. Words and tears.
14 Q. What did she - what words did she use that conveyed to
15 you that this was both secret and sacred women's
16 business. Again, not mentioning what it was. Was it
17 the expression `Can't tell'.
18 A. `Can't tell' occurs throughout the notebook and then she
19 resumes, at the behest of Glady, and `This is very
20 secret. This is very sacred. This is very important.'
21 Q. You are saying the words that you recorded, are you.
22 A. Yes.
23 CONTINUED

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- 1 Q. They are some of the phrases that were used.
2 A. Yes.
3 Q. As a result of which you formed the view what you were
4 being told was secret sacred women's business.
5 A. Yes.
6 Q. You acknowledge there is a category of women's business,
7 don't you.
8 A. I acknowledge there is an ancient law, yes, and it's
9 described by Aboriginal people as: men's stuff, women's
10 stuff, women's business, men's business, men's things,
11 women's things.
12 Q. The topics which you regarded, topics only that you
13 regarded, as being extremely secret from Dorothy - or
14 Rebecca Wilson -
15 A. Yes.
16 Q. Were: Aspects of the cycle of women's menses, becoming
17 pregnant and birthing.
18 A. Yes.
19 Q. That fell into your category of 'extremely secret'.
20 A. Yes.
21 Q. And sacred.
22 A. There was more. That is a summary.
23 Q. But that's, without going into any detail, the secret
24 sacred women's business that you are talking about.
25 A. There is more. It is associated with things that I'm
26 not -
27 COMSR: Are these matters that -
28 MR ABBOTT: I'm not going any further. I wanted to
29 get what she regarded as secret women's business, but,
30 you see -
31 COMSR: Just a minute. I'm concerned that -
32 well -
33 MR ABBOTT: It's in her statement.
34 MS NELSON: That is suppressed from publication,
35 that statement, at this stage. And also there may be a
36 difficulty in relation to s.35. I think maybe Mr Abbott
37 has gone a bit too far.
38 MR ABBOTT: I submit that I haven't. It relates to

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1 the very same topics. I wanted only to establish that
2 it relates to the very same topics which are extensively
3 covered by the Berndts in their book, which anyone can
4 buy for \$69 at the University Bookshop, if they have any
5 copies left.

6 WITNESS: Aboriginal people may not have the
7 advantage that you say -

8 COMSR: I propose to suppress from publication
9 any mention of those general topics.

10 MR ABBOTT: Very well. I hadn't planned to ask any
11 other questions, only on the general topics.

12 COMSR: It is the general topic that Mr Abbott
13 put to the witnesses comprising her understanding of
14 what was being referred to as 'secret sacred women's
15 business'. I have to err on the side of caution.

16 MR ABBOTT: Of course, and I was -

17 COMSR: The fact that it is published in the
18 book might not necessarily be the answer.

19 MR SMITH: Could I interrupt Mr Abbott for the
20 moment. Could you be more specific about that order,
21 with respect. Well, there were three aspects that Mr
22 Abbott labelled and they need - I think he needs to
23 repeat them and then they be suppressed.

24 MR ABBOTT: The three aspects that I suggest that
25 this witness regarded as extremely secret and sacred
26 were: The cycle of women's menses, the becoming
27 pregnant and birthing.

28 COMSR: Any mention of those is suppressed from
29 publication.

30 ADJOURNED 12.50 P.M.

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- 1 RESUMING 2.17 P.M.
- 2 MR SMITH: Madam Commissioner, Mrs Maharaja and Mr
3 Gretsas appear just this afternoon for the ABC. I
4 indicate to you that the Commission executed a subpoena
5 to produce the video tapes relating to the 7.30 Report
6 of the evening of 7 August 1995 and two tapes, video
7 cassette tapes, were produced by the ABC to the
8 Commission as a result of that subpoena. At the outset,
9 I tender the subpoena and the two cassettes. I ask that
10 they be marked for identification. The two cassettes
11 can be marked or should be marked separately.
- 12 MFI 21 Subpoena to Australian Broadcasting
13 Commission requesting production of
14 tapes of the 7.30 Report marked 21 for
15 identification.
- 16 MR SMITH: They can be completely marked as
17 exhibits they are in response to a subpoena but I'm
18 going to consent to their release.
- 19 MS MAHARAJA: I appear for the Australian Broadcasting
20 Corporation with Mr Gretsas. I have discussed the
21 dilemma we have had with your counsel, Mrs Simpson and
22 Mr Smith, and I think that we have had a happy
23 resolution. In a nutshell, the problem that my client
24 faces is that you have two tapes before you. We have no
25 aversion or objection to the tape which went to air to
26 be published to the Commission at large. However, with
27 regard to the tape that obtains the raw footage or the
28 camera tape, my client has not had an opportunity to
29 view the tape fully in order to ensure there is no
30 objectionable material in it. In addition to that, we
31 have some concerns that there may be potentially some
32 defamatory material in it and confidential material in
33 it. We will be seeking your indulgence to have the tape
34 released back into our custody and will be happy to give
35 you a personal undertaking to maintain the integrity of
36 the tape and that after viewing the tape and advising
37 our clients, that is the ABC, on its rights, we would be
38 happy to bring the tape back into custody.

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- 1 COMSR: I propose to do that in the
2 circumstances. You have no objection to them being
3 admitted as an exhibit at this stage, subject to their
4 being released?
- 5 MS MAHARAJA: No objection to that.
- 6 EXHIBIT 22 On air tape and raw footage tape, marked
7 22 for identification.
- 8 COMSR: The two tapes will be marked as the one
9 exhibit 22 and I have your personal undertaking and Mr
10 Gretsas's that you will preserve the integrity of the
11 two tapes and produce them in tact when called upon to
12 do so?
- 13 MS MAHARAJA: Yes. I give that undertaking and Mr
14 Gretsas will give that undertaking.
- 15 COMSR: In those circumstances, the tapes will
16 be returned to you to be produced when called upon to do
17 so.
- 18 MR ABBOTT: We have a copy of which did go to air
19 that we can use and it is in this machine here.
- 20 COMSR: It would have been handy to have another
21 copy of what went to air.
- 22 MR SMITH: We will identify the 7.30 Report to air
23 cassette out of these two and my learned friend is happy
24 to leave that with the Commission.
- 25 COMSR: I will note that the only tape being
26 retained is what you refer to as the 'raw copy' tape, is
27 that it?
- 28 MS MAHARAJA: With regard to what has been called the
29 'camera tape', what that is usually called is a 'raw
30 footage' tape and that is what we must respond to
31 produce.
- 32 COMSR: I will note that it's only the raw
33 footage tape which is being released to you and is
34 subject to your personal undertakings.
- 35 XXN
- 36 Q. Could I ask a couple of questions before we get on with
37 the tape and while looking at what is the appropriate
38 tape. You remember I asked you some questions about

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- 1 giving your notebook and your donor's copy and the taped
2 copy of what is in the note book and how you delivered
3 them to the ALRM. Now, I don't want to go over those
4 questions again.
- 5 A. To Doreen Kartinyeri, care of ALRM.
- 6 Q. You told me that you had never seen them again.
7 Remember saying that.
- 8 A. I remember saying that I had not seen the notebook again
9 since it left my hands.
- 10 Q. You have seen the tape, of course.
- 11 A. Yes.
- 12 Q. Have you seen a copy of the notebook again.
- 13 A. No - a copy, in terms of a copy of my typed notes, yes.
- 14 Q. Where did you see that copy of your typed notes.
- 15 A. I saw that - where, did you say?
- 16 Q. Yes.
- 17 A. On Saturday last at Paralowie.
- 18 Q. At whose place.
- 19 A. I don't know the name of the lady. She's a relative of
20 of Veronica Brodie's.
- 21 Q. How did you come to be there.
- 22 A. Veronica rang me and said, or rather I rang Veronica. I
23 rang Veronica and said 'How are you going?'. She said
24 that there would be some people coming and I said
25 'Who?', and she said 'Channel 2'. So, I rang Channel 2
26 and they said 'Yes, we are going to see Veronica, would
27 you like to come?', and I said 'I would love to come'.
- 28 Q. So, you went out there.
- 29 A. Yes.
- 30 Q. That is where you saw a copy of your typed notes.
- 31 A. Yes.
- 32 Q. Did you see your notebook there.
- 33 A. No.
- 34 Q. Just the typed notes.
- 35 A. Yes.
- 36 Q. And your donor's tape.
- 37 A. Yes.
- 38 Q. That was there too.

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- 1 A. Yes.
- 2 Q. Did you ask anyone how it had gone from Doreen
3 Kartinyeri's custody out to Paralowie.
- 4 A. No. Mr Abbott, I'm sorry about it -
- 5 Q. I'm asking whether you did or didn't.
- 6 A. Well, you know, the thing is -
- 7 COMSR: I don't know that Mr Abbott requires any
8 explanation of it.
- 9 WITNESS: I was going to say that that was where I
10 did see a tape recorder, but I thought you were talking
11 about the Mortlock Library, but not at the Morlock
12 Library but at Veronica's, yes.
- 13 XXN
- 14 Q. When you got out to Veronica's, there was a tape
15 recorder.
- 16 A. Yes. As soon as I saw that -
- 17 Q. Your donor's copy, Exhibit 20, was played for the ABC
18 out at Paralowie.
- 19 A. No.
- 20 Q. You never heard it being played.
- 21 A. No, not that tape, no. I gave them a copy of what I'd
22 made especially for Veronica to present to them and that
23 is why I wanted to go out there.
- 24 Q. There was another copy.
- 25 A. I made a copy earlier myself.
- 26 Q. Of your tape.
- 27 A. Of the original, yes.
- 28 Q. This is the first time we have heard of that, you see.
- 29 A. Well, I'm sorry.
- 30 Q. There was the donor's copy of the tape.
- 31 A. Yes.
- 32 Q. And you made a copy of that.
- 33 A. Yes.
- 34 Q. And you kept that copy.
- 35 A. Because I wanted to give it to Veronica.
- 36 Q. You kept it.
- 37 A. Yes.
- 38 Q. At the time when you went to drop these materials off to

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- 1 Doreen Kartinyeri, you had kept a copy of the tape: Yes
2 or no.
- 3 A. It's her mother's voice. Yes, I had to.
- 4 Q. So, Doreen got the original donor's copy.
- 5 A. Yes.
- 6 Q. Doreen got the original notebook.
- 7 A. Yes.
- 8 Q. Doreen got the original taped copy that you made up of
9 what is in your notebook.
- 10 A. Yes.
- 11 Q. You kept a copy of the notes, the typed copy of your
12 notes, in the notebook.
- 13 A. Yes - go back. I've got a picture in my mind of what is
14 happening at Veronica's. I'm sorry, would you mind
15 beginning that series of questions again?
- 16 Q. I will distil it to this: After you had handed over the
17 material to Doreen Kartinyeri care of the ALRM, you
18 still had in your possession a copy of the donor's tape
19 that you made yourself to give to Veronica.
- 20 A. No. I had a copy of a series of tapes that had gone
21 elsewhere. This was the second copy that came from the
22 Mortlock Library, the second set of copy, and that was
23 the number five in that second set of copy that I
24 copied.
- 25 Q. The Mortlock Library made two copies on new cassettes,
26 reel-to-reel -
- 27 A. They actually made three. One would be a master tape
28 and there were two other copies which was - one was a
29 donor and one was their own, yes.
- 30 Q. You got two copies back.
- 31 A. Yes, and a master.
- 32 CONTINUED

E.M. FISHER XXN (MR ABBOTT)

1 COMSR

2 Q. Just so I am clear about this, you had three copies.

3 A. There were the original tapings, the reel-to-reel; then
4 there was the master tape; and there was a working copy
5 for them, if I wanted to use it; and a donor's copy for
6 me.

7 Q. I am just trying to work out whether there was one plus
8 two copies or -

9 A. One master plus two sets of copies.

10 XXN

11 Q. We will call them the cassettes to make it easier.

12 A. Yes, the cassettes.

13 Q. One master cassette and two working copy cassettes.

14 A. Yes, that's right.

15 Q. The master cassette stayed with Mortlock.

16 A. No.

17 Q. You got it back.

18 A. It's in a very safe place.

19 Q. And of the two copies of the master cassette, as
20 distinct from the reel-to-reels, you gave one to Doreen
21 and you gave one to the lady at Poonindie - or
22 Paralowie.

23 A. I gave the donor's copy in the parcel I sent to Doreen.
24 The second was put away safely by me.

25 Q. And last Saturday you handed it over.

26 A. No. No. Last Saturday I had it copied and then gave it
27 to the - what's her name?

28 Q. Alison Caldwell.

29 A. No, no. Maggie. I gave them both to Maggie. She
30 handed them to Veronica, and Channel 2 were present at
31 the house. The people from Channel 2 then asked 'Please
32 may I see the tape?' Veronica's copy I handed to her,
33 'This is for you, for your family. I've had this made
34 for you.' The Channel 2 people asked Veronica for
35 permission to look at it and hear the tape. I asked - I
36 said to Veronica 'It's entirely up to you.'

37 Q. And Veronica let them.

E.M. FISHER XXN (MR ABBOTT)

- 1 A. Well, I was present. Now, veronica said `I would like
2 to hear - '
3 Q. No, Veronica let them.
4 A. Sorry?
5 Q. Veronica let Channel 2 listen to the tapes.
6 A. Veronica permitted them, yes.
7 Q. As to your notebook, we know the original notebook went
8 to Doreen Kartinyeri.
9 A. Yes. I haven't seen it since.
10 Q. You haven't seen it since.
11 A. No.
12 Q. You never gave it to your lawyer.
13 A. No, I didn't have a lawyer at that time. I went to Mr -
14 Q. Eventually you had Mr Wardle.
15 A. Yes.
16 Q. You never gave it to him.
17 A. No.
18 Q. You have never given him a copy of the notes that you
19 typed from the notebook.
20 A. No, no.
21 Q. How many photocopies did you make of your typed set of
22 notes from the notebook.
23 A. I didn't make a photocopy.
24 Q. When your typed set of what was in your notebook left
25 you, and you gave it to Doreen Kartinyeri, you had no
26 set left.
27 A. No.
28 Q. Have you seen a copy or the original typed copy of what
29 you typed from your notebook since, that is, since you
30 handed it over.
31 A. I've seen it on Channel 2, and I think there was one -
32 it would be a copy - at Veronica's, yes.
33 Q. It was faxed through to the ABC, wasn't it.
34 A. But I did not look at it.
35 Q. Did you ask anyone `Why is this?'
36 A. Faxed to the ABC?
37 Q. Yes, Channel 2.

E.M. FISHER XXN (MR ABBOTT)

- 1 A. I didn't know it was a fax, I'm sorry. I haven't got a
2 fax machine. MR ABBOTT SEEKS LEAVE TO HAVE VIDEO PLAYED
3 TO COMMISSION
4 LEAVE GRANTED
5 VIDEO PLAYED
6 Q. That's you in the Mortlock Library, is it.
7 A. Yes.
8 Q. At the request of Channel 2.
9 A. At the request of Channel 2.
10 Q. Doing an re-enactment.
11 A. Not exactly an re-enactment, but a verification that in
12 fact that was the Mortlock Library.
13 Q. They asked you if you'd go down to the Mortlock Library
14 and do what you did.
15 A. They actually wanted to come to my home to record it,
16 and I suggested it would be a good idea if we went to
17 the Mortlock Library, because I had no wish to have the
18 media home at my place. My dog might bite them.
19 VIDEO CONTINUES
20 Q. That's you in Mr Wardle's office.
21 A. Yes, I think - is that the - I can't tell whether it's
22 the - I can't tell whether that's the background of Mr
23 Wardle's office or not.
24 Q. Where else would it be if it wasn't Mr Wardle's office.
25 A. It could be the library.
26 VIDEO CONTINUES
27 Q. From whom had you received permission to speak to the
28 ABC.
29 A. Yes, from - in fact, I'd been commanded to speak by both
30 Louis O'Brien and encouraged to speak by Paul Hughes,
31 and also by Katrina Power, who had consulted.
32 Q. The words you use are that you `Always promised that
33 never would any of her words come out, nor would I
34 appear in the public speaking of what we had spoken of
35 together without permission from her people'. That
36 presumably is a reference to -
37 A. To Gladys.
38 Q. To the Ngarrindjeri people.

E.M. FISHER XXN (MR ABBOTT)

- 1 A. No, no. That's a reference to both - to Gladys in that
2 instance.
- 3 Q. Not Rebecca Wilson.
- 4 A. Not in that instance, no.
- 5 VIDEO CONTINUES
- 6 Q. Are they your original reel-to-reel tapes.
- 7 A. Yes.
- 8 Q. You brought them up to the ABC to look at.
- 9 A. I asked the people who have got them in safe keeping if
10 they could get them out and bring them along, yes.
- 11 Q. What, take them along to the ABC.
- 12 A. No, no. No, to the Mortlock Library. That's the
13 Mortlock Library.
- 14 VIDEO CONTINUES
- 15 A. That's my writing.
- 16 Q. That's a shot of what you typed out from your notebook.
- 17 A. Yes.
- 18 Q. I think that's one page made to look as though it's five
19 pages, but in fact it is only one -
- 20 A. No, that's not from my notebook. That's from my typed
21 notes, isn't it?
- 22 Q. Yes, that's from your typed notes.
- 23 A. They were just typed A4 sheets.
- 24 Q. How many A4 sheets did you have.
- 25 A. I'm trying to remember. I don't know whether it was
26 three or four, I'm sorry.
- 27 Q. But these are the sheets that have the secret sacred
28 women's business on them, aren't they.
- 29 A. Yes. Terrible, isn't it? I'm dreadfully sorry.
- 30 Q. It has come out on the television and you can actually
31 read it here.
- 32 A. Yes.
- 33 Q. You permitted that.
- 34 A. No, that's not the three pages that are not permitted.
35 That's the rest of - that's part of the earlier part.
- 36 Q. How many pages altogether were there then that you typed
37 out.
- 38 A. It would have been three or four.

- 1 Q. This is one of those three or four pages.
2 A. Yes.
3 Q. The three or four -
4 A. But that does not include the part with the exclusion.
5 Q. I am just trying to understand what you are saying.
6 A. I'm saying that -
7 Q. Your handwritten notebook contained three sides which,
8 in your view, contained secret sacred women's business.
9 You typed out from your -
10 A. Not in my view, but in Koomi's and Gladys' view.
11 Q. You typed up from your notebook, which was in your own
12 handwriting, a number of pages, and the typed transcript
13 from your notebook also contained the secret sacred
14 women's business.
15 A. Yes, but that wasn't the section that was clearly marked
16 'Not to be read by -'
17 Q. May be, but the entire typing you did from your notebook
18 amounted to some three or four A4 pages, didn't it.
19 A. Yes.
20 Q. And of those three or four A4 pages, how much of the
21 total was the secret sacred women's business.
22 A. There was a reference to it throughout the typing, but
23 the specific part was contained in an area about yay big
24 (DEMONSTRATES) of typing on an A4 sheet.
25 Q. Half a page, just over.
26 A. Yes, yes.
27 Q. That's the extent of the secret sacred women's business,
28 is it.
29 A. No, no. I have -
30 Q. You have what.
31 A. I have a very - I can assure you that no information on
32 that sheet would be read by an Aboriginal woman -
33 Q. That's not my question. My question is: is that the
34 extent of the secret sacred -
35 A. Without realising it was referring to secret sacred
36 business.
37 Q. Is that the extent of the secret sacred women's business
38 which you recorded from Rebecca Wilson.

- 1 A. Even if it was the only extent, it is sufficient.
2 Q. Was it.
3 A. Sufficient for me to know.
4 Q. No, was it.
5 COMSR
6 Q. Was that the total extent of what you recorded of secret
7 sacred women's business.
8 A. No. I consider the whole of it to be part of the secret
9 business and the sacred business to be in the -
10 XXN
11 Q. Half a page.
12 A. Yes. And I was surprised it went on Channel 2, but that
13 was not my choice.
14 Q. You must have been staggered, not just surprised,
15 flabbergasted.
16 A. I was surprised.
17 Q. Did you ask anyone -
18 A. No.
19 Q. `How did this happen?'
20 A. No.
21 Q. `That this secret sacred women's business that I valued
22 so highly has been put out on television'.
23 A. No.
24 OBJECTION Ms Pyke objects on the ground witness
25 did not concede it is secret sacred.
26 MR ABBOTT: As I understand the position, the three
27 or four A4 pages are interspersed with what she regards
28 as secret sacred women's business, but there is a one
29 particular part consisting of half a page.
30 XXN
31 A. What Koomi - what Rebecca regarded as.
32 Q. So we could find something of a secret sacred nature of
33 what Koomi regarded -
34 A. If it was read by an Aboriginal woman, it would be
35 understood as that.
36 Q. On each page, including this one on television here.
37 A. She would understand that there was signals in that.
38 Q. Including this one on television.

- 1 A. I can't read it. I'm sorry.
2 Q. Let me help you.
3 A. Certainly.
4 Q. I can hear the protests, but further on in this
5 interview, Veronica Brodie reads it out, doesn't she.
6 A. She reads out a part of her mother's words, yes.
7 VIDEO CONTINUES
8 Q. Veronica Brodie reads out, in your presence, one of
9 these -
10 A. But it is her mother, she can.
11 Q. I know that, but one of the pages -
12 A. But she can do it, I can't.
13 Q. We will come to that. This is part of the fax that went
14 to the ABC of your papers from your notebook, isn't it.
15 OBJECTION Ms Nelson objects on the ground
16 witness has already said she does not
17 know anything about the fax.
18 QUESTION REPHRASED
19 VIDEO CONTINUES
20 Q. That's a depiction of some of the words you wrote down
21 in your notebook.
22 A. Yes.
23 VIDEO CONTINUES
24 Q. That's a depiction of what's in your typed transcripts
25 of what you wrote down in your notebook.
26 A. Yes.
27 Q. The first shot that we saw was a cursive handwritten
28 form.
29 A. Yes.
30 Q. That was your handwriting in your notebook.
31 A. Yes, yes.
32 Q. Now we see a typewritten form. That's what you typed
33 from your notebook.
34 A. Yes.
35 Q. Of what was in your notebook.
36 A. Yes.
37 VIDEO CONTINUES
38 Q. That's more of your notebook in handwritten form.

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- 1 A. Yes, yes. My scribble.
2 Q. How many pages of your notebook did you see Channel 2
3 with.
4 A. I did not see my notebook from the time I handed it over
5 to this day.
6 Q. Did you see Channel 2 with a copy of it.
7 A. No.
8 Q. You don't know how they got this copy of it.
9 A. The typed copy, yes, but not that, no.
10 Q. You don't know how they got this.
11 A. No.
12 Q. Or who has given it to them.
13 A. No, I haven't got a clue. I really haven't.
14 Q. Did you give them a typed copy.
15 A. No, I didn't - who?
16 Q. Channel 2. Did you give Channel 2 a typed copy.
17 A. No, no, I did not.
18 VIDEO CONTINUES
19 Q. That's more of your typed copy of your notes.
20 A. Can you make it bigger? Can you enlarge it?
21 Q. No, I can't. I don't want to read it out, but it
22 appears to be similar to what we saw before, doesn't it.
23 A. Yes.
24 COMSR
25 Q. Would you like to go up and have a closer view. I don't
26 blame you having difficulty.
27 A. Yes.
28 XXN
29 Q. Can you read it.
30 A. It looks like mine. To all intents and purposes it
31 seems to be.
32 Q. Yours.
33 A. That's - yes, that's mine. I can identify that, yes.
34 Q. That's the words 'laugh go off other ways.'
35 A. Yes. I don't know whether it is - it is 'gh' anyway.
36 Q. Something 'go off other ways'.
37 A. Yes.
38 CONTINUED

1 VIDEO CONTINUES

2 Q. This is Veronica Brodie speaking.

3 A. Yes.

4 Q. Did she conduct this interview, in your presence.

5 A. Yes.

6 Q. You were there.

7 A. She didn't conduct - I mean, she was there saying these

8 words, yes.

9 Q. In your presence.

10 A. Yes, she was there saying these words.

11 VIDEO CONTINUES

12 A. That is the Mortlock Library.

13 Q. That is you.

14 A. That is me, with my greatgrandmother's scissors.

15 Q. In the Mortlock Library.

16 A. Yes.

17 VIDEO CONTINUES

18 Q. That is a photograph of Rebecca Wilson.

19 A. Yes.

20 Q. And the voice we hear -

21 A. Yes, that is -

22 Q. That is the tape recording of the interview you made

23 with Rebecca Wilson on that one day in 1967 when you

24 spent this time with her.

25 A. Yes.

26 Q. Was that played in your presence.

27 A. Yes.

28 Q. To the ABC.

29 A. To Veronica. I wasn't -

30 Q. The ABC were there recording.

31 A. I know they may have been, but I was only conscious of

32 Veronica and her reaction. This was the -

33 Q. Did you protest.

34 A. No, Veronica had given them permission, I assume.

35 Q. You say the ABC may have been there; they had a camera -

36 A. Yes.

37 Q. You couldn't have missed that.

38 A. Yes, I am sorry, but, you see, this woman had not heard

E.M. FISHER XXN (MR ABBOTT)

- 1 her mother's voice and I was more concerned about her
2 feelings and her - I mean -
3 Q. What, than the rest of South Australia knowing about it.
4 A. No, it wasn't like that. It is your words and not mine.
5 VIDEO CONTINUES
6 A. That is me and my brother.
7 Q. Yes, but that was the voice of Rebecca Wilson -
8 A. Yes.
9 Q. At the start of the playing of the tape.
10 A. Yes.
11 Q. How long did the tape play for, when the ABC were there.
12 A. It played - first of all, the ABC were sent out. That's
13 right. Oh God, I forgot. When they - when I got there,
14 I walked in and the ABC were in the room and they said
15 to Veronica 'Can we stay?' She said 'No, you must go.'
16 And they sat outside. They went out of a door and sat
17 outside and the photographers weren't there. No wonder
18 I was oblivious of them. They were out there
19 (INDICATES). They were there later. But, no, it was
20 played to Veronica and Maggie and myself. And they were
21 invited in later.
22 Q. How much was then played.
23 A. I don't know that it was, actually. No, they played -
24 that's right, they played it again and said 'Is that
25 your mum's voice?' And 'Yes,' she said 'that's my mum's
26 voice.' Just a little bit. Not very much. A little
27 bit.
28 Q. Including the bit that they have now recorded.
29 A. Yes, I think so. Frankly, I was more -
30 Q. I won't -
31 A. I was much more concerned with Veronica's state of
32 health, her attitude, her reaction, whether she would be
33 upset about hearing her mother after so long.
34 Q. You can't say how much of the tape was played for the
35 ABC. We will need to get their tapes and listen to
36 it.
37 A. I'm sorry. I really was - Veronica is a most wonderful
38 woman. An artist -

1 COMSR

2 Q. Yes, but you can't say how much was played.

3 A. I am sorry, I was really concentrating on - I am sorry,
4 I forgot that they had been sent out. I was - it was
5 emotional for me, because Veronica hasn't - I mean, all
6 this time and I had kept that -

7 Q. I think you have answered the question.

8 A. I was conscious of great guilt, because I hadn't let her
9 hear her mother's voice for all those years and it - you
10 know -

11 MS PYKE: I just think that we need accurately put
12 on the transcript, my friend has been purporting to
13 describe what is being shown here on the video tape.
14 There is just one thing I want to point out; that where
15 he has referred to the typewritten copy and, indeed, the
16 handwritten, I think it should be clearly noted on the
17 transcript that they are portion only and I think we
18 should write on that it is and not in focus.

19 COMSR: Yes, I think that the tape is actually
20 in evidence.

21 MS PYKE: I am just joining issue a little with my
22 friend's description.

23 COMSR: Yes, it may be very difficult to
24 identify from the transcript just what parts of this
25 tape are being referred to.

26 MR ABBOTT: The bit that is on the - later on, it is
27 read out, so we will come to that.

28 VIDEO CONTINUES

29 XXN

30 Q. That was Elphick.

31 A. Yes, that is Gladys Elphick.

32 MR ABBOTT: And that should perhaps be recorded as
33 a shot of an elderly Aboriginal lady fishing.

34 COMSR: Yes, standing on rocks.

35 MR MEYER: Wearing a blue cardigan.

36 XXN

37 Q. And that is at Point Pearce.

38 A. I have no idea where that is. I can't tell you.

- 1 VIDEO CONTINUES
2 A. That is Gladly.
3 Q. Is that you in Mr Wardle's office.
4 A. I think it is, yes.
5 Q. When was that; last week.
6 A. Last Friday morning. About 11 o'clock or half past 11.
7 VIDEO CONTINUES
8 Q. Is that Mr Wardle reading your secret notes.
9 A. No.
10 Q. Who is that.
11 A. I have no idea. I really have no idea. I have not seen
12 my notebook since I gave it to Doreen.
13 COMSR
14 Q. Perhaps, just to clarify this matter, did you see any
15 person with your notebook -
16 A. No.
17 Q. Turning the pages.
18 A. No, I have never seen -
19 XXN
20 Q. I will just go back.
21 VIDEO CONTINUES
22 Q. Is that your notebook.
23 A. It seems to be the same size, but I have no idea whether
24 it is. I would have to actually -
25 COMSR
26 Q. Would you like to go up closer and have a look at it.
27 A. Yes, but, even then, I don't know whether I would be
28 able to.
29 XXN
30 Q. You can make out it has got `G' and `R' down the side.
31 COMSR: I think Mrs Fisher may have difficulty
32 seeing that.
33 XXN
34 Q. You can see down the side -
35 A. Yes.
36 Q. There is `G' and `R'.
37 A. There is `Can't tell. Can't tell.' That is when Koomi
38 said `Can't tell. Can't tell' and clasped her head and

1 paused.

2 Q. If that is a man reading your book, your notebook,
3 turning over the pages, you know nothing about it.

4 A. I know nothing about that, whatsoever. And I cannot
5 believe that it would be a man. But, if it is a man,
6 then I hope that he has his eyes averted. That is the
7 best I can say about that. I have no idea. I have no
8 idea.

9 Q. As to the suggestion I make that it is your lawyer, Mr
10 Wardle -

11 A. No, Doug Wardle has never - Douglas Wardle has never
12 seen the notebook. Never at any time.

13 Q. You don't know who it is, and you can't help us, who is
14 turning the pages of your book.

15 A. Haven't got a clue. I mean, I can show you many women
16 whose wrists look like that.

17 VIDEO CONTINUES

18 Q. In another section.

19 A. There is a ring on that finger.

20 VIDEO CONTINUES

21 Q. Those two expressions 'the absolute necessity for
22 nothing to lie between the waters and the sky', and
23 'nothing must lie between the waters and the sky', is
24 that part of the secret sacred women's business
25 contained in the half page of your typed transcript.

26 A. It is part of the -

27 OBJECTION Ms Nelson objects.

28 MS NELSON: I object to that. Really, I think that
29 my friend is perhaps intruding into something which will
30 contravene s.35. He is really inviting an answer as to
31 what is in that half page. I think you need to consider
32 whether that is appropriate. It was very clever. He is
33 getting in by the back door what he thinks he can't get
34 in by the front.

35 COMSR: Perhaps don't refer to the half page.

36 XXN

37 Q. Do we find that expression in the four pages of typing
38 on A4 paper that comes from your notebook.

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- 1 A. I am very sad to say that, in an open court, I can't
2 answer that question. There must be only women present.
- 3 MR MEYER: I have a difficulty with that. -
- 4 A. We all have.
- 5 MR MEYER: This is an open, publicly viewed tape
6 recording and a public statement by Mrs Fisher on
7 national television. And, to now say I can't answer a
8 question in relation to something which has been said on
9 national television, except in the presence of women,
10 creates an absolutely impossible situation in terms of
11 giving one set of evidence to the public at large, which
12 I assume includes men watching television, and then,
13 when it comes to the Royal Commission, refusing to
14 answer a question. That suggests that what questions
15 will and won't be answered are being dictated outside of
16 the Commission.
- 17 COMSR: Withdraw that question, Mr Abbott.
- 18 MR ABBOTT: I withdraw that question.
- 19 XXN
- 20 Q. I won't play it back, but the transcript records you as
21 saying 'She spoke', that is Rebecca, 'about the
22 tremendous importance of Hindmarsh Island and all the
23 islands surrounding it, but especially the waters. She
24 spoke of the absolute necessity for nothing to lie
25 between the waters and the sky. Nothing must lie
26 between the waters and the sky.' Did you ever record
27 her as saying that.
- 28 A. I can't answer that question. I'm sorry.
- 29 Q. The fact of the matter is you didn't, did you.
- 30 A. I can't answer that question and your assumptions are
31 still assumptions.
- 32 Q. You can't answer it, or won't answer it.
- 33 A. Won't. I am sorry.
- 34 MR KENNY: Perhaps the witness should be asked if
35 she would answer that in the presence of a women only
36 court.
- 37 A. Yes.
- 38 MR KENNY: In that case, I would have no objection

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- 1 to leaving whilst she answers the question. It is
2 obviously an important question that you should hear and
3 I am sure Mr Abbott will be properly represented, during
4 his absence.
- 5 MR ABBOTT: I am happy for that to take place.
- 6 COMSR: All right, do you want that answered
7 now, or -
- 8 MR ABBOTT: No, later.
- 9 COMSR: Or proceed with the rest of the tape?
- 10 MR ABBOTT: No, that can be in the closed session,
11 which I won't be attending. We will just go on with
12 this.
- 13 VIDEO CONTINUES
- 14 XXN
- 15 Q. That is the -
- 16 A. That is the table at Veronica's relatives' place, yes.
- 17 Q. There you are present when the tape is being played to
18 the 7.30 Report.
- 19 A. That previous scene wasn't me there.
- 20 Q. No, this one. This scene now, of the tape recorder.
- 21 A. I can't - I can see the tape recorder, but I can't see
22 myself yet. I was there, I know I was there.
- 23 Q. You were there.
- 24 A. Yes, I was there.
- 25 MS NELSON: This is the scene with the tape recorder
26 in the front of the picture and and the white flowers to
27 the right of the scene.
- 28 A. Yes, and, if you continue a bit more, you will see me.
- 29 XXN
- 30 Q. And we can hear more of the tape and what Rebecca Wilson
31 says, if we listen.
- 32 VIDEO CONTINUES
- 33 Q. At that point in time, Rebecca Wilson is saying,
34 according to what we hear on this 'I played a big part
35 in the church life over there at Point McLeay.'
- 36 A. Yes.
- 37 VIDEO CONTINUES
- 38 A. There I am.

1 Q. There you are.

2 A. Yes, that's me. C'est moi.

3 VIDEO CONTINUES

4 Q. What is Veronica Brodie reading from -

5 A. It would be the copy of the typed copy of the notebook.

6 Q. That you provided.

7 A. I didn't provide there, I provided that in the parcel

8 that I sent to -

9 Q. Doreen Kartinyeri.

10 A. Doreen Kartinyeri, care of ALRM, yes.

11 Q. And somehow it has ended up here last Saturday.

12 A. Yes, but I am not responsible for that.

13 Q. And she is now reading out what is on or part of what is

14 on those four -

15 A. She is trying to read my words in note form.

16 Q. She is trying to read out what is on the four A4 pages,

17 which contain what Rebecca Wilson described to you as

18 the secret sacred women's business.

19 A. Yes, but it is not -

20 MS NELSON: I think it should be -

21 OBJECTION Ms Pyke objects.

22 MS PYKE: I object, in the sense that the witness

23 has said that those notes on the A4 contain two discrete

24 areas. One is secret sacred and the other is secret.

25 And, whether my friend is being sloppy in his

26 terminology, which I doubt, can he make it clear whether

27 it is the secret sacred aspect of the notes or not?

28 MS NELSON: My objection is, first, Mr Abbott has to

29 establish whether this witness actually saw the document

30 from which Veronica read. Because, unless she actually

31 checked the document herself, she herself is assuming

32 that it is that document and that it is all there. So,

33 I think perhaps Mr Abbott probably needs to lay the

34 foundation for the question.

35 MR ABBOTT: I am loath to cross-examination on the

36 chain of evidence, at this stage.

37 XXN

38 Q. Are you prepared to proceed on the basis that it is

- 1 obvious to you that Veronica Brodie had a copy of what
2 you had typed.
- 3 A. She certainly read - the words that she read were
4 certainly read from the part that is secret, but is not
5 in the area that is sacred. Absolute.
- 6 Q. And it appeared to you, at the time, when she was
7 reading, that she was reading from a copy of what you
8 had typed -
- 9 A. Yes.
- 10 Q. From your notes.
- 11 A. It appeared so, but it certainly wasn't part of those -
12 the part that was not to be read. The sacred part, no.
- 13 Q. Just the secret part.
- 14 A. Women have to endure such things as to questions such as
15 that.
- 16 Q. That is the secret part.
- 17 VIDEO CONTINUES
- 18 Q. That is not secret sacred business that she is reading
19 out.
- 20 A. That is not part of the three pages that - the three
21 page notebook that she said must never be seen,
22 otherwise - other than by her - the people that she
23 permitted.
- 24 VIDEO CONTINUES
- 25 Q. Again, that wasn't part of the -
- 26 A. No.
- 27 Q. Secret sacred part of your notebook.
- 28 A. No.
- 29 Q. Just the secret part.
- 30 MS NELSON: Is that a question?
- 31 A. Is that a question?
- 32 VIDEO CONTINUES
- 33 CONTINUED

1 XXN

2 Q. Now, in that part we have just seen, the ABC have
3 photographed or video taped a copy of what you typed out
4 from your notes and they have recorded Veronica reading
5 them, have they. Do you agree with that.

6 A. In general I would agree with that, but there's still no
7 reference to the three pages that must never be spoken
8 of to men.

9 Q. They are the three pages that are distilled down to
10 about a half a page of typing.

11 A. Yes.

12 VIDEO CONTINUES

13 Q. Now, at this stage, Veronica is still reading from your
14 transcript of what you typed out from your notes, isn't
15 she.

16 A. No, I don't recognise -

17 Q. We will go on and see if you do, and I would like you to
18 confirm or not whether Veronica is not still reading
19 from your transcripts of what you wrote in your own
20 book.

21 VIDEO CONTINUES

22 A. When she names these people, I don't know them.

23 VIDEO CONTINUES

24 A. They are not my words - sorry, they are. They are.
25 They are.

26 Q. So, she is still reading.

27 A. Yes.

28 Q. From these typed pages of your transcript of your
29 handwritten notes.

30 A. Yes, but that's not of the sacred, absolutely forbidden.

31 VIDEO CONTINUES

32 Q. Now -

33 A. Years and years.

34 Q. That voice we then heard, was that Rebecca's.

35 A. Yes.

36 Q. Speaking.

37 A. Yes.

38 Q. So they have cut between.

1 A. Yes.

2 Q. Veronica reading from your transcripts to the actual
3 tape still playing.

4 A. Yes.

5 Q. When we last saw Maggie Jacobs talking, were you there
6 at that time.

7 A. Yes.

8 Q. When she was giving that interview.

9 A. Yes.

10 MR ABBOTT: I have nothing further. The rest is not
11 all that relevant for our purposes.

12 COMSR: While we have the video tape on, are
13 there any questions of any other counsel?

14 MR SYKES: Could I ask some questions - I
15 appreciate that my leave is somewhat limited in respect
16 of this witness - on a general topic in regard to the
17 typewritten notes. There is still, I think, something
18 to be explained by the witness.

19 COMSR: Perhaps, but I want to know while the
20 video is on here, is there anyone who wants to ask any
21 questions in relation to the video before we turn it
22 off? Can we turn it off now?

23 MR ABBOTT: And I wish it defer the balance of my
24 examination until we have seen the other Channel 2, 7.30
25 Report material, the raw footage. That is the remaining
26 topic.

27 VIDEO CONCLUDES

28 COMSR: Do I take it then that you have finished
29 your examination of this witness as to what might have
30 been the public part of her evidence?

31 MR ABBOTT: There are some topics which could be
32 asked in public, but I would rather leave them to Mrs
33 Shaw to ask in private.

34 COMSR: If there is any risk of us transgressing
35 the provisions of s.35 of the Aboriginal Heritage Act,
36 as I indicated -

37 MR ABBOTT: It's not that. There are other topics
38 and I think it is more appropriate they are asked in

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1 private.

2 COMSR: Is there any other reason they should be
3 confidential.

4 MR ABBOTT: There is one topic I do have other than
5 the raw footage and that concerns a publication that Mrs
6 Fisher has written.

7 MR ABBOTT CALLS FOR THE PRODUCTION OF A PUBLICATION
8 WRITTEN BY MRS FISHER. PRODUCED.

9 XXN

10 Q. Although you never wrote a book on Gladys Elphick, you
11 did write a book on the Duff, Fisher, Gebhardt families
12 of South Australia.

13 A. Yes, I did.

14 Q. Would you look at the book produced.

15 A. Yes. I will get my spectacles. One moment. Yes.

16 Q. So that we can assess your evidence, you, I think, are
17 proud to call yourself a feminist.

18 A. Indeed.

19 Q. You have been involved in suffragette and suffrage
20 movements.

21 A. The word is 'suffragist'.

22 Q. This work was done for the Women's Suffrage Committee.

23 A. It was a small grant for publication that the Women's
24 Suffrage Committee made to me, yes.

25 Q. I think that you have, in relation to this Royal
26 Commission, a view that my clients should never have
27 spoken up.

28 A. Your clients are the - could I hear who they are please?

29 Q. My clients are -

30 A. Before I make a judgment on that.

31 Q. My clients are certain Ngarrindjeri ladies.

32 A. I don't know who they are?

33 Q. Well, I'm not sure that you would know all of them.

34 MS PIKE: She has been asked to judge them.

35 WITNESS: I don't know who they are. I can't -

36 XXN

37 Q. The names - I'm reading from p.10 of the transcript - I
38 tell you that these are only the names of the

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1 Ngarrindjeri ladies for whom we have announced
2 appearances and named. There are others. Dulcie
3 Wilson, Dorothy Wilson, Bertha Gollan, Audrey Dix and
4 Rita Wilson.

5 A. Thank you. Can I hear the names of the others please?

6 Q. Not at this stage. I don't have instructions to release
7 to you their names.

8 A. But I don't know whether I, who I'm saying shouldn't
9 speak?

10 Q. I'm asking in relation to those to whom I have named.

11 A. In relation to the ones that you have named?

12 Q. Yes.

13 A. I think they have every right to speak up if they wish
14 to, but I don't think that they understand the weight of
15 the effect on others, nor perhaps have they claim for a
16 clan responsibility. I have no idea. I'm making an
17 assumption, but I think perhaps that's why they're able
18 to feel they can say that they know nothing.

19 Q. You align yourself very firmly with those who assert the
20 existence of secret sacred women's business.

21 A. If Gladys and Koomi - especially Koomi - says that it is
22 secret and sacred, I don't think it's up to me to doubt
23 it, and it was certainly up to me not to speak, but not
24 to doubt. I am to blame for speaking.

25 Q. You have expressed the view that those who act for my
26 clients should be ashamed of their acting for them.

27 A. Good heavens, did I?

28 Q. Surely you recall the first day of the Royal Commission.

29 A. The first day of the Royal Commission?

30 Q. Yes. 19 July.

31 A. What happened?

32 Q. You're speak to my instructing solicitor, Miss Freeman.

33 A. Did I? I don't know who Miss Freeman is?

34 Q. She is sitting here. (INDICATES).

35 A. Is that you? That one, the one with the yellow jacket
36 on?

37 Q. Do you remember -

38 COMSR: You can't tell the witness she did, you

- 1 can ask the witness if she did.
2 A. Don't remember speaking to her at all.
3 Q. Do you remember asking her if she was from the
4 Advertiser.
5 A. No, don't remember her name or -
6 Q. And she said she wasn't.
7 COMSR: The witness says that she has no
8 recollection of having spoken to her.
9 WITNESS: I can't -
10 XXN
11 Q. Did you not tell her that she should be ashamed of
12 acting -
13 MR KENNY: At that stage, she was represent by
14 another solicitor who was here and I wonder whether this
15 solicitor should have been speaking to her and whether -
16 and she says in any event she can't remember speaking to
17 her. I wonder if this conversation should be allowed?
18 In any event, I don't know why the instructing solicitor
19 was speaking to this witness.
20 MR ABBOTT: My instructing solicitor wasn't speaking
21 to this witness, my instructing solicitor was spoken to
22 by this witness and she responded. I want to make that
23 clear.
24 COMSR: The witness certainly hasn't conceded
25 any of that. The witness says she has no recollection
26 of any such incident. I don't think you can take it any
27 further.
28 XXN
29 Q. In relation to this monograph entitled 'The Pleasure of
30 Their Company'.
31 A. Yes, at which my nephew said 'Is that a draft?', so.
32 Q. I want to ask you this: If you look at the introduction
33 which -
34 A. Yes, which?
35 Q. Which consists of three pages.
36 A. Yes. One of my raves, yes.
37 Q. You wrote that.
38 A. Indeed, I did.

- 1 Q. They are the views that you held at that time.
2 A. Yes, obviously.
3 MR ABBOTT: I don't think I need to refer to them.
4 That will be subject of submission.
5 A. Can I ask which part are you referring to, which
6 specific part?
7 Q. The part on p.3 where you say: 'In this work, it is
8 taken for granted that none of the men mentioned were
9 averse to forcing, persuading or bribing non-Aboriginal
10 women into satisfying their sexual urges'.
11 A. That is in the 1800s.
12 Q. You go on to say in the paragraph above: 'The sealers
13 and whalers who kept Aboriginal women in cruel
14 subjection were little different to the other
15 non-Aboriginal men who operated throughout Australia in
16 towns, cities and countryside from 1700 to the present
17 day'.
18 A. I don't think the Commissioner would want to enter into
19 whether the men were prone to those practices in those
20 times.
21 MR ABBOTT: I apply to tender at least the
22 introduction.
23 COMSR: You are saying that this is relevant
24 material on which would be found in some submission, are
25 you?
26 MR ABBOTT: It may be of assistance: it may be of no
27 assistance.
28 WITNESS: I would welcome a polemic on this
29 matter.
30 MR ABBOTT: Unfortunately, this Commission is not
31 the place for that. If you, Madam Commissioner, think
32 it's of marginal relevance only?
33 COMSR: I'm having difficulty seeing the
34 relevance of it.
35 MR ABBOTT: I don't press that.
36 MS NELSON: I wouldn't have thought it was relevant.
37 It may open up another area of debate.
38 WITNESS: It might sell my books.

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1 MS NELSON: And really this woman's view of men's
2 behaviour throughout history, whilst interesting, does
3 not help you in your task.

4 COMSR: I don't think it advances me in
5 considering the Terms of Reference in this Commission.
6 Mr Abbott is not pressing it.

7 MFI 23 Monograph entitled 'Pleasure of Their
8 Company', marked 23 for identification.

9 WITNESS: May I draw attention to the capital C in
10 'company'. It has nothing to do with afternoon tea, it
11 has to do with companies as in operational-type
12 companies.

13 MR ABBOTT SEEKS THE RIGHT TO FURTHER CROSS-EXAMINE THE
14 WITNESS ON THE RAW FOOTAGE VIDEO, WHEN AVAILABLE.

15 NO FURTHER QUESTIONS

16 WITNESS: There could be a lot of raw footage in
17 the 1840s.

18 CROSS-EXAMINATION BY MR MEYER

19 Q. You were asked some questions about some remarks that
20 you may or may not have addressed to Miss Freeman, and
21 you say you can't remember that.

22 A. No.

23 Q. I put it to you that at the time of the adjournment on
24 the first day of this Royal Commission, you walked up to
25 Mr Abbott and you told him that he was a mongrel.

26 A. Dear sir, that is rubbish. Rubbish. Not true.

27 Q. It is a serious question. You were giving evidence
28 about conversations that you are able to remember having
29 30 years ago -

30 COMSR: Well, I think -

31 OBJECTION Ms Pyke objects to the questioning
32 continuing over the top of what the
33 Commissioner is saying.

34 COMSR: I must say that you contest the
35 witness's memory, but it seems to me that that is a
36 rather inflammatory statement.

37 MR MEYER: I accept that it is inflammatory, but
38 that is the only conversation that I heard Mrs Fisher

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- 1 have that I'm able to test her memory with.
- 2 COMSR: But you won't be giving evidence
3 concerning it, I take it?
- 4 MR MEYER: If I'm forced to, I will.
- 5 MR ABBOTT: Nor will I.
- 6 MR MEYER: I do require an answer to the question,
7 or I submit that the question should be answered.
- 8 COMSR: I don't think that - it's certainly - as
9 I say, you can test the witness's memory, but I think
10 that there is something fairly prejudicial about the
11 content of that.
- 12 WITNESS: If I could comment?
- 13 COMSR: Just one moment. Put it this way, I
14 will allow the line of questioning, but I will certainly
15 not permit any publication of this.
- 16 MR MEYER: I have no objection to that. I will be
17 suppressing from publication the questions and answers
18 concerning what this witness is alleged to have said to
19 Mr Abbott on that occasion.
- 20 MEDIA PERSONNEL: On what grounds? I would like to know
21 on what grounds are they suppressed?
- 22 COMSR: I'm not about to enter into a debate
23 with the members of the press. I say that it's
24 insulting, perhaps, of counsel and I don't propose that
25 these questions -
- 26 MR KENNY: I suggest that the whole - if this is
27 the line that the questioning is going to be taking, it
28 is, firstly, irrelevant to this inquiry - and simply on
29 those grounds I would suggest there is no point in
30 allowing counsel to pursue that line of questioning. It
31 is certainly insulting. I don't know who else gets a
32 mention of it in this lot, but I wouldn't be too keen of
33 being mentioned either.
- 34 CONTINUED

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- 1 MR MEYER: I haven't addressed the question
2 flippantly. In fact, I considered carefully whether I
3 should ask it. I have no difficulty with the
4 suppression, because it is potentially insulting of
5 counsel. My only reason for asking the question was in
6 relation to the memory of things said in a short
7 conversation of a few days ago, as compared with the
8 memory of things said in a short conversation a long
9 time ago. On that ground I asked it because I
10 considered it was relevant. I didn't ask the question
11 for effect.
- 12 MR KENNY: The only thing I would say to that is,
13 are we going to have medical evidence to the effect of
14 old people's long term memories as opposed to short term
15 memories? It is not taking us anywhere.
- 16 COMSR: I don't know if you wish to pursue the
17 question?
- 18 MR MEYER: I get the drift you will disallow the
19 question.
- 20 COMSR: Let us say I might have some difficulty
21 placing much weight on it.
- 22 XXN
- 23 Q. I am confused as to how many tapes there are and what
24 has happened to these tapes. Can you tell me, prior to
25 June 1995, how many copies of these tapes that you had
26 made there were. How many copies.
- 27 A. You are talking of - you are speaking of the tapes set
28 in a box, tapes as a number of reel-to-reel tapes? The
29 originals?
- 30 Q. I am talking about how many complete sets of copies of
31 these tapes were there.
- 32 MS NELSON: I think there is a confusion there. I
33 am sure Mr Meyer is directing that question towards this
34 particular conversation with Rebecca Wilson. Because I
35 understand there are other tapes of other conversations
36 with other people. It may be unclear to the witness.
- 37 COMSR: I think you better clarify the question.

RF 9J

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- 1 MR ABBOTT: If it is described as reel-to-reel on
2 the one hand, and cassette on the other.
3 XXN
4 Q. You took a collection of tapes to the Mortlock Library.
5 A. They were reel-to-reel tapes, yes.
6 Q. So that is one set.
7 A. Yes.
8 Q. What I want to know is, how many total sets of those
9 tapes were there. You have got the reel-to-reel set and
10 you have described a donor's copy. Is that right.
11 A. Yes.
12 Q. You have described a working copy.
13 A. Yes.
14 Q. And you've described a master copy.
15 A. Yes.
16 Q. That's four altogether.
17 A. There are the original and three copies.
18 Q. Are there any more.
19 A. Not to my knowledge.
20 Q. The original reel-to-reel tapes, where are they.
21 A. That is a matter for me and my conscience.
22 Q. I ask that you answer the question. Where are they.
23 A. They are in a safety deposit place.
24 Q. Whereabouts.
25 A. I can't answer that.
26 MR MEYER: I ask the commissioner to require an
27 answer to the question.
28 COMSR
29 Q. Do you mean you are unable to answer because you don't
30 know, or what.
31 A. I am unable to answer because I am unwilling to tell the
32 place where these tapes are deposited.
33 Q. First of all, do you know where the tapes are deposited.
34 Do you know of your own knowledge where the tapes are -
35 A. I know who has deposited them for me, but where she has
36 put them I don't know.
37 XXN
38 Q. Who has deposited them for you.

RF 9J

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1 A. A person I've known for many years and I'm not prepared
2 to state her name, commissioner, I'm sorry.

3 COMSR

4 Q. Is there some reason why you are not.

5 A. I have a sense of huge responsibility for those original
6 tapes, and I cannot release them from where I feel
7 comfortable. I know that they have been seen in the
8 Mortlock Library, but they never left my hands apart
9 from going again into a safe place, held on my behalf by
10 another person.

11 XXN

12 Q. That's not right, is it, because they have been to the
13 ABC.

14 A. No, the original tapes have never been to the ABC. I'm
15 talking about the original tapes.

16 Q. The reel-to-reel tapes have never been -

17 A. Have never been to the ABC.

18 Q. What did we see on the -

19 A. We saw it at the Mortlock Library.

20 Q. And you say that, apart from your having them in your
21 possession at the Mortlock Library, they have never been
22 with the ABC.

23 A. Never.

24 Q. Who has got them now.

25 A. I must reiterate that I cannot say.

26 MR MEYER: I ask the commissioner to order the
27 witness to answer the name of the person who has got
28 control of these tapes.

29 A. I'm sorry, I cannot.

30 COMSR

31 Q. Is there some reason why.

32 A. I'm anxious, very anxious, about their security. They
33 must never be out of my possession, and they were never
34 out of my possession when I showed them to the ABC.

35 Q. I don't quite follow that. You say you don't actually
36 know where they are deposited.

37 A. No. The friend who has acted for me has done me a
38 favour and I am not prepared to name her. I'm sorry. I

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1 really would like to, but I can't. She is too good a
2 friend.

3 MR MEYER: I am happy for that question to be
4 answered in closed session, if there is some other
5 difficulty. But I am interested to know, so perhaps the
6 question can be deferred.

7 COMSR: Perhaps it can be deferred until Mrs
8 Fisher has a chance to speak to her friend. The
9 question is not 'Where are the tapes at the present
10 moment?' It is 'To whom did you give them for safe
11 keeping?' So perhaps that question can be deferred
12 until she has had an opportunity of -

13 MR SMITH: If I could interrupt. Mrs Fisher is
14 actually legally represented, and I think when we get
15 into situations like this where she is resisting
16 questions like that, that she ought to have the benefit
17 of having Mr Wardle -

18 COMSR

19 Q. I understand Mr Wardle is in court.

20 A. Is in court.

21 Q. He is unable to be present and you have been content to
22 go along thus far without his assistance, but when we
23 get to a situation like this, I think it is proper that
24 you have your solicitor in attendance, because it
25 involves legal issues.

26 XXN

27 Q. Whereabouts is the donor's copy.

28 A. In a bank.

29 Q. Did you place it in the bank.

30 A. Yes. My husband and I.

31 Q. I thought, from your earlier evidence, that you said you
32 had given the donor's copy to Doreen Kartinyeri at the -

33 A. The number 5 tape, yes.

34 Q. We have only got four.

35 A. Yes. Except for the number 5 copy, the rest of them are
36 in a bank. The great weight of these tapes are my huge
37 responsibility. That single one is less of a
38 responsibility, but more since the commission began,

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- 1 much more since the - you don't understand the reference
2 to the - the question of responsibility. I think any
3 Nurrunga person, any Kurna person would understand that,
4 and I can't say any more than that.
- 5 Q. Were they cassettes that you gave to the ALRM.
6 A. It was a cassette. A single one, yes.
- 7 OBJECTION Ms Pyke objects.
- 8 A. Not to ALRM, but to Doreen Kartinyeri. Not to the ALRM.
9 I took to the ALRM to give to Doreen.
- 10 Q. In fact, I put the question in that way because you
11 didn't give them to Doreen in the end, did you.
- 12 A. She had to go off because of 'sorry' business.
- 13 Q. So you gave them to somebody else.
14 A. I had to. I mean, I can't -
- 15 Q. And you gave them to somebody else at the ALRM.
16 A. I left them care of a member of staff.
- 17 Q. So that was one tape.
18 A. Yes, the number 5 tape.
- 19 Q. How long was the actual recording on that tape.
20 A. It's - they're 60 minute tapes.
- 21 Q. I understand that, but was there 60 minutes of material
22 taped on the tape.
23 A. No.
- 24 Q. How much.
25 A. I think it was 40 something. I would have to look at it
26 again. I've forgotten. It was 40 something. 42
27 minutes something seconds.
- 28 COMSR: You probably haven't transgressed at
29 all, but I would not propose to permit cross-examination
30 on the same ground already covered in cross-examination.
- 31 MR MEYER: I am trying to sort out what I think are
32 some anomalies in the evidence.
- 33 XXN
- 34 Q. Who has the working copy.
35 A. That's in a bank.
36 Q. Same bank as the donor's copy.
37 A. No.
38 Q. Who put it in the bank.

- 1 A. I did.
- 2 Q. The master copy.
- 3 A. That's in a bank.
- 4 Q. Same bank.
- 5 A. No.
- 6 Q. Different bank.
- 7 A. Yes.
- 8 Q. Three different banks have got copies of these tapes.
- 9 A. Yes, yes.
- 10 Q. Who put that one in.
- 11 A. I did.
- 12 Q. When did you put them in the banks.
- 13 A. I didn't bring the receipt with me - receipts, plural.
- 14 Q. Give me an approximation.
- 15 A. After - was it 5 or 6 June Sarah Milera's photo was in
- 16 the newspaper? It would have been a week or so after
- 17 that, I suppose, that I put the rest of my donor copies
- 18 in the bank, with the exception of number 5 tape.
- 19 Q. Where did you previously have them.
- 20 A. They were in the Mortlock Library.
- 21 Q. All of the copies.
- 22 A. Yes, except my donor's copy. That was my copy and they
- 23 were waiting for me to send comments, which I have been
- 24 a long time over doing.
- 25 Q. When did you get a lawyer in relation to this matter.
- 26 A. Just after I spoke to Chris Charles.
- 27 Q. That doesn't help me. I don't know when you spoke to
- 28 Chris Charles.
- 29 A. I spoke to Chris Charles just after I deposited the
- 30 tapes at - care of ALRM for Doreen Kartinyeri.
- 31 Q. So some time after 5 June.
- 32 A. Yes.
- 33 Q. And after you collected the tapes from the library.
- 34 A. Yes.
- 35 Q. Have you been back to the library to collect any other
- 36 tapes since then.
- 37 A. I went to the library - first of all, if you want to
- 38 know what my thing-o with the library was, I went to the

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1 library, I rang them up and I said `I have to speak to
2 you urgently because I'm worried about a section of what
3 I have recorded'. I went in, spoke to the staff in the
4 library and said `I'm very sorry about this, but I need
5 to remove all the tapes and the copies'. And Mr Douglas
6 Milera and I went to the library and removed the
7 originals and the extra cassette copies. I later bought
8 a large tin box and removed the master copy, which was
9 stacked very heavily, and all of them were placed in
10 banks.

11 Q. That means that you went to the library twice to remove
12 copies of tapes.

13 A. Yes.

14 Q. The first time you went with Doug Milera.

15 A. Doug Milera? Did I say Milera?

16 Q. Yes.

17 A. No, Doug Wardle. Did I say Milera? Please, can I have
18 that excised or excluded or ex something or other.

19 COMSR

20 Q. Are you feeling like you would -

21 A. Tired. I would like a break. Doug Wardle. Douglas
22 Wardle. Can I please -

23 COMSR: There may be questions of legal
24 profession privilege which arise with the area you are
25 intruding into at the present time. I would prefer that
26 you not follow this path until Mrs Fisher's legal
27 representative is here. She is not in a position to
28 argue such questions.

29 MR MEYER: I wasn't going to traverse any questions
30 of advice. It was merely a physical question of when
31 first instructed. I don't know whether that could be a
32 subject of argument. If that could be, I better leave
33 the entire subject alone.

34 COMSR: I think it would be preferable. I am
35 mindful of the fact the witness has been giving evidence
36 for a considerable time, and I think that we should take
37 a break now for some ten minutes.

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- 1 WITNESS: I'm so sorry. Doug Wardle. Douglas
2 Wardle.
- 3 ADJOURNED 3.45 P.M.
4 RESUMING 4.10 P.M.
- 5 MR SMITH: The witness would like to have indelibly
6 etched on the transcript that the mistaken mention of
7 the name Milera was indeed a mistake and that she meant
8 to refer to Douglas Wardle rather than Douglas Milera.
9 She has made that clear, I think, but she wanted it
10 emphasized.
- 11 COMSR: I gathered that quite clearly from what
12 you were saying before the adjournment.
- 13 MR MEYER: I accept that was a slip. I wasn't
14 proposing to pursue that confusion.
- 15 XXN
- 16 Q. You have referred to a person by the name of O'Brien as
17 a person who has given permission for you to speak or
18 deliver tapes to people. What was the Christian name of
19 that person.
- 20 A. Lewis O'Brien.
- 21 Q. Is that a man.
- 22 A. Yes. He's an elder of the Kurna people.
- 23 Q. They are a different people from the -
- 24 A. Indeed.
- 25 Q. Ngarrindjeri people.
- 26 A. Ngarrindjeri, yes.
- 27 Q. Is that right.
- 28 A. Yes. They are different nations, quite separate and
29 distinct.
- 30 Q. What we are talking about in this matter is material
31 that's relevant to the Ngarrindjeri nation.
- 32 A. Indeed, that's so.
- 33 Q. Paul Hughes, I take it that he is an Aboriginal person.
- 34 A. Yes.
- 35 Q. Who are his people.
- 36 A. He's Gladys Elphick's grandson. Louis O'Brien is Gladys
37 Elphick's nephew.
- 38 Q. You referred lastly to a person, Katrina Power.

1 A. Yes.

2 Q. To what nation does she belong.

3 A. She is Nurrunga, Kurna, Ngarrindjeri.

4 Q. Do you know a person called Val Power.

5 A. Yes.

6 Q. Is Katrina Power related to Val Power.

7 A. In no way, I understand. Unless it is so far back it

8 has to be traced through white ancestry, as far as I
9 know.

10 Q. How long have you known Val Power.

11 A. She was a guest for International Women's Day, of which

12 organisation I was president, and we invited her to

13 speak at our annual luncheon. There is a book which is

14 listed in the year in which she addressed the meeting

15 and sang. That would have been perhaps three years ago,
16 maybe four.

17 Q. May it have been in 1990.

18 A. It could have been before that actually, but I'm not

19 sure, or since. I have to check up with 'Celebration'.

20 The name of the book is 'Celebration, the History of the

21 International Women's Day Committee'. My immediate

22 memory, of course, like most elderly people, as you

23 yourself will find, is erratic. But my memory of times

24 some years back is not - is fairly easy to recall. It

25 happens with age. You will find it and meet it as a

26 friend.

27 CONTINUED

28

- 1 Q. Can I suggest to you that the occasion when Val Power
2 was a speaker at a luncheon function for you was
3 somewhere about 8 March 1990.
- 4 A. That could be so.
- 5 Q. In fact, you were the president of the -
- 6 A. International Women's Day Committee of South Australia
7 Incorporated, yes.
- 8 Q. When did you resign from that position.
- 9 A. This year, I think. Was it this year? Yes, this year.
- 10 Q. Why did you resign.
- 11 A. I resigned, because I wanted to catch up on my writing,
12 including and especially to finish or attempt to finish
13 the writing of a book about Gladys Elphick.
- 14 Q. Had you started writing a book about Gladys Elphick.
- 15 A. I had many various notes. I had, in fact, consulted
16 with Dr Lyndall Ryan on that question. I had done a
17 chapter outline. I had done, as I said before, I had
18 done eight years research in the newspaper collection.
19 I had spent some time in the archives. I had recorded
20 Gladys Elphick and friends and relatives. I had - I was
21 told by a friend of mine I had enough material for three
22 books 'Why don't you get it done?' And, every time I
23 tried to do it, something else happened in my life,
24 which took me away from it.
- 25 Q. I thought you told us in evidence-in-chief that, in
26 fact, you had given up on the idea and you felt guilty
27 and you weren't able to write the book.
- 28 A. Since it became obvious that if I had written a book it
29 may possibly have been that the evidence in it would
30 have been accepted and this Royal Commission need not
31 have occurred that to that extent I felt guilty that the
32 Aboriginal women hadn't been given their material back,
33 which they would have been, if I had finished the book.
34 That is, they would have had the tapes and the notes and
35 so on. But, now I don't intend to finish the book, I
36 intend to pass all my material to Aboriginal people,
37 including my research, my photographs, paintings,
38 whatever is included in my research that I intended.

- 1 They themselves have a number of plans and people
2 collected to deal with it, as soon as all the Inquiries
3 are over.
- 4 Q. Do I take it that you have changed your mind, since
5 then.
- 6 A. Why? In what regard do you mean that?
- 7 Q. In relation to your intentions of writing a book.
- 8 A. No.
- 9 Q. Didn't you say, when you resigned as president of the
10 organisation that you were in in March, that you were
11 resigning so that you could write this book.
- 12 A. Yes. Since then I have decided to give all this back to
13 the Aboriginal people.
- 14 Q. That is what I put to you. You have since then changed
15 your mind, have you.
- 16 A. I see, yes, yes.
- 17 Q. Why.
- 18 A. I see, with proper hindsight, that I have been but a
19 custodian of this work and history that belongs to
20 Australia for something like 40,000 to 60,000 years does
21 belong to the people who lived it. Not to me.
- 22 Q. Do you then say it is not proper to publish this
23 material.
- 24 A. They will decide what is proper to publish. It will no
25 longer be my problem.
- 26 Q. I asked what your opinion was. Do you then say it is
27 not proper to publish this material.
- 28 A. It is not proper for a white person to use this material
29 and to publish it, in terms of what I have recorded, it
30 is especially about the men's material, it is very
31 improper to - for a white person to have it in hand and
32 to publish, yes, without - a white person can have this
33 material if they consult with Aboriginal people who are
34 responsible for this material in terms of being related
35 to the persons who told it to you and that that white -
36 nonindigenous person then publishes it under and within
37 the guidance of Aboriginal people and then gives
38 copyright to the Aboriginal people. I think that is the

1 principle thing to do. And comes to an arrangement, a
2 financial arrangement with them, which shares. But I
3 now prefer to give it all to them rather than have any
4 part in the dissemination of what I now realise is more
5 important than at any time I had ever suspected.

6 Q. When did you realise that.

7 A. I think it sort of slowly grew as I realised that nobody
8 else had recorded what I had recorded. At least maybe
9 somebody will come forward. But, at the moment, it
10 seems that nobody else has. And that is why I make the
11 statement that I am ashamed that I am the only one. As
12 I said before, I thought I was a small cog in a huge
13 machine of history and that all those qualified and
14 worthy people, historians, had recorded all this and my
15 material was tiny and insignificant. And certainly it
16 was done by an amateur.

17 Q. When did you first hear about the Hindmarsh Island
18 bridge.

19 A. In the newspapers, when it -

20 Q. When.

21 A. When it went to the - there was a carry on in the
22 newspapers. And that was whenever the first newspaper
23 articles came out about it.

24 Q. That was quite a few years ago now, wasn't it.

25 A. Yes.

26 Q. You knew that there was matters relating to the
27 construction of a bridge at Hindmarsh Island.

28 A. Yes.

29 Q. For quite a few years.

30 A. Yes.

31 Q. You knew that you had material that related -

32 A. Yes.

33 Q. To the construction of the bridge.

34 A. Yes, indeed.

35 Q. And you say you spoke to nobody.

36 A. Absolutely nobody. I would not speak to anybody.

37 Q. You didn't speak to the relatives of Rebecca Wilson.

38 A. I spoke to nobody. Nobody. Either Aboriginal or

1 nonAboriginal.

2 Q. You had possession, you say, of material that was
3 relevant to the matter.

4 A. Yes.

5 Q. You knew it was relevant.

6 A. Yes.

7 Q. And you suppressed it.

8 A. Yes.

9 Q. You did not speak to any Aboriginal person.

10 A. No.

11 Q. You didn't assist the relatives of the people who you
12 esteemed so highly.

13 A. I esteem them too highly to break a law which I had
14 promised not to break.

15 Q. When did you first speak to Doreen Kartinyeri in
16 relation to this matter.

17 A. At the end of April.

18 Q. Of which year.

19 A. Of 1994.

20 Q. That was at a time when the tapes were still in the
21 library.

22 A. Yes.

23 Q. Except that you had a copy.

24 A. I had a donor's copy.

25 Q. This is in April 1994.

26 A. Yes.

27 Q. When in April 1994.

28 A. I think it was after Anzac Day.

29 Q. How did you come to speak to Doreen Kartinyeri.

30 A. Shirley Peasley had met me at the International Women's
31 Day Committee and she rang me up and said 'Oh, Betty,
32 how are you going? I am thinking of going to Beijing.
33 What do you think of that? And what do you think of the
34 Hindmarsh Island bridge affair?' And I said 'Well, I
35 think it is time the historians came forward and I am
36 waiting for them to do so.' And she said 'Well, I would
37 love you to meet Doreen.' And I said 'Fine.' So, we
38 made an appointment to meet Doreen, together.

1 Q. When was that.

2 A. I say it is after Anzac Day. It should have been about
3 the 26th or something like that.

4 Q. Where did you meet with her.

5 A. Where?

6 Q. Where.

7 A. Yes, in the coffee shop behind the - what was the old
8 Parliament House. On the outside verandah.

9 Q. Did you disclose to her any of the information which you
10 had in your tapes and notebooks.

11 A. No, I denied that I had any. She asked me if I had
12 anything at all on Ngarrindjeri people. She said
13 'Betty, I know all the stories, but these whities have
14 to have written proof.'

15 Q. Why did you deny it.

16 A. Because I was under a promise to Glady and to Koomi
17 never to talk.

18 Q. But you have talked.

19 A. I have, now.

20 Q. Why.

21 A. Because Sarah Milera's husband - and here comes the
22 deadly word 'Milera' - Sarah Milera's husband is a
23 relative of Glady. Before that the Narrunga, Kurna
24 people were not included in the discussion.

25 Q. I haven't understood that answer, I am sorry. Why have
26 you now elected to say that you have this material when
27 you denied it to an apparently relevant, important
28 Aboriginal person in April 1994 that you had the
29 material.

30 A. I am trying to explain that as you said, as you seem to
31 have knowledge, there are several nations in the
32 southern area of South Australia who speak together.
33 Narrunga, Kurna, Ngarrindjeri and Mid North people and
34 further southern people. And they all have their
35 smaller and separate divisions within them. However,
36 their lores are separate and bound to be, because they
37 are based on separate entities and identities, but they
38 all spoke together. And, in speaking together, they

- 1 spoke about things of which I can't tell, but they
2 spoke, celebrated, worked, traded together. This has
3 all been told me by Narrunga people. However, their
4 lores were separate.
- 5 Q. Can I interrupt you there.
6 A. Yes.
- 7 Q. Rebecca Wilson, she was of the Ngarrindjeri Nation.
8 A. Yes.
- 9 Q. That's right.
10 A. Yes.
- 11 Q. And she was the one you say who gave you this material.
12 A. Yes.
- 13 Q. Not Gladys.
14 A. No.
- 15 Q. It has got nothing to do with Gladys.
16 A. No.
- 17 Q. Is that right.
18 A. In a sense, yes, that's true. There is a sense in their
19 closeness and friendship and being Elders of the two
20 nations that they are melded, but, in a strict,
21 nonindigenous sense, no, it hasn't.
- 22 Q. Another Ngarrindjeri lady asked you for information.
23 A. Yes.
- 24 Q. So, you have, you say, information from one Ngarrindjeri
25 woman which you deny exists to another Ngarrindjeri
26 woman.
27 A. I said `Doreen, I work in and among Gladys's words, that
28 is Narrunga, Kurna. I can't talk Ngarrindjeri.' And I
29 didn't say `No', I said `I just can't talk
30 Ngarrindjeri.'
- 31 Q. Did you provide a copy of the tapes to Doreen
32 Kartinyeri, at that time.
33 A. No, under no circumstances would I have done that then.
34 Only the involvement of Mr Milera drove me to that.
- 35 Q. You continued to deny the existence of this material,
36 did you.
37 A. Yes.
- 38 Q. Until June of this year.

- 1 A. I didn't continue. I didn't need to continue. I had
2 denied - I had said 'I am working Narrunga, Kurna, I
3 don't work Ngarrindjeri.' And that - I didn't need to
4 say more.
- 5 COMSR
- 6 Q. Can I clarify something with you.
- 7 A. Yes.
- 8 Q. When you were given this information and you recorded
9 it, what was the purpose of recording it.
- 10 A. You remember I -
- 11 Q. I don't want you to say what the information was, but -
- 12 A. No, if you remember - this information, are you
13 referring to Rebecca Wilson's information?
- 14 Q. Yes.
- 15 A. It was because Gladys had gone and I was being polite in
16 speaking to -
- 17 Q. Yes, I understood that. But, did you have some purpose
18 in actually recording it, at that time.
- 19 CONTINUED

E.M. FISHER XXN (MR MEYER)

1 A. Gladys said, made a gesture meaning `You go on'. She
2 made a gesture `You go on', and that was more to Rebecca
3 than to me, but I knew she meant `You go on, you go on
4 talking'. I think we had both sort of forgotten the
5 tape was on. It did tend to happen.

6 Q. I'm not talking about the tape, I'm talking about when
7 you made your handwritten notes. Was there -

8 A. The purpose of that was that, in fact, Gladys was
9 obviously very keen that Koomi, that is Rebecca, tell me
10 what she had already told her that she was very worried
11 about. I think Gladys had it in mind that she would
12 persuade me to go to Point McLeay, as was then, and that
13 I would record both her and other elderly women. And
14 Rebecca Wilson did invite me and I did go to Point
15 McLeay. I was presented on that occasion with some
16 feather flowers by the late person - who we won't speak
17 of, whose name we won't speak - and I went there during
18 one day and I think Gladys wanted me to go and record
19 those women. She wanted me to become interested in
20 Rebecca Wilson's obvious concern. But I was a young - I
21 mean, I was a much younger mother with three children, a
22 husband employed and I couldn't - didn't have much
23 money. And if I knew then what I know now, I would have
24 spent at least once a month there. I would have talked
25 to them. They probably might have trusted me and I
26 would have recorded everything, and that would then have
27 been an answer. But I didn't do it and that is the
28 guilt that I feel that I didn't do that.

29 Q. So that I can be quite sure, you understood you were
30 making a record of some sort, did you.

31 A. I understood I was making a record for Gladys to write a
32 book about her and her people that she asked me to do.
33 But to contemplate another book, to contemplate further
34 recordings and with three young children and other
35 responsibilities, I just - I couldn't see how I could
36 get to Point McLeay and spent the time. That's the
37 whole thing.

38

1 XXN

2 Q. I am puzzled by one of your earlier answers. You say
3 that in April 1994, you denied to Doreen Kartinyeri that
4 you had any information.

5 A. Well -

6 Q. Just answer the question yes or no. I understand that
7 from your evidence -

8 A. It wasn't a denial, it was couched in words 'I am
9 working with material of another people, therefore, you
10 know, you cannot ask'. It means, you know, you cannot
11 ask me for material.

12 Q. In June 1995, you give the tapes to the same lady saying
13 'They are yours'.

14 A. Because of the advent into affairs of Gladys Elphick's
15 relatives, which immediately offended the words of
16 Gladys Elphick of the Kurna and Nurrunga people.

17 Q. That brings me back to the point of saying: Why didn't
18 you ask her relatives in April 1994, if their
19 intervention in June 1995 was relevant and you were
20 concerned about this lady.

21 A. Because I was quite convinced that half the historians
22 in Adelaide had huge records, large stocks of tape
23 recordings, and that all of them were better than mine.

24 Q. Did you make any investigations on that score.

25 A. I thought I didn't need to. I had already had indicated
26 to me on many occasions that, by academics of
27 extraordinary qualifications that mine was a very
28 amateur work and I should be very careful of this and be
29 very careful of that and I should record Aboriginal
30 people in such and such away. And I was made to feel
31 that - and probably rightly so and correctly so - my
32 amateur status did not qualify me do so and so I assumed
33 then that there were all of these things.

34 Q. You answer my question yes or no: did you make any
35 investigation as to whether there was any other material
36 of the nature that you thought that you had.

37 A. I didn't think I needed to. I thought other people had
38 the -

1 Q. Is the answer, therefore, you didn't.

2 A. That's right.

3 Q. Did you make any enquiries as to what work female
4 anthropologists may have done into the Lower Murray
5 Aboriginal area.

6 A. I went to see Faye Gale, yes. I went to see Faye Gale,
7 yes.

8 Q. Did you make any enquiries as to what work female
9 anthropologists may have done in the area prior to April
10 1994.

11 A. I went to see Faye Gale and asked her, yes.

12 Q. Anybody else.

13 A. No. I felt depressed after I interviewed Gale about the
14 quality of my own work.

15 Q. What relationship is Maggie Jacobs to Rebecca Wilson.

16 COMSR: Is this witness qualified to -

17 A. She did tell me, but I can't remember. I can't
18 remember. She did tell me. She has only told me once
19 once. I can't remember. I wasn't concentrating on
20 that, I was concentrating on how Veronica was feeling
21 and going, because I had already known that Veronica - I
22 don't want to speak of health matters, but I was worried
23 about her.

24 XXN

25 Q. How many times between April 1994 and June 1995 had you
26 spoken with Doreen Kartinyeri.

27 A. I suppose on numerous occasions, because I've met her -
28 I was in a few meetings where she was. I've spoken to
29 her on the phone, and so on, about her doctorate. I was
30 hoping to get to her celebration and the ceremony of
31 presentation of her doctorate, but, unfortunately, I had
32 something else happen.

33 Q. Have you spoken with her at least weekly.

34 A. No, not - no.

35 Q. Monthly.

36 A. At least fortnightly.

37 Q. At least fortnightly. On each of those occasions, has
38 the issue of the matters relating to the Hindmarsh

1 Island Bridge been discussed.

2 A. Not always.

3 Q. Most times.

4 A. No, not 'most times'. She had family problems, but
5 often. I mean, often enough. Obviously, we have a
6 joint interest in whether or not she is happy or unhappy
7 and what causes her unhappiness, what causes her to feel
8 ill, what causes her to feel that her illness may lead
9 to something more serious.

10 Q. Did you mention at any time before June 1995 the
11 existence of these tapes.

12 A. No. Only to people who were in the house,
13 non-Aboriginal people who are not in any way connected
14 with me other than through friendship and people I've
15 worked with, and stuff like that.

16 COMSR: We have the question of the audio tape
17 that has been, I think, tendered as an exhibit this
18 morning, Exhibit 20. I've heard what the witness has to
19 say concerning the sensitive nature of what was in the
20 tape. Even though it might have nothing to do with the
21 issues before the Commission, I still understand that
22 that tape contains sensitive material, and so,
23 accordingly, I order that the audio tape marked Exhibit
24 20 be suppressed and that no copies of it are to be made
25 and I order that it be placed in a sealed envelope at
26 this time or whilst the Commission continues.

27 ADJOURNED 4.40 P.M. TO WEDNESDAY, 9 AUGUST 1995 AT 10 A.M.

1 COMSR STEVENS

2

3 ROYAL COMMISSION INTO THE HINDMARSH ISLAND BRIDGE

4

5 THURSDAY, 10 AUGUST 1995

6

7 RESUMING 11.06 A.M.

8 MR SMITH: There is a preliminary matter that Mr
9 Anderson wishes to raise.

10 MR ANDERSON: I appear with Mr Gretsas for the
11 Australian Broadcasting Commission. I have only just
12 been instructed this morning. I am still receiving
13 instructions in relation to the question of the tape
14 which was released to Mr Gretsas yesterday. I am
15 getting those instructions from the Sydney legal
16 department of the ABC. You might imagine that has not
17 been very easy in the short time available.

18 What I have suggested to Mr Smith is that, if we can
19 have some time, we are quite happy to hand over the tape
20 back into the custody of the commission. I expect that
21 we can get instructions during the course of the day.
22 If the commission was going to adjourn at 4.30, I would
23 be happy to come back at 4 o'clock, or whatever time was
24 convenient towards the end of the day, and indicate what
25 those instructions are.

26 I anticipate, if it is any help to you, that the
27 instructions will be that, on the tape - of what little
28 I have had the chance of seeing so far - there are
29 matters that clearly don't come within the summons which
30 was directed to the ABC, the summons being directed to
31 video tapes of interviews. There are, apart from
32 interviews, other things on the tape.

33 That can only be remedied, I imagine, by a new
34 subpoena. We don't necessarily take that point.
35 Although, I may be instructed to take it. I cannot tell
36 you that yet. What I do anticipate happening though, if
37 I get the instructions, is that I believe I will be
38 asking you to make an order that you and counsel

1 assisting see the tape in camera, and then you,
2 commissioner, make a decision as to who, of all the
3 other counsel and the interests they represent, should
4 be entitled to see it. I am saying that at this stage
5 because, in the very early stages of my involvement, I
6 think that is a possible course of action. I just give
7 anyone that is interested notice of that preliminary
8 intention, which I think may come through in some
9 instructions.

10 COMSR: It is a relief having someone from the
11 media asking me to see something in camera.

12 MR ANDERSON: I understand that. In any event, I hand
13 back into the custody of the commission the camera tape
14 which is called 'Fisher Tapes 7.8.95'. With your
15 indulgence, and I imagine Mr Smith will want to say
16 something to you, I would ask for some little time to
17 enable me to get the instructions in view of the timing
18 of it all.

19 MR SMITH: On behalf of the commission, I have no
20 problem with that course of action, unless something
21 happens in the course of the day with this current
22 witness to change that stance, in which case I would
23 advise Mr Anderson urgently.

24 COMSR: For the time being, I will just adjourn
25 your application until 4 p.m. this afternoon.

26 MR ANDERSON: Can I also say that I have been offered
27 a copy of the transcript of the evidence from yesterday,
28 which Ms Simpson suggested I should read. So I will
29 have to spend some time doing that as well.

30 MR WARDLE: I had understood yesterday it was a
31 closed session. I did not think men were going to be
32 allowed.

33 COMSR: No, we were in public session yesterday.

34 MR WARDLE: I was not aware of that until I saw it
35 on the news.

36 COMSR: Mrs Fisher indicated that she had been
37 in touch with you and she was happy to go ahead with her
38 evidence under those circumstances.

- 1 MR WARDLE: Mrs Fisher has a statement that she
2 would like to hand to you.
- 3 COMSR: I don't know about getting statements
4 from the witness.
- 5 MR WARDLE: She can read it out in that case.
- 6 MR MEYER: I am opposed to that course without some
7 indication as to what this statement says.
- 8 MR ABBOTT: Can we see it?
- 9 COMSR: Who is cross-examining this witness at
10 the present time?
- 11 MR MEYER: I am.
- 12 COMSR: Perhaps if Mr Meyer could at least be
13 given a copy of that.
- 14 COPY OF STATEMENT HANDED TO MR MEYER
- 15 COMSR: I take it that there is nothing of a
16 confidential nature in that statement?
- 17 MR WARDLE: No.
- 18 MR MEYER: I might be able to deal with the problem
19 in a mechanical fashion by asking a question and then we
20 will deal with the matters that may arise.

1 WITNESS E.M. FISHER, CROSS-EXAMINATION BY MR MEYER
CONTINUING

2 Q. Mrs Fisher, do you know whether Dorothy Wilson is a
3 relative of Rebecca Wilson.

4 A. I don't know Dorothy Wilson.

5 Q. Have you made any investigations as to -

6 A. No.

7 Q. Who Dorothy Wilson may be.

8 A. No, no.

9 Q. Do you know whether Dorothy Wilson is a Ngarrindjeri
10 woman.

11 A. To the best of my knowledge, I have never met Dorothy
12 Wilson. It is a name common to Ngarrindjeri people. I
13 don't know Dorothy Wilson.

14 Q. Have you made any inquiries.

15 A. No, I have not.

16 Q. You said yesterday that you decided to come forward with
17 some information in relation to tapes and notes that you
18 had after seeing a picture of Sarah Milera in the
19 'Advertiser'.

20 A. That is correct.

21 Q. And that was somewhere around 5 or 6 June 1995.

22 A. Yes.

23 Q. Did you see, in the 'Advertiser', approximately three
24 weeks before then, on or about 19 or 20 May, a story
25 about Dorothy Wilson.

26 A. I may have. I can't - I have no memory of that at the
27 moment. I may have. I mean, I have grandchildren just
28 arrived in England. I was very caught up with what was
29 happening with my son and daughter-in-law, and I didn't
30 read all the newspapers, quite frankly, around about
31 that time.

32 Q. There was press reporting and television reporting and
33 radio reporting almost every day, if not every day,
34 after 19 May, about a group of Aboriginal women coming
35 forward and saying -

36 A. Is Dorothy Wilson - I see, yes, I understand. She is
37 one of the dissident women, is she? No?

1 Q. I don't know what you describe as being a `dissident'
2 woman.

3 A. Your legal friend described them as that yesterday, I
4 think. No? Sorry.

5 Q. She is one of the women represented by Mr Abbott.

6 A. Is she? I may or may not have. I'm very sorry, but
7 life has been very rushed with my family affairs, too,
8 lately.

9 Q. Can't you remember.

10 A. You see, this is the memory thing again, instant memory.
11 No, I cannot remember any detail.

12 Q. I am very concerned about your memory.

13 A. I am sure you are.

14 Q. Are you saying that you can't remember matters that
15 occurred in the last three or four months.

16 A. Well, common to almost everyone, I cannot remember every
17 matter that occurred every day in the last three or four
18 months, no.

19 Q. Isn't the suggestion that there may be a fabrication in
20 relation to women's business something of great
21 importance to you.

22 A. Yes. I said to myself `Well, all those historians are
23 going to come forward and' -

24 Q. I am not interested in what you said to yourself. You
25 can answer the question yes or no. You said `Yes, it
26 was of great importance', is that right. That can be
27 answered yes or no, is that correct.

28 A. It can be answered yes or no, but not in terms that I
29 understand it in Aboriginal terms, in terms that the
30 Ngarrindjeri women would understand.

31 Q. I am asking you whether it was a matter of great concern
32 to you that there were Aboriginal women who said that
33 the alleged secret sacred business was fabricated.

34 A. Let me say that I dismissed it as a fabrication.

35 COMSR

36 Q. But it was of concern that there had been some reports
37 that Aboriginal women were claiming it to be.

38 A. Only of concern that someone would come forward and make

- 1 sure that it wasn't a fabrication. I was quite sure of
2 that.
3 XXN
4 Q. So I take it from that answer that it was of concern.
5 A. Yes, of concern in that I was sure somebody would nail
6 it for a fabrication.
7 COMSR
8 Q. For whatever reason, it was of concern. Is that what
9 you are saying.
10 A. It was of some concern, yes.
11 XXN
12 Q. And yet you say that you can't recollect those matters
13 appearing in the press.
14 A. Perhaps I should -
15 OBJECTION Ms Pyke objects on the ground that is
16 not what witness said. The question put
17 related to items in the press on a
18 particular date.
19 QUESTION REPHRASED
20 Q. I am talking about the events of 19 and 20 May. That's
21 what I have been putting to you, isn't it.
22 A. Is it? If you say so.
23 Q. Don't you recollect the questions I asked you a few
24 minutes ago.
25 A. Yes.
26 Q. Then you know that I am putting to you questions in
27 relation to 19 and 20 May.
28 A. Yes, yes.
29 Q. You have agreed with me that the issue of an allegation
30 that this women's business may be fabricated was of
31 importance to you.
32 A. Yes, it was of great importance, but let me tell you -
33 Q. That's enough -
34 A. There was a death that I was concerned with at that
35 time. I would forget anything during that period.
36 Sorry.
37 Q. When did this death occur.
38 A. I think about a week before.

- 1 Q. Can't you tell us when this death occurred.
2 A. It was something to do with my own family, and I prefer
3 not to detail it or discuss it in any way, madam.
4 COMSR
5 Q. I don't know that Mr Meyer is asking you to detail it.
6 I think he is just asking if you recall the date.
7 A. I prefer not to in any way mention it. It is my own
8 family, and I don't see that this concerns this
9 commission.
10 XXN
11 Q. Is it the same death in the family that you were
12 referring to yesterday.
13 A. No. No.
14 Q. You say, because of outside or surrounding
15 circumstances, you can't remember the events of 19 and
16 20 May.
17 A. There were times when I turned the television off for a
18 whole week during those times.
19 Q. Did you get the newspaper.
20 A. Yes. The 'Advertiser', every day.
21 Q. Between 19 and 20 May, i.e. when there were reports in
22 the paper in relation to Dorothy Wilson and the women's
23 business being fabricated, and Sarah Milera appearing in
24 the newspaper on 5 or 6 June, did you speak to Doreen
25 Kartinyeri.
26 A. End of April, yes.
27 Q. We are in 1995.
28 A. Yes - 1994, I told you yesterday.
29 Q. We are talking now about 1995.
30 A. Yes.
31 Q. Between 19 May 1995.
32 A. I see, 1995.
33 Q. And 6 June 1995, i.e. between when Dorothy Wilson was
34 reported in the newspaper, and when Sarah Milera had her
35 photograph in the newspaper, which caused you to come
36 forward, between those two times, did you speak with
37 Doreen Kartinyeri.

- 1 A. I may have. I have no idea at this moment. I didn't
2 record any of my phone calls.
- 3 Q. Don't you remember.
- 4 A. I remember I had a number of - I had a number of phone
5 calls. It could have been one or the other of my
6 Aboriginal friends.
- 7 Q. Yesterday you told us you spoke to Doreen Kartinyeri at
8 least fortnightly.
- 9 A. Well, that could have been one of the times.
- 10 Q. Did you speak -
- 11 A. I was concerned about her health. She has been a very
12 sick woman.
- 13 Q. Did you speak with Sandra Saunders during that period.
- 14 A. I may have.
- 15 Q. Do you often speak with Sandra Saunders.
- 16 A. Not often, no.
- 17 Q. How often.
- 18 A. If I want to find out about somebody's situation,
19 health, how they are, I can't reach them, I ring Sandra,
20 'Have you seen so and so? How is she?' There has been
21 five deaths in the Aboriginal families over the last
22 seven days prior to Tuesday, and it is quite upsetting.
23 And if I can't reach them, I will ring Sandra because
24 she is often in touch with women in -
- 25 Q. Since April 1994, on what sort of basis would you have
26 spoken with Sandra Saunders, fortnightly.
- 27 A. Could be, yes.
- 28 Q. In those discussions, have you discussed matters
29 relating to the Hindmarsh Island Bridge.
- 30 A. I have related 'Don't worry. Look, it's going to be
31 okay.' I've always said that to her.
- 32 Q. Have you made any indication to Sandra Saunders that you
33 had some tapes.
- 34 A. I think Doreen probably told her, but I haven't
35 discussed tapes, as such, with her at all.
- 36 Q. So Doreen might have told her between April 1994 and
37 June 1995.
- 38 A. I'm not saying she did. It's possible.

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- 1 COMSR: I don't think, from what she said, this
2 witness is in a position to answer that.
- 3 Q. You say you had no -
4 A. I have no idea. I mean, I haven't asked her to -
5 XXN
- 6 Q. But it is possible that Doreen told her.
7 A. It is possible. Anything, I suppose, is possible.
- 8 Q. Yesterday you told us that you had denied the existence
9 of any such material to Doreen Kartinyeri until June
10 1995, so how could that have been.
11 A. April 1995. I denied it in the late April 1994.
- 12 Q. When did you first tell -
13 A. I told her in June.
14 Q. June when.
15 A. After the appearance of the newspaper, and we are
16 talking about what month did you say before?
17 Q. You tell me. You are the person who knows all these
18 things. I don't know. I'm asking you.
19 A. We are on a circle and I'm a little bit slow catching up
20 with you. Would you mind repeating it?
21 Q. You can't remember.
22 A. I am not saying I can't remember. We are on a circle.
23 I may be a bit slow catching up.
- 24 COMSR
25 Q. You are saying you don't know what the question is.
26 A. Yes. Would he repeat the question?
27 XXN
- 28 Q. Yesterday you said that you denied, to Doreen
29 Kartinyeri, any knowledge that might be in any way
30 classified 'secret women's business'. That's right,
31 isn't it.
32 A. In the beginning, yes. Until after Sarah Milera's photo
33 appeared in the press.
34 Q. That's more than in the beginning then. That's for more
35 than a year.
36 A. Yes.
37 Q. You denied any of those matters.
38 A. Yes.

- 1 Q. A few minutes ago, you said that Doreen Kartinyeri may
2 have told Sandra Saunders of the existence of tapes
3 before June.
- 4 A. After 5 June, sorry. After 5 June.
- 5 Q. Do you know Val Power.
- 6 A. Indeed I do.
- 7 Q. How often do you talk with Val Power.
- 8 A. Not very often, no.
- 9 Q. As often as you talk with Sandra Saunders.
- 10 A. No.
- 11 Q. Give us an approximation over the last, say, 12 months.
- 12 A. Four or five times perhaps. No more I shouldn't think.
- 13 Q. Do you know Deane Fergie.
- 14 A. No, I didn't until somebody identified, somebody here in
15 the Commission.
- 16 Q. Have you ever spoken with her on the telephone.
- 17 A. No.
- 18 Q. Have you ever spoken or communicated with her by any
19 means.
- 20 A. No, except maybe here saying 'Excuse me', going into the
21 lift, or something like that.
- 22 Q. Prior to the commencement of this Royal Commission.
- 23 A. That's right.
- 24 Q. In your notes, do you use the word 'Ngarrindjeri'.
- 25 A. 'Ngarrindjeri' in notes?
- 26 Q. Yes.
- 27 MS NELSON: I think Mr Meyer needs to identify which
28 notes: the handwritten notes, the typewritten notes, or
29 the notebook, or what.
- 30 A. The notes that I made somewhere, or notes that I made in
31 100 places?
- 32 XXN
- 33 Q. In the typewritten notes which have been referred to in
34 the Royal Commission as having been produced by you on
35 about four A4 pages in the IBM typewriter. Did you ever
36 use the word 'Ngarrindjeri'.
- 37 A. I'm trying very hard to think. I think I did. I'm not
38 sure.

- 1 Q. In your handwritten notebook.
2 A. I'd have to consult it. I haven't got it.
3 Q. How do you spell it.
4 A. N-A-R-R-I-N-D-J-E-R-I.
5 Q. If you would use the word, is that how you would have
6 spelt it.
7 A. Yes.
8 Q. Until we reached the next stage of these -
9 A. N-G-A-R-R, sorry.
10 Q. How do you spell it.
11 A. N-G-A-R-R-I-N-D-J-E-R-I.
12 Q. That is how you would have spelt it in your notes.
13 A. Yes.
14 Q. You sure about that.
15 A. Absolutely.
16 COMSR
17 Q. You sure that is how you would have spelt it.
18 A. Yes.
19 Q. Or are you sure it's in your notes.
20 A. I'm sure that is how I would have spelt it
21 N-G-A-R-R-I-N-D-J-E-R-I.
22 XXN
23 Q. That is in relation to notes that you made in 1967.
24 A. If the word is in there, that is how I would have spelt
25 it, yes.
26 Q. In 1967.
27 A. Indeed. The Aboriginal people take great care that
28 respect is paid to their words and of language, and so.
29 COMSR
30 Q. I want to clarify something with you. You did some
31 handwritten notes in a notebook.
32 A. Yes.
33 Q. Did you say that subsequently you also did some
34 handwritten notes, but not in the notebook.
35 A. I've addressed a number of letters.
36 Q. I mean, a copy or -
37 A. You mean after I decided to give the notebook to Doreen
38 Kartinyeri?

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(MR SYKES)

- 1 Q. It may have been then. Did you subsequently, at some
2 later stage, make a copy of the notes, a handwritten
3 copy of the notes in your notebook.
4 A. Not handwritten, typed.
5 Q. Typewritten.
6 A. Yes.
7 Q. So there are just the two copies that are in your note
8 book and the typewritten copy.
9 A. Yes, of what is exactly in the notebook.
10 Q. You say that is verbatim.
11 A. Yes.
12 XXN
13 Q. Can you have a look at Exhibit 6 produced.
14 A. Are you asking me to look at something?
15 Q. Have you Exhibit 6 in front of you.
16 A. Through your Honour, yes, I have Exhibit 6 in front of
17 me, yes.
18 Q. In the last paragraph on the first page, you use the
19 word 'Ngarrindjeri'.
20 A. Yes.
21 Q. That is how you would spell the word.
22 A. Yes.
23 Q. If you had used the word in 1967, in your notes, is that
24 how you would have spelt it.
25 A. I would probably put 'NR' and maybe 'Y' with an 'I', or
26 something like that. I may have. I was making notes.
27 I was, you know, tearing along with a pen. Anything
28 that I could understand later I made.
29 Q. If you had been spelling the word in full, you would
30 have spelt it N-G-A-R-R-I-N-D-J-E-R-I in your statement.
31 A. I would have rung up my friend who wrote the book
32 'Conquest of the Ngarrindjeri', Graham - that escapes me
33 now - Jenkins, Graham Jenkins, and I would have said
34 'Graham, how do you spell that as I don't want to get it
35 wrong?', and Graham would have told me.
36 CROSS-EXAMINATION BY MR SYKES
37 Q. Do I understand your evidence correctly to be this: You
38 gave to Doreen Kartinyeri the notebook and also a

- 1 typed-up copy of the pages that relate to Rebecca
2 Wilson.
- 3 A. Yes.
- 4 Q. Is it the case that you did not retain a copy of either
5 the notebook or that typed-up transcript.
- 6 A. Yes.
- 7 Q. Exhibit 6 is your statement which has been presented to
8 the Commission.
- 9 A. Yes.
- 10 Q. When did you make that statement; it doesn't appear to
11 be dated.
- 12 A. Well, obviously towards the end of July. It's most
13 unlike me not to date something. I'm very sorry, I
14 can't be exact. I need to be, to be exact, I would have
15 to.
- 16 Q. Was that a statement that you prepared yourself, or was
17 it a statement taken from you.
- 18 A. No, I prepared that straight onto the typewriter.
- 19 Q. Did you refer to any notes at all when making that
20 statement.
- 21 A. No. In terms of I put a few things down on paper that I
22 wanted to make sure I included in this, made a few
23 written notes. But I'm used to preparing - my friends
24 say that I am too verbose sometimes.
- 25 Q. It's clear, is it not from your evidence, that you
26 wouldn't have had, to help you with the statement, a
27 copy of the typed-up version of your notebook.
- 28 A. No.
- 29 Q. That was with Doreen Kartinyeri.
- 30 A. Yes.
- 31 Q. You had a fairly clear memory of it, did you.
- 32 A. Yes.
- 33 Q. Of what was in the notes when you were making the
34 statement.
- 35 A. Yes.
- 36 Q. You didn't think it at all necessary to refer to the
37 typed-up transcript of your notes when making the
38 statement.

1 A. Well, I typed this very fast. I was driven with an urge
2 to get this statement in to the Commission and to show
3 it to - I don't know whether I was showing it to my
4 lawyer then or afterwards. Perhaps I can consult with
5 him about when he received this. I was driven to get
6 this done, to get it -

7 Q. Are you confident -

8 A. Within myself.

9 Q. Are you confident that what you have put in that
10 statement is a good paraphrase of the things that were
11 told to you by Rebecca Wilson.

12 A. Yes.

13 Q. Obviously, you haven't gone into the detail - at least I
14 assume you haven't.

15 A. Yes. No, I haven't gone into - the most secret and
16 sacred business is not something that I would mention
17 lightly anywhere and within myself I was both
18 emotionally and in every way driven to a statement that
19 in some way answered what I considered dishonouring of
20 Gladys Elphick's name and Koomi's name, yes.

21 Q. Is it the case that you had a very clear memory of these
22 30 years of exactly what Rebecca Wilson had told you.

23 A. I can assure you that if you had been there, you also
24 would have had - I mean you wouldn't have been there
25 because you are male, but anyone who had been there
26 would have had a very clear memory of what was told at
27 that time.

28 Q. That would have lasted.

29 A. It was astonishing to me. It would have lasted, yes,
30 probably -

31 Q. It would have lasted 30 years.

32 A. Probably my life time.

33 Q. You wouldn't need to refer to notes to give an account
34 of what she said; is that what you say.

35 A. In many ways, the notes that I took then were but an
36 outline of all that was said in many ways, because I was
37 pausing now and again - and especially when the material
38 was so astonishingly, I can't say it, but exceptionally

1 important to women in Australia, especially to
2 Aboriginal women.

3 COMSR

4 Q. I'm not quite clear what you mean that it was but an
5 outline. Are you saying that in the notes.

6 A. One is taking notes. I lost my shorthand unfortunately
7 after I left school, so through not using it you - you
8 see, I had to write longhand and one never, one's
9 attention in hearing something totally new is taken off
10 what you are writing, so you are writing notes that
11 follows sometimes and then you break off in the sense of
12 hearing something new, and then there is a continuation
13 and a flow in some places. So, in some places, I
14 suppose you could say the notes are very brief and
15 disjointed, and in other places the notes flow. Am I
16 describing it so that it's clear?

17 Q. I suppose only you can say if you are describing it
18 accurately, the process, yes.

19 A. Yes.

20 XXN

21 Q. Can we be confident that what is in your statement is an
22 accurate paraphrase of what is in the notes.

23 A. Yes, indeed, yes. Excluding any sacred and secret
24 business that I would not have put in this statement,
25 but that is too important for any placement in any
26 written form. You must understand that there is some
27 things I did not write down, even in the three pages
28 that have been referred to.

29 COMSR

30 Q. You are saying that there was some things that were too
31 sacred and secret for you to record at the time.

32 A. Yes, even amongst - letting counsel refer to yesterday
33 as a mere few inches, but within those, that time there
34 were things said that I could not possibly record under
35 any circumstances. They - I wasn't allowed to and I
36 wouldn't have and I would never speak of it. But, yes,
37 and I mentioned that before that I didn't speak ever, I
38 didn't say every detail of sacred and secret business is

1 not within my - because Aboriginal women simply would
2 not speak of it, nor will I ever. And I have already
3 referred to the fact that I didn't write everything
4 down. It's not possible. The Aboriginal women can only
5 refer elliptically to a white person, even a woman - and
6 I mean elliptically so that it is well understood, but
7 so that it's not detailed. And if I'm saying, if I'm
8 given a gesture and at the same time someone says 'Can't
9 speak', then I stop writing.

10 Q. Do they stop talking. I mean, do you take that as some
11 sort of a signal that they can't say anything about
12 that, what is -

13 A. That is 'Can't say, can't say'. If they do speak within
14 the 'can't say' period, then you don't note. It is not
15 my culture, Madam Commissioner. I cannot betray it. It
16 is not my culture and it is much older than my culture,
17 apparently is.

18 Q. I'm trying to follow the process. So, do I understand
19 that you couldn't record it in your handwritten notebook
20 and you couldn't record it subsequently in the
21 typewritten form.

22 A. No, I couldn't, no. No.

23 XXN

24 Q. You have said that you were told things somewhat
25 elliptically or in elliptical terms.

26 A. Well, Aboriginal people, if you are with an Aboriginal
27 person who learns some degree of trust, they will make a
28 reference to a certain matter which instantly translates
29 into X and you can - then, you are then permitted to ask
30 a question about X, and if they wish to answer they
31 will, if you have picked it up. If you haven't picked
32 it up, well, that is too bad and second time around you
33 might be clever enough.

34 Q. But does that mean that you have to interpret, to a
35 certain extent, what is being told to you.

36 A. Well, I'm an amateur historian. I would have to
37 interpret 'Am I being told this or this?'. So, if you
38 were told X, maybe you make a wrong guess and you ask a

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1 question about X, Y and Z and then you ask a question
2 about Y and you miss what you have been told about X,
3 and you mention a point about Y, then they tell you, say
4 `No, no, no', and you have missed it, and so you go away
5 and think about it. Then, you ask about X and they tell
6 you whether they will wish to tell you, or if they don't
7 wish to tell you. And sometimes if I ask a question
8 about subject X, then they will say `That's culture, all
9 gone'. So you know never to ask a question about that
10 again. And so the elliptical reference is often
11 something that can never be spoken of, but that they are
12 mentioning it existing.

13 Q. Were you told things in elliptical terms which you
14 interpreted when you were writing down.

15 A. No. The things that I've written down in the notebook
16 are things that were told as they are written down. But
17 where there are breaks - and there are breaks I know in
18 that - I was not recording specific things. And there
19 is one matter, and I haven't mentioned this before - and
20 I hope my Aboriginal friends will forgive me for
21 mentioning it -

22 COMSR

23 Q. Are you going to mention something that is confidential.

24 A. No, never. I hope my Aboriginal friends will forgive me
25 for mentioning its very existence.

26 CONTINUED

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- 1 Q. There again you pose a bit of a dilemma for me. Is this
2 something which you can discuss in this public hearing.
- 3 A. I can only discuss it with Aboriginal women on their own
4 if they wish to speak about it. Only Aboriginal women
5 and no-one else. I am sorry.
- 6 Q. I take it then you are not about to volunteer it now.
- 7 A. No, but if they wish to discuss it with me they will and
8 if they wish not to then they will say something that
9 puts a stop to my questioning.
- 10 Q. I just wanted to be sure so that -
- 11 A. It is a very painful thing to say I know and I might as
12 well have forgotten and I am not supposed to know and I
13 can't speak and I understand the position this puts you
14 in, your Honour, and I'm sorry.
- 15 XXN
- 16 Q. Before giving evidence in this Commission or at any time
17 while you have been giving evidence in this Commission,
18 have you referred to notes, the notebook or the typed
19 out -
- 20 A. During, I haven't got the notebook or - and I didn't
21 have this (INDICATES) before me yesterday when I was
22 questioned. And I was being questioned on the basis of
23 this, I think. Learned counsel might say. Was I being
24 questioned on the basis of this?
- 25 MS NELSON: That is Exhibit 6.
- 26 A. I was being questioned on the basis of Exhibit 6, was
27 I?
- 28 MR ABBOTT: No, she was being questioned on the
29 basis of what she told the public on the 7.30 Report.
- 30 A. But before that? Before and during that or altogether?
31 But Exhibit 6 I think you held it in your hand
32 yesterday. So, Madam Commissioner -
- 33 COMSR
- 34 Q. We can't have this interchange between yourself and
35 various members, or legal practitioners.
- 36 XXN
- 37 Q. Just going back to 1967, it is the case, isn't it, that
38 you were told you say by Rebecca Wilson that you were

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- 1 not to mention these things to anybody other than her
2 daughter, is that right.
- 3 A. No, I wasn't aware of the existence of her daughter when
4 I met Veronica, when I met Koomi, when I met Rebecca
5 Wilson. I was not aware that she had children. I had -
6 she may have told me that she had family. Gladys may
7 have told me. I haven't got an instant total recall
8 memory. I recall remarkable things that happened whilst
9 I was with Aboriginal women, because of their remarkable
10 position, state, whatever, condition, their
11 remarkability. What a terrible word.
- 12 Q. If you have a look at Exhibit 6, at p.3, the second
13 paragraph.
- 14 A. Yes.
- 15 Q. There is a part starting on the third line which reads
16 `And I had promised Rebecca Wilson that nothing of hers
17 would be told unless to her daughter.' That is what you
18 say, isn't it.
- 19 A. Yes, I probably should have said `family', because I
20 didn't know of Rebecca's existence, yes. That was me
21 typing in a hurry.
- 22 Q. You go on to say in the next sentence `Her daughter has
23 now giving me permission to speak these words.'
- 24 A. That's true.
- 25 Q. What you were actually told, at the time, was that you
26 weren't to repeat what she had told you, except to her
27 family, is that right.
- 28 A. Female.
- 29 Q. Female members.
- 30 A. Yes.
- 31 Q. Did she tell you who the members of her female family
32 were.
- 33 A. She may have, but I think she said `women of my family'.
34 No, I don't think she told me who. Gladys may have
35 mentioned afterwards. This is an area that is not
36 within my greatest experience. Storing everything that
37 happens when you are with Aboriginal people is not easy
38 for me. Remarkable things, yes.

1 COMSR

2 Q. I might have misunderstood, but I thought you said a
3 little while ago that she had a family.

4 A. I didn't know, no. I didn't know until she said.

5 Q. That's when you learnt that she had a family.

6 A. Yes, I - most Aboriginal people have family,
7 relationships (INDICATES), relationships on a very wide
8 scale and I knew that.

9 XXN

10 Q. Did you understand that she was telling you things for
11 you to make a record so that you could pass it on to the
12 female members of her family.

13 A. It is a bit mixed. You see, I was concentrating wholly
14 on what Gladys Elphick was telling me. What Rebecca
15 Wilson told me was an addition, a bonus, something that
16 didn't concern Narrunga people or Kurna people. And,
17 therefore, because it was Ngarrindjeri, I would have
18 kind of put it away, put it to one side in my mind as
19 not a priority for what I was working on regarding
20 Narrunga Kurna people. And it has always stuck strongly
21 in my mind because of the remarkable nature of the basis
22 of the story - not story, but facts. That she believed
23 to be facts that she was telling me and that I accept as
24 fact on her behalf.

25 Q. Were you being encouraged to record it.

26 A. Gladys Elphick wanted her to speak to me. She banged
27 her fist on a coffee table that was near her and said
28 `They're digging up our history, Betty. Come on, Koomi,
29 tell Betty about it.'

30 Q. Was Rebecca Wilson reluctant to allow you to make a note
31 or record the conversation.

32 A. Rebecca Wilson was very self-contained, very quiet, very
33 - in some ways, could be observed to be a very shy
34 woman, not given to coming forward in public, not given
35 to putting her head up to be noticed, let's put it that
36 way, not given to demonstrations of large emotional
37 things. She was a good Christian woman, considered
38 herself to be, but held those things from her ancestry

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1 very dear. Although she was great friends with Glady,
2 she acceded - she wanted to tell, but found it difficult
3 to speak. And does that answer? If not, would you
4 repeat the question?

5 Q. Perhaps I can approach it in a slightly different, more
6 direct way. Did you have to persuade her -

7 A. Not me, no.

8 Q. To allow to you record.

9 A. I wouldn't have dared. I wouldn't have dared to
10 persuade an Aboriginal Elder to tell me things which
11 caused her to have tears coming down her face. She sat
12 there and tears appeared on her face. So I wouldn't
13 have dared. It was entirely her business and up to her.
14 If an Aboriginal person is upset, most Aboriginal people
15 around do what Glady did. Put her arm around her and
16 then go and get her a cup of tea and a biscuit and try
17 to comfort her and Koomi wiped her eyes (INDICATES) and
18 sat and said 'It's very sad', and 'Very sad', and said
19 what she said, yes.

20 Q. But did you have to persuade her -

21 A. I didn't -

22 Q. To allow you to record the conversation in your
23 notebook.

24 A. It was Glady who persuaded her to do that. And Glady
25 said 'Other people need to know about this. Koomi, it
26 can't stay silent for ever. I'm talking to Betty.' And
27 she mentioned a way of - words in her language and -
28 about me. I am assuming that she said 'You can trust
29 that woman.'

30 OBJECTION Mr Meyer objects.

31 A. And I said 'Well, will you let me write this down,
32 Koomi?' And Glady said 'Help the younger people, Koomi,
33 we've got to get it down.' And words like that. So,
34 yes, I asked her permission, yes.

35 Q. You understood that you were being a custodian of this
36 knowledge for the younger Aboriginal women, did you.

37 A. I wasn't thinking of younger, I was thinking merely as
38 custodian and not looking towards that end. They may

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1 have been, but I certainly always regarded myself as the
2 custodian of these matters, absolutely always, yes.

3 Q. But to pass on the knowledge.

4 A. Custodian means passing on and I had, at that time,
5 absolutely no expectation of finding younger women in
6 the same stamp as the two women that I was speaking to
7 as Elders. I had - I knew that the choosing of a
8 custodian among Aboriginal people, among themselves, I
9 know that that is a very long and protracted business
10 and may take a short time or it may take many years.

11 And, so, yes, I was a custodian for whoever may appear,
12 but I don't - I didn't know whether I was going to be a
13 custodian and hand it back, having done the book, or
14 whether I was going to be a custodian for a long time.

15 As long as this. And so, yes, I was I suppose in
16 general terms expecting one day to hand it on, yes.

17 Q. Were you actively -

18 A. I was hoping to write the book.

19 Q. You were hoping to write a book about it.

20 A. Yes, Gladly asked me to write a book and I was hoping it
21 would go in the book. I didn't know what would be
22 excluded, but I would not put anything in the book that
23 had not gone first to Aboriginal Elders to be read. I
24 think that all of them can tell you that. I wouldn't
25 have - I wouldn't have done anything, written anything
26 without permission.

27 Q. Were you actively searching for somebody to pass on this
28 knowledge to.

29 A. No, it is not my responsibility to search for anybody.
30 Aboriginal people organise their own society and I am a
31 mere outsider.

32 Q. But Rebecca Wilson died in the early 1970s, didn't she.

33 A. Yes, so I just kept it and one day, if I had done the
34 book, that would have gone, that passage would have gone
35 to an Aboriginal woman. And how I expected it to
36 happen, after about a week, a phone call would have come
37 and they would have said 'I'll come and see you and we
38 will talk about what can go in the book.' That is

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1 usually how it would have happened.

2 Q. How well did you know Rebecca Wilson. Did you see her
3 after this one occasion.

4 A. Twice more, yes. Once at Glady's and once at Raukkan,
5 Point McLeay.

6 Q. In 1967.

7 A. I'm sorry, I am not going to be able to date that
8 precisely. I have been thinking very hard about when I
9 saw them again, but those two meetings, the one at
10 Raukkan, where I met the late relative of Doreen
11 Kartinyeri, I could probably date that, if I was asked
12 to, but I had no reason to keep a record of them. None
13 of those were as remarkable as the one I made notes at.
14 Excepting that they - Koomi obviously wanted me to come
15 and record the women down there and I only wish I had.

16 Q. Did you know any of Rebecca Wilson's daughters before
17 this year.

18 A. No - before this year? No.

19 Q. You have met one of them.

20 A. Yes, indeed.

21 Q. That is the lady that was shown on the 7.30 Report.

22 A. Veronica Brodie, yes.

23 Q. Did you know that Rebecca Wilson had an older daughter
24 than Veronica.

25 A. No, I'm sorry.

26 Q. So you never found that out.

27 A. No, I had no need to do that. I was not writing
28 Ngarrindjeri material. And you can't mix cultures under
29 any circumstances in those terms of research. I mean,
30 all white people do, but I was the recipient of material
31 that forbade me to mix cultures. I was not going to do
32 it. Whether I was right or not, I am an amateur and I
33 have got to remember that amateurs have to be awfully
34 careful. I have been told by so many professionals that
35 I have to be awfully careful so often that I wouldn't
36 have asked.

37 Q. It didn't occur to you that perhaps you should make
38 enquiries -

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(MR ABBOTT)

- 1 A. No.
2 Q. As to who were -
3 A. No.
4 Q. Female members of -
5 A. No.
6 Q. Rebecca Wilson's -
7 A. No.
8 Q. Immediate family.
9 A. No.
10 Q. To see whether they should have the knowledge passed on
11 to them from their mother.
12 A. When I activated the knowledge, by handing this to
13 Doreen Kartinyeri, one of the things she mentioned
14 probably to me, at that time, was that Koomi had a
15 daughter and her name was Veronica, yes. That was
16 probably when I became aware of her identity.
17 MR SYKES: I have no further questions.
18 MR ABBOTT: I seek to ask just a couple more
19 questions on a matter that I ascertained through
20 research last night and which I didn't have yesterday.
21 COMSR: Is this going to be extensive
22 cross-examination?
23 MR ABBOTT: No, no more than five minutes.
24 MR WARDLE: I wasn't here for Mr Abbott's
25 cross-examination yesterday, so I don't know whether to
26 object to this or not.
27 MR ABBOTT: It is only questions in relation to
28 Rebecca Wilson. I want to put something about Rebecca
29 Wilson to this witness.
30 MR WARDLE: I might have to rely on others, Madam
31 Commissioner.
32 COMSR: Yes, there don't seem to be any
33 objections.
34 It will have to be brief.
35 MR ABBOTT: It will be very brief, yes.
36 FURTHER CROSS-EXAMINATION BY MR ABBOTT
37 Q. Apart from what you have told us in evidence -
38 A. Yes.

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- 1 Q. Do you know anything else about Rebecca Wilson.
2 A. She has a grandmother, a woman called Lartalare, I think
3 it is pronounced, and she was - her grandmother was born
4 on the Coorong and that she was probably known as Koomi
5 as well.
6 Q. That is the extent of your knowledge.
7 A. And that Rebecca Wilson was married to Dan Wilson.
8 Q. And that she is Ngarrindjeri, you know that.
9 A. And that she is Ngarrindjeri, yes, and that she was in,
10 I believe, I think Rebecca told me there was great
11 adherence to her Christian beliefs, yes.
12 Q. And that is the extent of your knowledge -
13 A. Yes.
14 Q. And which repeated what Gladys had said about her.
15 A. Yes.
16 Q. And that is the extent -
17 A. It isn't the extent of the knowledge. In 1967, no doubt
18 I could have told you more then if Gladys had spoken to
19 me at length and she probably would have -
20 CONTINUED

1 COMSR

2 Q. I can't quite follow that. If they had spoken to you at
3 length, or she did speak to you at length.

4 A. Gladys always spoke to me at length, but I take your
5 point. You are saying 'Did Gladys tell me things about
6 Rebecca Wilson in 1967?'

7 Q. Yes.

8 A. That is a matter which I assumed happened because Gladys
9 always talked about her family. They would have spoken
10 about their family at that time.

11 XXN

12 Q. All I want to know is, 1967 or since, have you told us
13 all that you know about Rebecca Wilson.

14 A. All that I know, I think.

15 Q. You weren't aware that she composed and gave her own
16 speeches on numerous occasions.

17 A. I'd be very surprised if she hadn't.

18 Q. You are aware that she was one of the founding members
19 of the Aboriginal Women's Council.

20 A. Yes.

21 Q. You are aware of that.

22 A. Yes.

23 Q. When did you become aware of that.

24 A. Gladys gave me a box, and the box contains the whole
25 proceedings of the Aboriginal Women's Council, except
26 for the first minute book. But I haven't written it up
27 yet.

28 Q. If you have read that material, then you are aware of
29 the part that Rebecca Wilson has played in the
30 Aboriginal Women's Council, since 1973 in particular,
31 aren't you.

32 A. Not as aware as to consciously think of it all the time.
33 If I was asked about Rebecca Wilson and I went back to
34 the notes on the Aboriginal Women's Council, then I
35 would remember. And if this is an attempt to hurry my
36 memory, well, like all 70 year olds, I need to be
37 reminded of -

38 Q. I want to suggest to you -

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1 A. There was nothing wrong with my memory in 1967.

2 Q. I want to suggest to you that the way you have presented
3 Rebecca Wilson to this commission, does less than
4 justice to her.

5 A. I have apologised to Aboriginal women already, if I have
6 conveyed any mistaken error. But I saw an Aboriginal
7 elder whom I honoured extremely. And among Aboriginal
8 people the word Aboriginal `elder' does the greatest
9 justice that anyone can do to one of their people. If
10 an Aboriginal is nominated by them as an elder, that is
11 the highest justice that can be done among them.

12 Q. I am suggesting to you -

13 A. Among white people, is that what you are saying?

14 Q. No, I am suggesting -

15 COMSR

16 Q. I wonder if you would listen to Mr Abbott's question.

17 XXN

18 Q. I am suggesting to you that Rebecca Wilson, to your
19 knowledge and from what she said to you and what was
20 told to you, was articulate, intelligent, sophisticated
21 and well able, if she chose to, to record any
22 information she had.

23 A. Yes.

24 Q. Yet you say that one afternoon, in the course of your
25 discussions with Gladys Elphick, she singled you out,
26 and only you apparently, to give you the most secret
27 sacred information on women's business that apparently
28 anyone has in South Australia.

29 A. If I say these -

30 OBJECTION Mr Wardle objects on the ground it is
31 not known who she spoke to.

32 MR ABBOTT: Apparently no-one else.

33 MR WARDLE: We don't know that and how can the
34 witness know.

35 MR ABBOTT: That's what she has been saying.

36 MR WARDLE: She simply said, as I understand it,
37 that on one particular occasion Rebecca Wilson spoke to

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- 1 her. She can't possibly say whether Rebecca Wilson
2 spoke to her or anybody else.
- 3 COMSR: Perhaps if we could put what appeared in
4 the evidence.
- 5 MR KENNY: If I may interrupt, Mr Wardle was not
6 here and missed some of the evidence yesterday, but it
7 was quite clear from yesterday that this witness
8 believed, or it appeared to me that she thought that
9 other people would have recorded these words, and she is
10 surprised that no-one else has. So I don't think she
11 has really been suggesting that she knows.
- 12 COMSR: I think the safest course to adopt is to
13 find the passage of evidence and put what appears in the
14 evidence.
- 15 MR ABBOTT: We will find that.
16 XXN
- 17 Q. Do you know of any descendants of Rebecca Wilson.
18 A. I know Veronica Brodie.
19 Q. Anyone else.
20 A. As you know, on the footage we were at a house where
21 there were relatives and I was briefly introduced, you
22 know, to these people.
23 Q. Who are these other people, these other descendants.
24 A. That's up to Veronica Brodie to say whether she wants
25 those names mentioned, I think.
26 Q. You are claiming that you have been in communication
27 with the descendants of Rebecca Wilson.
28 A. Not in such a close manner that I would speak
29 disrespectfully of them.
30 Q. I am not asking you to speak disrespectfully of them. I
31 am just asking you to tell us who you regard as the
32 descendants of Rebecca Wilson.
33 A. It is disrespectful to ask about the descendants of
34 Aboriginal people without asking for their permission
35 first as far as I'm concerned.
36 Q. Even to give their names.
37 A. I personally know only Veronica, in terms of know, but

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- 1 not - I haven't known her closely in terms of a familial
2 situation, as I knew Gladys. No comparison between them.
- 3 Q. You have obviously spoken to Veronica Brodie -
4 A. Yes.
- 5 Q. Since you gave your evidence yesterday.
6 A. She has rung me.
- 7 Q. Any other descendants that you have spoken to.
8 A. Apart from saying hello to some people whose faces were
9 familiar, I might, I can't recall.
- 10 Q. The only person you have spoken to about your evidence
11 yesterday is Veronica Brodie, is it.
12 A. She is Rebecca Wilson's daughter, so she'd be the only
13 one I would need to speak to.
- 14 Q. May be, but that's not my question. Apart from Mr
15 Wardle, I don't want to know what you have said to him -
16 A. No, no.
- 17 Q. Have you spoken to anyone else about your evidence
18 yesterday.
19 A. Yes. I've spoken to Katrina Power.
20 Q. When.
21 A. After I left here last night. She took me home.
- 22 Q. Did she tell you that you should cease your evidence.
23 A. Katrina? No. She said 'Go for it, Betty'.
- 24 Q. Has anyone asked you to desist from giving further
25 evidence.
26 A. Veronica Brodie rang me this morning and asked me not to
27 speak about the notebook, and if the notebook came into
28 question under cross-examination - I will read a
29 statement -
- 30 Q. I am not asking you to read a statement. I am asking
31 you whether anyone else has spoken to you, and you have
32 told me Veronica Brodie rang you this morning.
33 A. Nobody else - Katrina rang and said that she had been
34 ill during the night.
- 35 Q. On this issue of giving evidence -
36 A. But she didn't indicate what Veronica had indicated.
37 Veronica is the only one that indicated what is in this
38 statement, which I will -

1 COMSR

2 Q. We don't want any statements read. Just listen to the
3 questions and answer them.

4 XXN

5 Q. So Veronica Brodie requested you to desist from giving
6 evidence.

7 A. Indeed, for a period of consideration, because she
8 hasn't - I don't know. I am making an assumption,
9 either she hasn't contacted everybody in the family - I
10 don't know.

11 COMSR

12 Q. I don't want you to make any assumptions. Just say if
13 you don't know.

14 A. I don't know. She asked me to stop, not to bring
15 Glady's -

16 Q. That's all I need to know.

17 A. Not to bring Glady's - Koomi's words into here and my
18 notebook. And I have gone over that, and I should have
19 read the statement before.

20 XXN

21 Q. You told us yesterday at p.372 'I never dreamed that
22 mine was the only recording of this'. When you said
23 that, you were referring to your notes and your tape.

24 A. Yes, and to Glady's - and to the notes about Glady,
25 about everything, everything.

26 Q. Put aside the notes of Glady.

27 A. One can't.

28 Q. We are only concerned in this commission with the notes
29 and tapes relating to Rebecca Wilson.

30 A. Yes.

31 Q. Have you been told by anyone that, as far as is known,
32 yours is the only recording of this, that is, this
33 alleged secret sacred women's business.

34 A. No. No non-indigenous person has yet rung me, come
35 here, made a statement, and said they have done this.

36 Only Bob Ellis in fact has said. I don't know of
37 anybody else.

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1 Q. When you came to the view, in your evidence 'I never
2 dreamed that mine was the only recording of this', is
3 that a view you came to without anyone telling you
4 anything.

5 A. I see. Who would tell me? I mean, the evidence is -
6 seems so far that I am alone in having recorded this,
7 and I regret that. I wish there was somebody else. I
8 wish there were 20 other people.

9 COMSR: Are there going to be any further
10 questions asked of this witness?

11 MR ABBOTT: When we get the raw footage, and when we
12 get the typed notes and the notebook. It will be my
13 submission that unless and until we receive - and I am
14 not speaking of me as a man, but the women involved in
15 this commission - and are able to question Mrs Fisher in
16 relation to her notebook and her typed transcript, her
17 evidence should be disregarded in its entirety as being
18 untested.

19 MR SMITH: I think the other position is that the
20 tape has to be further investigated, and Mrs Fisher will
21 be at least questioned or required to give further
22 evidence in relation to that. I am talking of the
23 Channel 2 video tape that was handed back to the hearing
24 this morning. So at least that is holding up the
25 completion of Mrs Fisher's evidence. Unless there are
26 any other matters that can be pursued.

27 MR MEYER: There is a third category, and that is
28 matters that may be suppressed pursuant to Section 35
29 but not suppressed down to women only. So there is a
30 third group that may arise.

31 MR SMITH: That raises then the question of pursuit
32 with Mrs Fisher immediately of questions relating to
33 just that topic, the Section 35 topic.

34 MR MEYER: I think I would rather do that after we
35 have had the tape.

36 MRS SHAW: The other matter is the tape that was
37 tendered, which I think was going to be heard by you,
38 Madam Commissioner, in any event. We would like to know

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- 1 whether we can at least see that or hear that at some
2 stage. That is the tape that was played on the 7.30
3 Report and has been tendered, Exhibit 20.
- 4 WITNESS: May I ask a question? Is it correct in
5 my belief that I proffered that tape to you on the
6 understanding that Gladys' voice is excluded from any
7 reproduced recordings? Because I must deny - I must go
8 straight out of this room if that's not going - if that
9 can't be carried out, I must go.
- 10 COMSR: What you are saying to me -
- 11 WITNESS: I understood that is what I agreed.
- 12 COMSR: That it be excluded from any reproduced
13 recording?
- 14 WITNESS: Any playing or recording, or anything.
15 That Gladys' voice is not heard.
- 16 MR SMITH: There were two conditions. The first
17 condition was that the voice of Gladys Elphick be heard
18 only be yourself and Ms Simpson, counsel assisting. The
19 second condition was that the voice of Rebecca Wilson be
20 heard by women only.
- 21 WITNESS: Yes. And the second one was that if the
22 notebook ever appears in this court, it will remain
23 wholly and solely within your possession and be seen
24 only by you and Andrea Simpson, and never by others.
25 That was, I understood, what we had agreed.
- 26 COMSR: That is what you asked for. There have
27 been no rulings made on that.
- 28 WITNESS: In that case, I begin to feel I had
29 better leave this court.
- 30 COMSR: You are under examination at the present
31 time, you understand. We have not got any notebook with
32 us. I think that perhaps the course -
- 33 WITNESS: I better speak to my lawyer, I think.
- 34 COMSR: The course we should adopt here is to
35 deal with the more complete video, but I understand
36 there are some arguments still to be addressed to me
37 concerning the playing of that.

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- 1 MR SMITH: Yes. The 7.30 Report video cannot be
2 resolved until this afternoon.
- 3 COMSR: As I understood it, and I may be wrong,
4 but during the course of that in fact we hear the voice
5 of Gladys Elphick, do we?
- 6 WITNESS: That's not on the 7.30 Report.
- 7 COMSR: Rebecca Wilson.
- 8 MR SMITH: Yes. What could be proceeded with
9 immediately is further examination of this witness in
10 the area of those matters encompassed by Section 35 that
11 were not examined upon either yesterday or today.
- 12 WITNESS: May I ask a question? Veronica Brodie's
13 relatives, who are undoubtedly on the 7.30 raw footage
14 tape, do they need to be consulted before their
15 appearance?
- 16 COMSR: It is not up to me to answer questions
17 of that sort. Are you asking me -
- 18 WITNESS: I am asking you if you would feel that
19 perhaps there is a breach of at least -
- 20 COMSR: That is a matter Mr Anderson will be
21 addressing me on, the problems, if any, of that tape
22 being shown. I will not be hearing that argument until
23 this afternoon. There is an area of examination which
24 Mr Smith is saying we can now proceed with, those
25 matters which are not in the category of secret sacred
26 women's business but are in the category of confidential
27 Aboriginal tradition which are covered by the terms of
28 the authorisation under Section 35.
- 29 MR SMITH: If there are any such categories they
30 ought to be identified. If they are appropriately
31 identified - and I include in that, sacred secret
32 women's business - then the hearing should proceed in
33 camera to deal with those matters.
- 34 WITNESS: If my evidence is to be suppressed, I
35 feel I should walk out now because, I mean, if my
36 evidence is going to be - whatever the legal term was,
37 because there is no point in me being here. I mean, if
38 that's -

E.M. FISHER XXN

- 1 COMSR: I understood you to tell me originally
2 that your evidence was divided into two parts: that
3 which could be heard publicly, and that which, because
4 of the nature of it, could only be heard in private
5 hearing.
- 6 WITNESS: Quite so. Counsel has indicated his
7 intention, and I can't remember the legal term, but it
8 means to scrub out all my evidence and that will include
9 what's heard in camera and the tape and everything.
- 10 COMSR: I think you must have misunderstood Mr
11 Smith. There is no question of anything being -
- 12 MR WARDLE: I think she was referring to Mr Abbott.
- 13 COMSR: Mr Abbott. No, he is going to address a
14 legal argument to me that your evidence should be
15 disregarded in the event that the notebook and the typed
16 transcript are not produced.
- 17 MR ABBOTT: It is a question of weight or
18 admissibility. I am not suggesting it be scrubbed or
19 expunged. It will always be there.
- 20 WITNESS: I don't know the legal terms, Mr Abbott.
21 I'm sorry.
- 22 CONTINUED

1 COMSR: I'm trying to determine whether or not
2 there are any counsel here who are requesting that the
3 inquiry go into private hearing to deal with matters,
4 first of all, which are covered by s.35 and the
5 authorisation under s.35 and which are not in the
6 category of 'secret women's business'. Are there any
7 matters about which counsel could question the witness
8 on to come into that category?

9 MRS SHAW: That doesn't include the
10 cross-examination on what we have already heard, the
11 continuation of what we have already heard? I haven't
12 cross-examined yet.

13 COMSR: I appreciate that. At least Mrs Shaw
14 would wish, either now or at some stage, that the
15 inquiry go into private session so that you have an
16 opportunity to cross-examine on those matters?

17 MRS SHAW: That is so.

18 WITNESS: If this is for women's only?

19 COMSR: No, we are dealing with matters that are
20 confidential, but not in that category.

21 WITNESS: Am I required within that?

22 COMSR: You will be required, yes, to give
23 evidence. You say that you wish to deal with that
24 category of matters at this stage. Does anyone wish to
25 be heard on the application of this inquiry to go into
26 private session to deal with those matters?

27 MR SMITH: Could I have a clarification of Mrs
28 Shaw's position? As I understand it, the only matter
29 outstanding is the question of this witness's evidence
30 about women's business or secret sacred women's
31 business. That's the position to make a s.35 matter;
32 namely, divulgence of material in contravention of
33 Aboriginal tradition. Not including that, I doubt
34 whether that is the outstanding topic. Am I right?

35 MR ABBOTT: That is right. I desisted, for obvious
36 reasons, to go into the rest of the statement on the
37 basis that it would be dealt with in camera, presumably
38 with women only.

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1 MR SMITH: And, as I understand the evidence thus
2 far from Mrs Fisher, the only thing outstanding is that
3 topic; that is, the topic of women's business, secret
4 sacred or otherwise.

5 MRS SHAW: Mr Abbott deliberately avoided that
6 topic altogether.

7 MR MEYER: I believe that that is a bit wider and
8 there is a middle space where we are to go into the
9 closed court with men. And the first reason, for
10 example, is for you to rule on what may or may not be
11 restricted in relation to Exhibit 6, which is in the
12 present, I mean, entirely restricted and can't be argued
13 in open court. When we get into closed court, we can at
14 least fix up matters like that.

15 MR SMITH: That statement is currently all
16 suppressed, apart from - I have indicated to the media,
17 Madam Commissioner, that we would endeavour to precisely
18 identify what is going to provoke the court to go into
19 private session, so that they can know their position
20 before being bundled out of the hearing room, as it
21 were. Could I please ask counsel to do that so that if
22 we could precisely identify what we are going to be
23 dealing with in camera so that it can be labelled, I
24 suppose, and not be the subject of any contention.

25 MS NELSON: Can I make a practical suggestion. We
26 hadn't actually finished in camera with matters that
27 were to be heard only by women, and I understand Mrs
28 Shaw has some examination there. Perhaps we should
29 conclude that before there is debate about whether a
30 part of Exhibit 6 ought to be released. The witness may
31 not necessarily need to remain for that. If we take it
32 a step at the time and complete what we have started.

33 MR MEYER: I withdraw my suggestion.

34 COMSR: The application then is that we go into
35 private session, restricted only to women and those
36 women permitted to remain in the hearing room.

37 HEARING CONTINUES IN PRIVATE

38 ADJOURNED 12.30 P.M.

1 RESUMING 12.40 P.M.

2 HEARING CONTINUES IN PRIVATE

3 MS SIMPSON: We have in the court, apart from the
4 people permitted to remain on the last occasion when
5 this was in camera, a number of Aboriginal ladies whom
6 Mrs Fisher has asked to remain in the court while she
7 completes her evidence in camera.

8 COMSR: Mrs Fisher, it's a matter that I have to
9 determine, because Aboriginal ladies, like any other
10 persons, you will understand, are in the category of
11 members of the public, and I have to determine -

12 MS VAN DER BYL: Can I just say something?

13 COMSR: Do you represent them at all?

14 MS VAN DER BYL: No.

15 COMSR: I understand that you're making an
16 application to be permitted to remain in the hearing
17 while this part of the evidence is dealt with. I do
18 have a difficulty in that I have excluded all members of
19 the public and only allowed certain persons to be
20 present in the hearing, with the idea that the least
21 essential number of persons hear this evidence.

22 MS SIMPSON: Perhaps if I help. The ladies who are
23 here have told me they are Veronica Brodie, who the
24 Commission has already heard is the daughter of Rebecca
25 Wilson. The other ladies are Muriel Van Der Byl, April
26 Newchurch, Evelyn Newchurch and Cherie Watson. Perhaps
27 if Mrs Fisher could give some evidence as to their
28 relationship, as she understands it, to Rebecca Wilson's
29 family, that may assist the Commission in making a
30 ruling in relation to their application to remain in the
31 hearing remain.

32 COMSR: How am I to determine that? As I
33 understand it, Mrs Fisher is an amateur historian and I
34 just don't know the weight that I can place on that.
35 What this would mean is that I would have to have a
36 hearing to determine whether or not you ladies should be
37 permitted to remain. Now, I have no difficulty with the
38 daughter remaining. I have made a ruling as to who

1 should be permitted to remain in court and the basis on
2 which they do so, and that is on the basis of signed
3 undertakings.

4 Surprisingly, s.35 of the Aboriginal Heritage Act
5 doesn't, on the face of it, exclude Aboriginal persons
6 from being persons to whom information should not be
7 divulged if it is contrary to Aboriginal tradition.

8 MS VAN DER BYL: It's our family.

9 COMSR: I know you are telling me that.

10 WITNESS: They are. I can -

11 COMSR: Just a moment.

12 MS VAN DER BYL: Is she family? Can I just ask is Mrs
13 Chapman family?

14 COMSR: No, she is a party. And perhaps if I
15 just read to you the basis on which anyone's permitted
16 to remain here. Now, I have been authorised under s.35
17 of the Aboriginal Heritage Act that for the purposes of
18 this Royal Commission, I can hear - perhaps I'll put it
19 this way: the Minister has authorised 'The divulgence of
20 information by a person to his or her legal
21 representative for or in connection with the Royal
22 Commission. The divulgence of information by counsel
23 assisting the Royal Commission to a witness or a
24 potential witness or his or her legal representative for
25 or in connection with the Royal Commission'. Mrs
26 Chapman comes into that category. 'And the divulgence
27 of information by the Commissioner or counsel assisting
28 the Royal Commission during the course of the hearing to
29 those persons permitted by the Commissioner to be
30 present during the divulgence of information by a
31 representative appearing on behalf of any witness'.

32 Now, you see it is a very difficult matter for me.
33 I've been confronted by a group of Aboriginal ladies to
34 be able to make a determination as to their status.
35 Now, I have no doubt about the lady that I saw on
36 television and who has been identified was a daughter;
37 and I just wonder if your concerns couldn't be met by
38 having her in court during the closed hearing, because

1 it's very difficult for me to determine your claims as
2 to relationship without any expert information before me
3 is the problem I'm confronted with.

4 WITNESS: What is `expert information'?

5 COMSR: Just one moment. You don't hold
6 yourself out as an expert.

7 MS SIMPSON: May I suggest perhaps that the hearing
8 adjourns until after lunch and perhaps during that
9 interval this matter can be resolved.

10 MS VAN DER BYL: Do we have to go and get the genealogy?

11 COMSR: That is the problem I'm confronted with.

12 MS VAN DER BYL: We're family.

13 COMSR: It is difficult for me to make a snap
14 decision when confronted with a group of persons who are
15 saying that `We bear a particular relationship to that'.

16 MS PIKE: Clearly, this problem is going to arise
17 as the hearing progresses.

18 COMSR: I can see that.

19 MS PIKE: It seems to me that perhaps what we
20 could be looking at is a process, because certainly from
21 the perspective of Dr Fergie, not that it's particularly
22 relevant, these ladies would feel uncomfortable about
23 excluding them from in camera evidence when it is their
24 very culture which is under discussion.

25 MRS SHAW: Except there are people who excluded
26 themselves on the first day of the Commission.

27 MS PIKE: Really, as a rule, Aboriginal women from
28 the Ngarrindjeri tribe should be permitted to remain.
29 It's a matter of addressing that. It seems that we
30 should be looking at a process and what I have in my
31 mind, whether there is an affidavit or statutory
32 declaration suggesting or setting out enough information
33 for you to be satisfied, because it would seem somewhat
34 of an anomaly if the only people that hear the evidence
35 in camera are white lawyers and witnesses and if the
36 people excluded are Ngarrindjeri women. We don't say
37 that it's witnesses, but Ngarrindjeri women in general
38 perhaps.

- 1 COMSR: I appreciate that. The legal
2 representatives present have been given a right to
3 appear in that capacity. The parties are here and have
4 leave to appear also, so I don't have any doubt as to
5 the basis on which they're here. When I'm confronted
6 with a group of ladies who come along and say 'I wish to
7 be present because of this or that relationship' and I
8 have no way of authenticating anything that is said to
9 me, that makes it a very difficult decision.
- 10 MS NELSON: My client may be able to help because he
11 is an expert in the field, and I understand that
12 genealogy is an established thing. He is not here at
13 the moment, but I could take instructions over the
14 luncheon adjournment - and also Dr Clarke may be able to
15 give some help in that field.
- 16 COMSR: It is not only that. Now, I want to
17 make sure that there is going to be no argument
18 addressed that the classification of persons who should
19 have access to this knowledge is restricted in such a
20 way that it does not include the ladies who are seeking
21 to remain here, and that's a matter on which I might
22 have to have some evidence. I will ask Mrs Fisher.
- 23 Q. You say that the information is not to be divulged to
24 anyone other than whom.
- 25 A. Aboriginal women. Which information are we saying?
- 26 Q. The most secret of the information.
- 27 A. Must never be spoken of other than to Aboriginal women.
- 28 Q. I understood you to say earlier that is not to be
29 divulged to anyone other than women.
- 30 A. I'm talking about here, their most secret - which is not
31 necessarily noted but to which and to which I cannot
32 refer, but the most secret.
- 33 Q. In any event, you're saying that that information, you
34 wouldn't be prepared to give to anyone other than
35 Aboriginal women.
- 36 A. And, yes -
- 37 MS VAN DER BYL: The family.
- 38 MRS SHAW: 'The family' the Aboriginal women are

1 saying.

2 A. My statement is not necessarily noted and never spoken
3 of to other than Aboriginal women at any time anywhere.

4 But that is something that is not necessarily noted in
5 terms of the notebook, in terms of anything.

6 COMSR

7 Q. So you haven't noted it anywhere.

8 A. Yes.

9 Q. So that you can't give any evidence as to having noted
10 it at all.

11 A. No.

12 Q. Nor having heard of it in so many words.

13 A. Yes. I have to ask permission to even breathe it, let's
14 put it that way. I have to ask permission of Aboriginal
15 women.

16 MS NELSON: As I understand the status of the women
17 that are seeking to remain, that is twofold: first, many
18 of or all of them are Aboriginal women; and, secondly,
19 are of the family of Rebecca Wilson. So that a
20 combination of those two categories entitles them to be
21 present if any of that information is revealed. I may
22 be wrong, but that is my understanding.

23 COMSR: I don't know if Miss Pyke agrees with
24 that classification, but still.

25 MS PIKE: We note in general that this inquiry is
26 about the beliefs of Ngarrindjeri women, and to exclude
27 them is -

28 COMSR: I appreciate that.

29 MS PIKE: At the very least.

30 COMSR: I don't say that it's not a difficult
31 situation. I have a group of ladies who tell me that
32 they are Ngarrindjeri women and tell me they are
33 relatives and, as such, are entitled to be heard. What
34 I need to know, I suppose, is some authentication of
35 that fact, and that in disclosing the information that
36 there would be no problem in relation to s.35 arising.
37 I certainly would find it a most invidious position if
38 white women were present listening to this information

1 and if persons who genuinely are entitled to hear it
2 without any permission of the Commission at all were
3 excluded. But, at the same time, I do have a difficulty
4 in being able to verify these matters. So, I do propose
5 to adjourn the Commission - it is ten to one in any
6 event - so that we can decide whether or not there is
7 some way that this problem can be tackled and so that I
8 can satisfy myself that I'm not doing the wrong thing.
9 We will have to give some consideration to this over the
10 luncheon adjournment then. We do have a matter listed
11 with the press, isn't there, an application that is
12 coming on at 4 o'clock?

13 MS SIMPSON: Over the luncheon adjournment, perhaps
14 if I try and rearrange those submissions to allow Mrs
15 Fisher's evidence to be completed.

16 COMSR: It would be desirable if we could. Mrs
17 Fisher hasn't that much longer in the witness box and it
18 would be desirable if we could dispose of her evidence
19 today because she has been a long time in the witness
20 box.

21 WITNESS: It's time I was disposed of.

22 COMSR: Your evidence, not yourself.

23 WITNESS: A lot of people have told me.

24 ADJOURNED 12.55 P.M.

- 1 RESUMING 2.20 P.M. IN PRIVATE
2 MS SIMPSON: Commissioner, we have in the courtroom
3 now four Aboriginal women. They are Val Power, Muriel
4 Van Der Byl, Edna Newchurch and Veronica Brodie. And Mr
5 Steve Hemming, from the South Australian Museum, is also
6 in the courtroom and he is able to identify those
7 ladies, as I understand it, as Ngarrindjeri women and he
8 knows them personally.
9 COMSR: Do you propose to call him?
10 MS SIMPSON: Perhaps Mr Hemming could just confirm
11 that, from the floor of the hearing room?
12 COMSR: Yes.
13 Mr Hemming, you are an anthropologist.
14 MR HEMMING: Yes, I am an historian actually and I
15 know all of those women. Some of them more than others.
16 So I know they are all Wilson descendants basically.
17 Most of them I know their detailed genealogies, but I
18 don't know Edna Newchurch quite as well, but I know that
19 she is a Wilson descendant.
20 COMSR: You are able to say they are all
21 Ngarrindjeri women?
22 MR HEMMING: Yes.
23 COMSR: You are not able to say whether it would
24 be contrary to Aboriginal tradition for them to hear
25 this evidence?
26 MR HEMMING: I think that would be up to them to
27 determine really. I really don't know what the nature
28 of the evidence is.
29 COMSR: Yes, I appreciate that.
30 Dr Fergie is in court, isn't she?
31 MS PYKE: Dr Fergie, yes, she is present.
32 COMSR: Perhaps I might be able to ask Dr
33 Fergie, would it be in accordance with or would it be
34 contrary to Aboriginal tradition for these ladies to
35 hear evidence concerning women's business?
36 DR FERGIE: I don't believe so.
37 COMSR: I think that gets me over the difficulty
38 and I propose to rule as follows:

1 That I am satisfied that Muriel Van Der Byl,
2 Veronica Brodie, Edna Newchurch and Val Power are
3 Aboriginal women and are members of the Ngarrindjeri
4 community and it would not be contrary to Aboriginal
5 tradition for them to remain in the hearing room during
6 this private session. In the event that I am mistaken
7 in that conclusion then under the s.35 authorisation for
8 the Minister of Aboriginal Affairs, they are permitted
9 to remain in the hearing room while Mrs Fisher is giving
10 evidence during this private session on the basis that
11 the undertakings required of all persons who are
12

14 Have those ladies completed the necessary
15 undertakings?

16 MS SIMPSON: I have not asked them for an
17 undertaking, because they are Ngarrindjeri women. They
18 have assured me that they more than anybody are keen
19 that this information doesn't go out, but they can
20 complete those, if you require them to.

21 COMSR: I suppose I am asking it out of an
22 abundance of caution, in the event that I am wrong in my
23 conclusions, then I permitted you to remain in the
24 hearing room.

25 Is there any objection to signing the undertakings
26 as to confidentiality?

27 MS POWER: No, just I would like people to know who
28 am.

29 COMSR: Yes.

30 MS POWER: I am the Women's Adviser to the State
31 Department of Aboriginal Affairs. It is my job to know
32 everybody in this State. I am also the granddaughter of
33 Charles Wilson and I am also the daughter of Mary
34 Wilson, who is married to Donald James Karpany who are
35 all Ngarrindjeri descent. I am Ngarrindjeri. My
36 sisters are Ngarrindjeri. Veronica is also my cousin.
37 Edna is also my cousin. We are all related on John
38 Wilson's side of the Wilson genealogy.

(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

- 1 COMSR: So, you are members of the family of
2 Wilson?
- 3 MS POWER: Yes.
- 4 COMSR: On the basis of that, I think I can
5 confidently permit all the ladies to be present in so
6 far as you need my permission because I think that no
7 permission is required in your case as clearly it
8 wouldn't appear to be any breach of s.35 for you ladies
9 to be present.
10 Are we in a position to proceed?
- 11 MS NELSON: Perhaps just note that Mr Hemming has
12 now left the courtroom.
- 13 COMSR: Yes, we will note that Mr Hemming has
14 now left the court and there are only women present in
15 the hearing room, at this time.
- 16 CONTINUED

1 WITNESS E.M. FISHER, CROSS-EXAMINATION BY MS SHAW
CONTINUING

2 IN PRIVATE

3 Q. You have told us a little so far of your extensive
4 knowledge of Aboriginal people.

5 A. I don't - Madam Commissioner, I don't profess to an
6 extensive knowledge. I profess only to a periphery
7 knowledge.

8 Q. You said you are a good friend of Graham Jenkins.

9 A. Yes, I did know him. I haven't been in touch for a long
10 time, but I did know him, yes, in that - the time that I

11

12 Q. Does that mean to say you are a good friend of his.

13 A. I am not a person who goes to his house as a good
14 friend, but in terms of the fact that we used to ring
15 each up with the research we were doing and I sent him
16 some material and he sent me some material from his
17 research. We were - he wished me well. I wished him
18 well and so on, yes.

19 Q. Did you ever read his book.

20 A. Of course, yes.

21 Q. I think you mentioned, in your own book, that you were
22 familiar with the work 'Survival in our own Land.'

23 A. Yes.

24 Q. Are there other books on the Aboriginal people that you
25 have read.

26 A. Yes.

27 Q. Would it be fair to say many books you have read.

28 A. I have got a library of - perhaps I can describe it,
29 Madam Commissioner? If you take the front of this
30 structure (INDICATES), which probably fills with books
31 and magazines, it might fill the shelving on the whole
32 of that structure. It might be slightly less, yes.

33 Q. Is it the case that throughout your life you have taken
34 a deep interest in the plight of the Aboriginal people.

35 A. I think it would be more correct to say that I have
36 always taken a deep interest in the dispossessed and the
37 people who seem to be less privileged in the community.
38 Whether they are Anglo-Saxon, whoever, yes.

- 1 Q. Are there any other Aboriginal people apart from Gladys
2 Elphick that you had any discussions with for the
3 purposes of recording history.
4 A. Yes.
5 Q. Who were those.
6 A. I don't feel that I should - I don't want necessarily to
7 bring the names of Gladys's last remaining relative in
8 of her generation. She is an old, very elderly lady.
9 She is of the Ngarrindjeri people - sorry, she is of the
10 Narrunga people, not of the Ngarrindjeri and she would
11 not be - she would not be - she is widowed.
12 Q. I don't press that, I am simply -
13 A. I would be very upset -
14 COMSR
15 Q.

Lines 15 - 38 suppressed

1 A.

Lines 1 - 6 suppressed

7 Q. You also said that 'All Aboriginal people always have
8 women's business and men's business and know that it
9 must never be mixed up.' Is that based on what Gladys
10 and the others told you.

11 A. Yes.

12 Q. You gave some evidence about the Taplin story,
Is that something you

14 located in your reading.

15 A. It is in the tape - the cassette tape which, Madam
16 Commissioner, you have in your possession.

17 Q. Is that something that you were told by Gladys or
18 Rebecca.

19 A. No, until the tape - until that was said on the tape I
20 didn't know anything about it. That was the first I had
21 heard of it. I might have read something in Taplin, but
22 now I - yes.

23 Q. Who said it on the tape.

24 A. Rebecca Wilson.

25 Q. That was during the course of the meeting on the same
26 day that you made some notes.

27 A. Yes, to the best of my knowledge, that was on the same
28 day, yes.

29 Q. I just want to clear up with you, if I can, your
30 evidence in relation to your notes. You said this
31 morning that 'When you speak to an Aboriginal person,
32 they will say "That's culture. All gone." So you know
33 never to ask a question about that again.'

34 A. Yes.

35 Q. Can you remember saying that this morning.

36 A. Yes.

37 Q. Who were you talking about then.

38 A. Gladys.

- 1 Q. Gladys Elphick.
2 A. Yes.
3 Q. Do you say that those are words Gladys said to you.
4 A. Yes, she said that to me twice at least that I can
5 remember clearly.

Lines 6 - 14 suppressed

- 15 Q. Can I just come back to Gladys. You also said that no
16 Aboriginal ceremony takes place unless there is, in
17 fact, a creation story. Is that something Gladys told
18 you.
19 A. I should have said unless there is a background in a
20 creation story. If I can correct that, yes, a
21 background in a creation story.
22 Q. You actually said the creation story is absolutely
23 forbidden.
24 A. Yes.
25 Q. What do you mean by that.
26 A. I can only say what I understand in general terms, very
27 general terms.

Pages 542 - 544

Closed

545
RF 10GPP

E.M. FISHER XXN (MRS SHAW)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

1 A.

Lines 1 - 24 suppressed

- 25 Q. What you said yesterday was that Rebecca Wilson said to
26 you, in general terms, that there were sacred places
27 around the Ngarrindjeri area, north, south, east and
28 west.
29 A. Yes.
30 Q. What did you understand to be the Ngarrindjeri area.
31 A. The lands of the Ngarrindjeri nation. The lands of the
32 Ngarrindjeri nation.
33 Q. How far did you understand that land to extend.
34 A. I haven't got the map from -
35 Q. 'The World that Was'.
36 A. No.
37 Q. 'Survival in our Land'.
38 A. Yes.

E.M. FISHER XXN (MRS SHAW)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

1 COMSR: Are you asking the witness what she
2 understood back in 1967 -

3 MRS SHAW: Yes.

4 COMSR: Or what does she understand now?

5 A. Yes, what I understood as the nations on other maps that
6 indicated something the same as I have at home in my
7 library.

8 Q. I think what Mrs Shaw is asking you is back in 1967,
9 when you had this conversation, what did you then
10 understand to be the land.

11 A. That area that is, in general, indicated. I understood
12 it to mean the Coorong, the Murray Mouth, Goolwa, Cape
13 Jervis, and up in a sort of - what do you call it - a
14 crescent shape, back down to that area.

15 XXN

16 Q. And up to Murray Bridge kind of area.

17 A. Yes.

18 Q. So is it the case that you knew from what she was
20 saying, that the whole of that area covered by the
21 Ngarrindjeri nation was sacred.

22 A. The whole of the Ngarrindjeri land.

23 Q. Yes.

24 A. When - in 1834 it was certainly - every bit of it was
25 sacred and some of it was secret and never to be
26 revealed to people whose business it was not. Others
27 had other business, you know.

28 Q.

Lines 28 - 38 suppressed

Closed

549
RF 10GPP

E.M. FISHER XXN (MRS SHAW)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

1

Lines 1 - 3 suppressed

- 4 Q. You don't know whether she used the word `Kumarangk' or
5 not.
6 A. No, I can't tell you.
7 Q. And you certainly never made a note that she mentioned
8 the word `Kumarangk'.
9 A. I've got `K' and some letters. I couldn't have - that
10 would have been the first time that I heard it
11 mentioned, if she did mention it, and I wouldn't have
12 been able to spell it straight away, and I may not have
13 asked afterwards. Certainly it is not in the notes in
14 that form.
15 Q. Can you spell `Kumarangk' now.
16 A. Well, yes, but that's not because - I've learnt that by
17 reading material since.
18 Q. How do you spell `Kumarangk'.
19 A. K-U-M-A-R-A-N-G-K.
20 Q. When did you learn to spell that.
21 A. I think Shirley Peasley told me how to spell it.
22 Q. When did Shirley tell you how to spell that.
23 A. It must have been at one of the International - after
24 one of the International Women's Day luncheons I was
25 talking to her. I said `How do you spell this name? I
26 don't know why you people have got these words'. And
27 she laughed and spelt it for me. I wrote it.
28 Q. How did you come to be talking to Shirley Peasley about
29 Kumarangk.
30 A. It was the International Women's Day luncheon and I
31 think that would be the one that Val Power was at.
32 Q. But why were you interested in the spelling of
33 `Kumarangk' after a conference.
34 A. She said something to me about some woman's - I don't
35 know whether she was -
37 that. I'm not sure. Something like

(PRIVATE)

- 1 Q. Was that the first time you'd heard the word
2 `Kumarangk'.
3 A. I don't think it is the first time. Since then I've
4 done a lot of reading and I could have read it in
5 what's-his-name's book, or some other place.
6 Q. You mean Jenkin's book.
7 A. Yes. But I didn't commit the spelling to - and I was
8 having a joke with the Aboriginal women that they invent
9 their language so we can find it hard to spell.
10 Q. When do you think that you first became aware of the
11 word `Kumarangk' as such.
12 A. That would be about that time, in 1990 probably.
13 Q. When did you first become aware it referred to Hindmarsh
14 Island.
15 A. That would be - must have been at the same time. She
16 would have explained that to me, I suppose.
17 Q. In the statement you prepared for the commission, you
18 said -
19 A. You are referring to that 6 -
20 Q. I am referring to -
21 A. Please, can I have a copy of it in front of me?
22 Q. Can I just ask you the question first and it can be
23 provided to you whilst I ask you the question. When you
24 prepared that statement, you said in that statement
25 that, in particular,

28 but the most important sites to her and to
29 Aboriginal people, and especially to Aboriginal women,
30 were those involving the waters around Hindmarsh Island
31 which she called Kumarangk.
32 A. Well, she may have. Sorry. You see, I can't read the
33 notes. It says `K' something. The notes in the
34 notebook say `KU' something, and I am assuming it is
35 Kumarangk.
36 Q. Did she call it `Kumarangk' or not.
37 A. That must be one of my difficulties in expressing to you
that I was scribbling. I was scribbling those notes.

E.M. FISHER XXN (MRS SHAW)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

1 Q. I appreciate that, but what is your memory now. Did she
2 call it -

3 A. My memory is if I have got `KU' something down. She may
4 have been speaking about Kumarangk. She may have been,
5 I don't know.

6 COMSR: I note that one of the ladies present is
7 taking notes of this part of the -

8 MS POWER: I wish to intervene. One of the reasons
9 why I am taking notes, I want that officer to bring
10 somebody down here who knows the interpretation of the
11 Ngarrindjeri dialect. One of the things that -

12 MRS SHAW: I object to this. I am in the middle of
13 cross-examining a witness and this is being said in the
14 presence of the witness.

15 MS POWER: I see everybody else writing here, and I
16 was told -

17 COMSR: Just a moment. I wonder if you could
18 speak to counsel assisting. Not aloud.

19 MS POWER: I was told by that lady up there that if
20 I wanted to come down here, I had to go up there and she
21 said `Write it down', and that's the reason why I am
22 writing that there has got to be a

24 COMSR: This is one of the reasons why there is
25 problems in allowing persons not familiar with the
26 requirements of the court in a closed hearing -

27 MRS SHAW: I object to this.

28 MS POWER: I am familiar with it, but the thing
29 that worries me here, I am a Ngarrindjeri woman and
30 there is no Ngarrindjeri interpreter here, and I will
31 insist that this commission has an interpreter.

32 MS VAN DER BYL: This is not a court case. It is a
33 hearing. It is a hearing for information of the truth.

34 COMSR: I appreciate your concerns, but Mrs Shaw
35 is in the middle of conducting a cross-examination here.

36 Can you just listen, ladies?

37 CONTINUED

E.M. FISHER XXN (MRS SHAW)
(SUPPRESSION ORDER LIFTED 22.8.95)

- 1 If you have got some concerns, and I'm not - if you have
2 some concerns, can you speak to Mrs Simpson afterwards
3 about it because I'm not really sure that I need an
4 interpreter to listen to Mrs Fisher.
- 5 WITNESS: You must -
- 6 COMSR: I would like to get ahead with the
7 examination and then you can discuss your concerns, if
8 any, to Mrs Simpson.
- 9 MS POWER: I will.
- 10 COMSR: We can't have interruptions whilst the
11 hearing is going on. I am a little concerned because I
12 understand that - have they signed the undertakings?
- 13 MS SIMPSON: No, not as yet. The undertaking only
14 relates to the divulgence of information which would be
15 in contravention of Aboriginal tradition.
- 16 COMSR: I see, right. I appreciate you have
17 some concerns and I would ask you to speak to Mrs
18 Simpson afterwards.
- 19 MS VANDER BYL: Mrs Chapman has been writing profusely
20 and that is worrying us. That is of great concern. And
21 I apologise, but you expect Aboriginals to respect white
22 customs and we expect a little bit of respect as well,
23 and we find that very offensive.
- 24 COMSR: Just a minute. I will deal with that at
25 a later stage. Mrs Chapman, I must ask you not to be
26 taking notes of matters where the transcript itself is
27 subject to restriction, because I don't know what is
28 going to happen to your notes.
- 29 MS BOLZON: Very well.
- 30 COMSR: I want no more interruptions. We must
31 let Mrs Shaw get ahead of the cross-examination. It is
32 quite unseemly in the middle of a hearing.
- 33 XXN
- 34 Q. You said that you went down to, was it, Goolwa in the
35 last 12 months.
- 36 MS NELSON: Hindmarsh Island.
- 37 XXN
- 38 Q. Hindmarsh Island.

1 A. Yes.

2 Q. When was that.

3 A. I'm a bit upset, I'm sorry.

4 COMSR: Take your time to compose yourself.

5 XXN

6 Q. Would you like a break.

7 A. It would be a very good idea, I'm so upset.

8 COMSR: I would like you to complete your
9 examination. You have been here a long time and if we
10 take a break, can I ask that we resume at 10 past. I'm
11 concerned that Mrs Fisher might have to come back
12 another day and, as she pointed out, she is not a young
13 woman and has been here a long time.

14 MRS SHAW: It is advisable that she not speak to
15 other people about her evidence at this stage.

16 WITNESS: I will go in there and have a smoke by
17 myself, but I want to speak with Mrs Simpson though.

18 ADJOURNED 3.03 P.M.

19 RESUMING 3.11 P.M.

20 COMSR: We must proceed without any other delays
21 or interruptions because we have to get through this
22 evidence.

23 XXN

24 Q. I was asking you about your trip down to Hindmarsh
25 Island or Goolwa. Which one was it.

26 A. That was the second trip you're speaking of?

27 Q. The second.

28 A. Yes.

29 Q. There was two.

30 A. Yes. I went down at invitation. It would have
31 been '67, '68, yes.

32 Q. Where did you go on that occasion.

33 A. Well, she invited me down to meet the women down there.

34 Q. Whereabouts. At what place.

35 A. At Point McLeay it was called then.

36 Q. Where was that in relation to which route did you go:

37 Via Hindmarsh Island.

38 A. No, went straight down through Adelaide to Point McLeay.

1 I didn't go anywhere but Point McLeay. I was presented
2 with a bunch of feather flowers by one of the elderly,
3 whose name I can't mention now.

4 Q. You've told us that twice already. On the other trip,
5 that is the only time that you have been to Goolwa or
6 Hindmarsh Island.

7 A. Yes. That was a trip I went with two white women.

8 Q. Who are they.

9 A. One was Deborah McCulloch. I think the other one was
10 Betty Anne Sorrell. They are women from the Women's
11 Electoral Lobby.

12 Q. When did you go down on this trip.

13 A. I was invited by Shirley Peasley to come down and say a
14 few words at a meeting held down there in support of the
15 women who were saying they didn't want a bridge built.

16 Q. When was that, last year or what.

17 A. It's been held this year, hasn't it? I don't know. It
18 wasn't - it was - I can't remember whether it was since,
19 before the Commission began and when it was announced,
20 between that time. There was a meeting there. I'm
21 sorry.

22 Q. That is fine. Can you tell us whether it was after you
23 had taken in your notes and your tape to Doreen.

24 A. Yes, it must have been, because I was speaking - I
25 wouldn't have spoken if I hadn't done that, yes.

26 Q. Where was the meeting held, in Goolwa or Hindmarsh
27 Island.

28 A. I think it was at Graham's Castle, yes.

29 Q. Was there white people and Aboriginal people there.

30 A. Yes.

31 Q. How many people altogether.

32 A. I don't know. It could have - we got there late. It
33 was at 3-ish or something when we got there. The people
34 that were there, I think there were a number - let me
35 say there it would be 50 over there and maybe 20 here,
36 maybe 70 people. Somebody said 'A lot of them have
37 gone'.

38 Q. Were there any speakers.

- 1 A. Yes, there was a gentleman and myself.
2 Q. Who both spoke.
3 A. Yes.
4 Q. Who was the gentleman.
5 A. Somebody to do with the Hindmarsh Island bridge group.
6 I'm sorry, I'd never met him before.
7 Q. On that visit, did you actually go to Hindmarsh Island.
8 A. Yes. Deborah said 'Would you like to go to the
9 island?', I said 'Yes, I would, I've never been'.
10 Q. When you went to Hindmarsh Island, did you drive around.
11 A. No, we went straight across the bridge, straight down
12 and right at the end, parked - or right it seemed at the
13 end of a long road, parked and veered off to the right,
14 I think, and parked somewhere near a beach and walked on
15 the beach.
16 Q. What beach was that did you understand.
17 A. I'd have to look in a map. I didn't find out. I
18 didn't look. I'm not interested in that -
19 Q. That's fine. When you went to Hindmarsh Island on that
20 occasion, did anyone indicate to you where the proposed
21 bridge was.
22 A. No. I seen a map in a paper and knew it was somewhere
23 where the ferry is.
24 Q.

Lines 24 - 38 suppressed

1

Lines 1 - 24 suppressed

- 27 Q. From what Rebecca Wilson told you, you understood her to
28 be from the Ngarrindjeri people in the Point McLeay area
29 or from the Ngarrindjeri area in the Hindmarsh Island,
30 or the island's area.
31 A. I understand what she said and that is that she called
32 Point McLeay home, so I assume she was from there. I
33 didn't question her on those. I didn't question her,
34 much to my regret. I didn't question any more.
35 Q.

1 A.

Lines 1 - 8 suppressed

9 Q. You also told us that in your evidence that Rebecca
10 Wilson said to you that it takes many, many years for a
11 white person to understand Aboriginal people.

12 A. Yes.

13 Q. You understood that to be that she was saying 'You will
14 take many years to understand us'.

15 A. Yes. I said that on the tape. I said to her 'Well,
16 that's very politely put, thank you very much', and
17 everybody laughed and she said 'No offence meant'.

18 Q. Who is 'everybody'.

19 A. Gladys and I and her.

20 Q. That was what was played on the 7.30 Report, wasn't it.

21 A. I can't quite remember exactly what was played because
22 of the background music, but I will say that it's on
23 that tape, yes.

24 Q. Have you listened to the tape recently.

25 A. Since before I gave it to Doreen Kartinyeri, I listened
26 to make sure my memory was correct that her voice was on
27 it, yes.

28 Q. You told us this morning - it's true though that the
29 tape was played again at Paralowie Saturday week ago.

30 A. Yes.

31 Q. You would have heard the words there.

32 A. Yes.

33 Q. You also told us this morning that when you were being
34 questioned about your notes, and so on, that some things
35 were too sacred and secret for you to record at the
36 time. What I wanted to ask you was: Is what you say
37 that you did not feel that you were permitted to record
38 in your handwritten notes the secret sacred information.

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CJ 10HPP

E.M. FISHER XXN (MRS SHAW)
(SUPPRESSION ORDER LIFTED 22.8.95)

- 1 A. That's correct, yes.
- 2 Q. Is it fair to say that even if we got the notes, we
- 3 would not find the secret sacred information in there.
- 4 A. No. You find secret sacred information in the notes,
- 5 but not of a depth that was expressed that I didn't
- 6 write down and that I won't.
- 7 Q.

Lines 8 - 19 suppressed

19 CONTINUED

Closed

KC JPP 560

E.M. FISHER XXN (MRS SHAW)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

1

Lines 1 - 17 suppressed

18 Q. Were the words she used that 'The sky must be clear.'

19 A. I can't remember that. She made - that may be in the
20 notebook. I am sorry. I am. I can't remember.

21 Q. I am asking you about the words she used.

22 A. I can't remember.

23 Q.

25 A. I can't remember whether -

I haven't recorded that.

27 That might be in the notebook.

28 Q.

Lines 28- -38 suppressed

Lines 1 - 14 suppressed

- 15 A. But I will say I am not a Ngarrindjeri person. I am on
16 the periphery of knowledge, Madam Commissioner.
17 Q. When you talked about there being mention of ploughing
18 up or bulldozing, was it Gladys who first said 'They are
19 ploughing up our history all over the place and nobody
20 cares.'
21 A. Gladys said that, yes.
22 Q. Was it then that said 'Look, you can take some
23 notes.'
24 A. No, it didn't happen like that. Rebecca Wilson, not
25 Rebecca Wilson -
26 Q. I was referring to your evidence when I put that to you,
27 you see.
28 A. I am sorry. Rebecca Wilson said - Gladys said 'Now,
29 come on, I want you to tell Betty what happened.'
30 Rebecca Wilson started to say 'Well, just like your
31 place. All over, you know, Gladys, they've got rid of
32 this and now they're doing this.' And she mentioned the
33 name of something. I couldn't catch it. I assume it
34 was in the language, which Gladys would have understood.
35 And I said 'What is this?' And Gladys - had used
36 words to the effect that they're ploughing something up,
37 bulldozing or something like that and Gladys thumped the
38 table and she said 'They're ploughing up our history.'

1 And you tend to remember things when Gladys thumps her

2

3 Q. I take it none of that is in the notes, though, is it.

4 A. That she thumped her hand?

5 Q. No, that she talked, Gladys talked about 'Ploughing up
6 our history.'

7 A. Yes.

8 Q. That is in the notes, is it.

9 A. It should be.

10 Q. There is nothing in the notes about Mrs Wilson talking
11 about ploughing up our history, though, is there.

12 A. I would have to see them to refresh my memory, I'm
13 sorry, Commissioner.

14 COMSR

15 Q. Are you asking to refer to them for the purpose of
16 refreshing your notes.

17 A. I haven't got them. I'm sorry, I can't. I'm sorry. I
18 am very sorry. It was very remiss of me not to keep a
19 copy, but that's the way it happened. That is really
20 the way it happened. It was a rush.

21 XXN

22 Q. It is very difficult for you to be accurate about what
23 you say, without the benefit of them, isn't it.

24 A. What gives me the right, you see, what gives me the
25 right to take the words?

26 Q. What I am saying to you is that, it is -

27 A. It is very difficult.

28 Q. It is understandable for you that you can't give
29 accurate evidence about precisely who said what without
30 the benefit of your notes.

31 A. Yes.

32 Q. When you talked about the culture, did Gladys say to you
33 that the culture was 'All gone'. That is, her culture
34 Was all gone.

35 A. It depends on the context, you see. At one stage, she
36 said 'That man came here again to see me', she said to
37 her son. 'What did you say, mum? Oh, said "All gone,
38 all gone. That is all culture. That's all gone. We

- 1 don't know about that now.".' I have heard Gladys say in
2 front of researchers many times say 'Oh, no, it's all
3 gone. No, there is no language. No, no, we don't. No,
4 that's all gone.' That is because she would prefer to
5 deny her culture than welcome in the so many people who
6 knocked on her door, all the time, 'Tell me about the
7 Aborigines.' And that happened all the time.
- 8 Q. Would it be fair to say that Gladys, you were aware,
9 denied that there was any culture left to her people, is
10 that right.
- 11 A. Yes.
- 12 Q. But, to you, she told you that there was, is that what
13 you say.
- 14 A. She was - I have got her on the tape saying 'Well, of
15 course, we tell those people nothing. "There all gone."
16 We know otherwise.'
- 17 Q. Did she ever tell you of other things on tape about her
18 culture.
- 19 A. Much.
- 20 Q. Is that in tapes that are with the Madam Commissioner.
- 21 A. No, there is a certain amount of talk with Gladys Elphick
22 on the tape that Madam Commissioner has which she
23 understands the need to come from this Commission,
24 otherwise I am in deep trouble with the Narrunga women.
- 25 Q. When you described in evidence what Gladys was saying
26 about speaking about Mrs Wilson speaking to you, you
27 said that Mrs Wilson was urging -
- 28 COMSR
- 29 Q. I wonder, before we go on, are you saying those tapes
30 can only be heard by Narrunga women. And, apart from -
- 31 A. I have got permission for you to listen, thank you.
- 32 Q. Yes, I understand you say you have got permission for
33 me, but Narrunga women don't require permission, is that
34 what you are saying.
- 35 A. Yes, they require permission. They require permission.
36 Narrunga women own those tapes in the main. And the
37 men, because I have got to persuade them.
- 38 Q. Narrunga women don't need permission. I need

1 permission.

2 A. Yes.

3 Q. But Narrunga women don't.

4 A. Yes, I'm sorry.

5 MS SIMPSON: It may be an opportune moment for this
6 sitting of the hearing to hear the tape of Rebecca
7 Wilson. Veronica Brodie, her daughter, has said that
8 it would be permissible for it to be done now and it may
9 be an opportune time, whilst she and the other ladies
10 are here and, indeed, Ms Shaw may want to ask Mrs Fisher
11 some questions about it.

12 COMSR: I want to be sure that that is the case.

13 MS SIMPSON: Perhaps, Veronica, would you mind
14 standing up and telling the Commissioner that that is
15 all right?

16 COMSR: You are Veronica Brodie?

17 MS BRODIE: Yes, I am the daughter of Rebecca
18 Wilson.

19 COMSR: You say that you are prepared for the
20 tape to be played in front of the people who are in this
21 closed hearing?

22 MS BRODIE: Yes, I am.

23 COMSR: There is no-one suggesting to the
24 contrary, that that shouldn't be done.

25 And it is your tape, you feel now, because it is
26 your mother's voice?

27 MS BRODIE: Yes, my tape. I do feel that I have a
28 right to it.

29 COMSR: How do we determine which portion of the
30 tape?

31 MS SIMPSON: Mrs Fisher will be able to help us with
32 that.

33 WITNESS: Yes, Gladys's voice will be heard.

34 COMSR: We have interrupted Ms Shaw's
35 cross-examination.

36 MS SHAW: I am happy for it to occur, at this
37 time.

38 COMSR: You are quite happy for that?

E.M. FISHER XXN (MRS SHAW)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

- 1 MS SHAW: Yes.
2 MS PYKE: I don't want to create any more slowness
3 than we have already had. Given the very sensitive
4 nature of this, I wonder whether it could be set up in
5 another room, so that we don't hear Gladys Elphick's
6 voice?
7 MS SIMPSON: Mrs Fisher is going to organise that.
8 COMSR: Perhaps we should note on the transcript
9 that the tape, Exhibit 20, is with the permission of
10 Veronica Brodie, being played in the closed hearing as
11 to that portion which contains the conversation between
12 the witness and -
13 MS SIMPSON: Rebecca Wilson.
14 WITNESS: Myself and with some remarks from Gladys
15 Elphick.
16 COMSR
17 Q. Between yourself and Mrs Wilson, is it.
18 A. Yes, and Gladys Elphick. I have permission from Katrina
19 for a few words only.
20 TAPE PLAYED
21 A. This sounds really amateur.
22 CONTINUED

- 1 A. That was the voice of Gladys Elphick, reading out the -
2 Q. In all other respects, as to the balance of the tape -
3 A. It is Gladys and myself. Perhaps an occasional word `Do
4 you remember that, ?' And said `Yes'.
5 Q. Of course, I have previously made an order that in
6 respect of all the tape that it only be played in
7 private hearing, with counsel assisting and myself and
8 yourself in attendance. But now we have heard portion
9 of that tape.
10 A. Side B of tape number 5 it is called, yes.
11 Q. The balance of it, of course, has not been played.
12 A. Thank you. The discussion was, Gladys wanted urgently to
13 tell me something about how the grant needed to be
14 improved. They were producing so much and only so much
15 for it was coming back.
16 XXN
17 Q. Just one thing, I notice that when Mrs Wilson spoke on
18 the tape, she said that you really have to live amongst
19 the people to really know them. Do you claim to have
20 done that.
21 A. No, no. I might add, I said `Why should you tell me
22 this?'

Lines 23 - 38 suppressed

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RF 10KPP

E.M. FISHER XXN (MRS SHAW)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

1 Q.

Lines 1 - 8 suppressed

9 COMSR

10 Q. From what you are saying, I gained the impression that
11 you are distinguishing between knowledge that only men
12 should have, and knowledge that only women should have.

13 A. Yes, and there is absolute separation in terms of some
14 things. Some things went to parliament, some things
15 were always in committee. I suppose that's the best way
16 to put it. Some committees were male and some were
17 female.

18 XXN

19 Q. You said in your evidence that, in relation to your
20 notebook, when Mr Abbott was asking you some questions
21 about the three or four typed-up pages that you'd typed
22 up, that there was a reference to the secret sacred
23 women's business throughout the typing, and you said
24 that it was interspersed throughout the three or four
25 pages. Do you remember saying that to Mr Abbott.

26 A. I'd have to read the transcript, I'm sorry.

27 Q. When you say `interspersed' do you mean by that there
28 was a reference to a topic, and you believed that Mrs
29 Wilson considered that that was secret sacred -

30 A. Indeed.

31 Q. Without the actual details of it being there.

32 A. Indeed.

33 Q. When you asked Mrs Wilson about the barrages, did you
34 have in mind barrages up at some particular location,
35 like Murray Bridge or near the Coorong or Prince Albert
36 or -

37 A. No. When our children were young, one day we got in the
38 car on a Sunday morning and went down to - somebody had

E.M. FISHER XXN (MRS SHAW)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

1 said 'Go and see the barrages, there is wonderful bird
2 life'. My young middle son was a keen photographer and
3 we went down and looked at part of the barrages. I
4 couldn't tell you to this day where they were, and he
5 took a photo of a heron-like bird. The kids - children
6 were very young.

7 Q. Was that at Goolwa or up at -

8 A. Yes. It was what they call the Goolwa barrages that
9 people used to go, in those days commonly, and visit.
10 There were reeds and there were long legged, stilt-like
11 birds.

12 Q. So you had been to Goolwa before.

13 A. En famille. That is, as a family in terms of - but
14 nothing to do with - I thought you were referring to
15 precisely regarding Aboriginal women. I'd been there
16 once, yes, with the children. I have still got a photo
17 of that bird sitting amongst the reeds.

18 Q. When you raised the barrages, as I understand it, you
19 say Mrs Wilson said 'Very sad' and left it at that. Is
20 that right.

21 A. Yes. 'We were very sad'. But she said some other
22 things on the note - that I put in the notebook that I
23 don't want to say here because it is about men.

24 Q. When you say something about men.

25 A. To men's - a reference to being sad, yes.

26 Q. You said in your evidence that the men need have no
27 problems about what is concerned in the tapes about men,
28 it will be in the hands of men. What did you mean by
29 that. What would be in the hands of men.

30 A. I was speaking precisely, solely and absolutely
31 regarding the recordings I made of Gladys Elphick's son.
32 Only that. In case Nurrunga men, who know what I have,
33 hear that I am talking to this commission, speaking in
34 any way to this commission -

35 Q. So did you speak to the son about men's business. Is
36 that what you are suggesting.

37 A. I cannot discuss Nurrunga business in this court. I'm
38 sorry.

- 1 Q. Can you say whether or not your evidence is that a man,
2 namely the son, was prepared to speak to you about men's
3 business.
4 A. He was commanded by his mother, who exceeded him in
5 elder authority. They know that. There were
6 circumstances that - special circumstances.
7 Q.

Lines 8 - 19 suppressed

- 20 Q. Are you suggesting these are names of islands that
21 haven't appeared in the literature anywhere.
22 A. No, no.
23 Q. They have.
24 A. No. I mean anyone can speak them, but I must not. I'm
25 sorry. It is to do with - Madam Commissioner, it is to
26 do with -
27 Q. That is fine, you don't have to explain that at all.
28 COMSR: Mrs Shaw, you have tested the witness as
29 to matters of credibility, if I can put it like that,
30 fairly exhaustively now. Do you intend to be much
31 longer in this?
32 MRS SHAW: Not really. I think I have probably
33 covered most things.
34 COMSR: I can let you go on, but there has to be
35 a limit.
36 MRS SHAW: I appreciate that. I think I have
37 probably covered most things.
38 WITNESS: Can I make a further explanation?

E.M. FISHER XXN (MRS SHAW)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

- 1 COMSR: No, no.
2 XXN
3 Q. Did she say anything to indicate that Ngarrindjeri women
4 generally know about this area of the Murray Mouth and
5 all the islands and the lakes, that she'd told anyone
6 else.
7 A. Apart from saying 'Secret, sacred, important' - all
8 those expressive adjectives - to women.
9 Q. You said to us that Gladys was saying to her 'You've got
10 to tell Betty this because of the kids'. Do you
11 remember telling us that's what happened.
12 A. Yes.
13 Q. Did she give any reason as to why she hadn't or couldn't
14 tell her own children.
15 A. If I remember, she was thinking of those who come after
16 in general terms rather than specific, you know -
17 considering that they were elderly and elder women.
18 COMSR
19 Q. For the next generation.
20 A. Yes, I suppose that is the best expression. It was a
21 question of 'We have got to make sure something is
22 handed down'. That is what came into my head.
23 XXN
24 Q. I appreciate that, but what I am asking you is that she
25 didn't give you any reason as to why she hadn't or
26 couldn't tell her own children. Is that right.
27 A. I don't think it was that sort of an occasion.
28 Q. You have said that Gladys said to her 'You've got to do
29 it for the kids' right.
30 A. Kids in a generic, you know - is that the right word,
31 wide flung sense, that is, Ngarrindjeri children.
32 Q. All the Ngarrindjeri children, is that right. So that
33 they would all know.
34 A. Yes, the women - young.
35 Q. Did she say anything to you along the lines that she
36 couldn't tell her own children, who could then pass it
37 on.
38 A. No, that would have taken quite a long explanation.

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RF 10KPP

E.M. FISHER XXN (MRS SHAW)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

- 1 Q. You didn't even know whether she had any children at
2 that time, did you.
3 A. No, but she wouldn't have told me, because it would have
4 involved a long explanation and I was only with her for
5 - it wasn't a long time that I was with her, you know.
6 Q. But your position is that she didn't give you any reason
7 as to why she couldn't tell her own children. Is that
8 what you are saying.
9 A. But, you know, I am just wondering why she should have.
10 CONTINUED
11

Lines 11 - 38 suppressed

1
Lines 1 - 4 suppressed

5 XXN

6 Q. What you say is you didn't know at that time whether she
7 had any children.

8 A. Didn't enter my head.

9 Q. She didn't offer you the information whether she did or
10 not.

11 A. No.

12 Q. Is that right.

13 A. Yes. But there was no need, no reason to, you see.

14 Q. In terms of Mrs Wilson and her life at Point McLeay, did
15 she tell you that she considered that their culture was
16 all gone.

17 A. No, she didn't.

18 Q. Did she -

19 A. I've got a great impression of her being worried about
20 it.

21 Q. Did she say something like 'The land is very important,
22 they have taken way our land and, therefore, our culture
23 is all gone'.

24 A. I haven't got my notebook with me, so I can't refer to
25 it. So I would have to say that she could have, I'm not
26 sure.

27 COMSR

28 Q. Is this the situation that without your notebook, you
29 really can't be confident enough of the context of it to
30 answer the question.

31 A. Yes. Sorry about that, yes.

32 XXN

33 Q. But did she tell you that she was, herself, a person who
34 followed the Christian way of living.

35 A. Yes. It's on the tape.

36 Q. It's on the tape.

37 A. Yes.

38 Q. You heard it today.

573
CJ 10LPP

E.M. FISHER XXN (MRS SHAW)
(MS NELSON)

(SUPPRESSION ORDER LIFTED 22.8.95)

- 1 A. Yes.
- 2 Q. Did she tell you whether she was involved in any
- 3 particular Christian organisation.
- 4 A. She didn't, no.
- 5

1

Lines 1 - 30 suppressed

- 31 Q. Do I understand you to say that having introduced the
32 topic in that way, Gladys then put her hand up and there
33 was some cutting off, if you like, of any further
34 information she didn't want said.
35 A. My pencil froze. I mean, I didn't write until the hand
36 went down.
37 Q. So Gladys, in effect, stopped Rebecca Wilson from
38 expanding any further on that.

- 1 A. No, Rebecca kept speaking and I -
2 Q. But you stopped recording.
3 A. I went into free-fall until the hand went down, kind of
4 thing.
5 CROSS-EXAMINATION BY MISS PYKE
6 MRS SHAW: I object to this being in the nature of
7 a re-examination. That would be quite unfair.
8 MS PIKE: This is not re-examination. I went
9 first yesterday to facilitate the Commission hearing
10 something.
11 COMSR: I note that was the case. I invited
12 anyone who had wished to question at that stage so that
13 we could utilise the time.
14 MS PIKE: Because, indeed, it is made clear in
15 that.
16 Q.

Lines 16 - 22 suppressed

- 23 A. Yes.
24 Q. Including, and women.
25 A. Yes.
26 Q. Is it the situation that whilst the topics are able to
27 be disclosed, it is the detail of those topics that is
28 secret and sacred.
29 A. Yes. Well, I mean -
30 Q. That is all right, just say yes or no.
31 A. Yes.
32 Q. Is it the fact that you have not, in your document that
33 has gone to men, in any way given any detail about the
34 topics.
35 A. No.
36 Q. And is that because it is secret and sacred.
37 A. Yes, absolutely.
38 COMSR

- 1 Q. So that I'm clear, you have not recorded it in your
2 notes, you say, for that reason.
3 A. The notes are recorded and when Gladys didn't put her
4 hand up but Rebecca Wilson, said 'And this must
5 not be seen by men', which is the quarter or half a page
6 of A4 typing, that is the part where Rebecca indicated
7 that was Rebecca's law, not Gladys's.
8 XXN
9 Q.

Lines 10 - 16 suppressed

- 17 A. So Rebecca Wilson indicated to me, yes.
18 Q. But, in addition to that, there is other more secret, if
19 I can put it that way, on a scale of information.
20 A. Yes.
21 Q. In your notes.
22 A. Yes.
23 COMSR
24 Q. Are you agreeing with that.
25 A. Yes.
26 XXN
27 Q. That you have not included any of that detail in your -
28 A. And it was a mere periphery mentioned to me which, under
29 no circumstances, would I ever record, repeat except to
30 Rebecca Wilson's daughter - whom I have told.
31 Q.

Lines 31 - 36 suppressed

- 37 Q. Who told you that.
38 A. They both told me about their similar cultures.

- 1 Q. Is that recorded - I want to know about Rebecca Wilson
2 now, was that recorded in the part of your notes that
3 you say are very secret.
4 A. Yes.
5 Q. Or was that in the general part of the notes.
6 A. That, I think, is in the three pages. I'd have to see
7 it again, but that is -
8 COMSR
9 Q. Again, you are at a disadvantage unless you have that.
10 A. Yes.
11 Q. Can you perhaps indicate this: Do you know where the
12 notes are.
13 A. I have no idea. I have absolutely no idea. On my
14 mother's honour, I have no idea.
15 XXN
16 Q.

Lines 16 - 38 suppressed

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KC 10MPP

E.M. FISHER XXN (SHAW)
(PRIVATE)
(SUPPRESSION ORDER LIFTED 22.8.95)

1

Lines 1 - 25 suppressed

- 26 Q. Are you saying that it was important for all
27 Ngarrindjeri women to know about these places so they
28 could go there.
29 A. No, some knew this, some knew that I think is what she
30 said.
31 Q. Maybe so, but was what she was saying to you that, just
32 as you had to have someone with you, anyone who went
33 there had to have someone with them.
34 A. Not Ngarrindjeri women, no.
35 Q. Not Ngarrindjeri women.
36 A. I shouldn't think so.
37 Q. Only white people had to have someone with them.
38 A. That is only my -

E.M. FISHER XXN (SHAW)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

1 COMSR

2 Q. Are you saying that is your interpretation of it.

3 A. Yes, and an expert might say one thing and an amateur
4 something else and another amateur something else. Bob
5 Ellis said 'It is never written down and it is what they
6 say.' And it is their stuff and they should be telling.
7 Or not telling.

8 XXN

9 Q. The other thing is did she ever say to you anything
10 about women being taught about something to do with
11 Hindmarsh Island and the surrounding islands and waters.

12 A. She gave me to understand that -

13 Q. Just can we deal with what she said, if you can. If
14 not, tell us what she said and then what you interpreted
15 that to be.

16 A. No, what I wrote were her words. Again, I would have to
17 have her words. But, as I remember, certainly women
18 were taught from the cradle to the grave. Yes. Were
19 taught and learnt from the cradle to the grave. There
20 was no difference from our culture where we think we
21 learn from the cradle to the grave.

22 Q.

Lines 22 - 26 suppressed

27 Q. Are you saying that Rebecca said to you that all women
28 were taught about Hindmarsh Island and those surrounding
29 areas in relation to that topic, or did you just infer
30 that.

31 A. Again, Madam, I would need my notebook, but I have a
32 strong memory of her having said that some - all women
33 were taught, of course, about the reproductive processes
34 and so on. But that responsibility, of course, is an
35 entirely different matter. Responsibility for who
36 teaches who is something that I have not - I - she may
37 have said something about responsibility. I would need
38 those notes back.

- 1 Q. I appreciate your difficulty.
2 A. The responsibility is so varied over a whole area. I
3 mean, there is some women may be responsible for
4 something that we know nothing about.
5 COMSR
6 Q. Are you talking about what is in your notes now.
7 A. Yes.
8 Q. Or what you understand from another source.
9 A. No, my notes. Yes. I mean, responsibilities differ
10 greatly.
11 XXN
12 Q. So that that is -
13 A. Not everybody is a midwife, let's put it that way. That
14 is what is -
15 Q. Just to be here on this, are you saying that Rebecca
16 Wilson told you that all Ngarrindjeri women are told
17 something about that entire area, or they aren't told.
18 MS NELSON: What entire area?
19 XXN
20 Q. Hindmarsh Island and that area that you have described.
21 A. I would have to consult my notes again, I'm sorry.
22 Q. You don't know.
23 A. No, I haven't got them in front of me. I hadn't read
24 them for a long time.
25 Q. That is fine, you have explained that.
26 A. I typed that stuff.
27 Q. But, at this stage, you don't know on way or the other,
28 is this the situation, whether or not she said to you
29 all women are told from the beginning about something to
30 do with Hindmarsh Island.
31 A. Yes, I suppose it is like all women would be told that
32 that's our place for this, that and the other. That is
33 my -
34 Q. Your interruption.
35 A.

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KC 10MPP

E.M. FISHER XXN (MRS SHAW)
REXN (MS SIMPSON)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

- 1 Q. I gather from what you have said you haven't read very
2 much or haven't read anything since 1967 about that
3 area.
4 A. I may have, but I am - it is not my specific - I may
5 have read -
6 Q. That is not your area of interest.
7 A. I may have read quite a bit about it, yes, but it is not
8 my area.
9 Q. But is it fair to say though that when this issue of the
10 Aboriginal people and the Hindmarsh Island bridge affair
11 arose last year after Doreen spoke to you that you did
12 watch the papers to see what was being - what was
13 happening.
14 A. I had a lot of -
15 COMSR: I think we have canvassed this area
16 before.
17 A. I had family, I said a lot of family problems, there was
18 one -
19 MS SHAW: I have no further questions.
20 COMSR: Do you have any questions, Ms Simpson?
21 MS SIMPSON: Yes, there are just four short matters.
22 RE-EXAMINATION BY MS SIMPSON
23 Q.

Lines 23 - 38 suppressed

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KC 10MPP

E.M. FISHER REXN
(MS SIMPSON)
(PRIVATE)
(SUPPRESSION ORDER LIFTED 22.8.95)

1 Q.

Lines 1 - 15 suppressed

16 Q. We were able to hear the tape of Rebecca Wilson's voice
17 and there were some other voices on that tape. There
18 was your voice on it.
19 A. Yes.
20 Q. And there were children's voices on it.
21 A. Yes.
22 Q. There was Gladys Elphick's voice.
23 A. Yes.
24 Q. And there was Rebecca Wilson's voice.
25 A. Yes.
26 Q. Was there any other person that we heard speaking.
27 A. Children's voices whom I can't identify, but there is a
28 lady present who can identify who those children were.
29 Q. But other than those voices I have named there was no
30 other person that we heard on the tape.
31 A. Other than those, no.
32 Q. Whose children were they, did you know. Would you like
33 to ask Veronica.
34 A. Verandah can help me here.
35 COMSR: Yes, but perhaps we are testing the
36 witness's memory unless you want to identify those -
37 A. I never asked when - I never asked.

E.M. FISHER REXN
(MS SIMPSON)
(PRIVATE)
(SUPPRESSION ORDER LIFTED 22.8.95)

- 1 COMSR
2 Q. You never asked so you didn't know, at the time.
3 A. I mean, if someone comes and sits a child on my lap I
4 will remember perhaps their name. Otherwise.
5 COMSR: Is it for me to establish who they were?
6 MS SIMPSON: It probably isn't, but I think Veronica
7 is prepared to tell us who the children were, if she
8 knows.
9 MS SIMPSON: Veronica, do you know?
10 MS BRODIE: I think, if you listen to the tape, I
11 think you would have heard my mother mention 'Col', my
12 daughter.
13 REXN
14 Q. And finally you gave some evidence about your tapes that
15 were put in the Mortlock Library in 1990 until you took
16 them out this year when you saw a large photograph of
17 Sarah Milera on the front page of The Advertiser.
18 A. Yes.
19 Q. I show is the front page of The Advertiser of Wednesday,
20 7 June, 1995.
21 A. Yes.
22 Q. Looking at that page with the photograph on it, is that
23 the edition of the paper that you are referring to.
24 A. Yes.
25 EXHIBIT 24 P.1 and p.2 of The Advertiser tendered
26 by Ms Simpson. Admitted.
27 MS SIMPSON: I have no further questions. There are
28 some other matters, though, today. One is that Mr
29 Anderson is waiting to make some submissions.
30 COMSR: Yes, I appreciate that, but if that is
31 all, I want to know if this witness can be released.
32 MS PYKE: I understand - Ms Shaw can talk about
33 it - I understood she was going to be required to give
34 evidence about the raw footage.
35 MS SHAW: It is the raw footage.
36 MS SIMPSON: She can certainly step down.
37 COMSR: Are we likely to get on to that

E.M. FISHER REXN
(MS SIMPSON)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

1 tomorrow?

2 I haven't heard what Mr Anderson has to say. I am
3 wondering, are we going to go on with some other
4 witness, in any event, tomorrow?

5 MS SIMPSON: I'm not sure. It depends upon what Mr
6 Anderson's instructions are in relation to that tape,
7 but Mrs Fisher could certainly step down from the
8 witness box, but she could not be formally released.

9 COMSR: She might want to know if she can go
10 home or not, at this time of day and whether or not she
11 can be contacted to let her know whether she is required
12 to attend tomorrow and at what time.

13 MS SIMPSON: She could go home and we can contact her
14 overnight through Mr Wardle.

15 She might be willing to wait a few minutes, but
16 otherwise she could go home and we could contact Mr
17 Wardle overnight.

18 COMSR: What I propose to do for the time being,
19 because I haven't had an opportunity to consider the
20 transcript in that matter, I propose to make an order
21 prohibiting the publication of any evidence or material
22 giving during this private session of the Commission and
23 I propose to make and I make an order restricting the
24 distribution of the transcript of this private hearing
25 from publication to anyone other than the Commissioner,
26 counsel assisting the Commission, that is the female
27 counsel assisting the Commission and the female legal
28 representatives present at the hearing. And the
29 transcript will be released to those persons for the
30 duration of the hearing. And at the conclusion of the
31 hearing all copies of the transcript so released are to
32 be returned to the Commissioner. Those orders remain,
33 unless meanwhile I make some other order varying those
34 words.

35 Mrs Fisher, you are released for today. You can sit
36 in the body of the hearing room, if you wish, or you can
37 leave and you will be contacted later to let you know

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KC 10MPP

E.M. FISHER REXN
(MS SIMPSON)
(PRIVATE)

(SUPPRESSION ORDER LIFTED 22.8.95)

1 whether you are required tomorrow or not. And meanwhile
2 this private hearing will be closed and I will be
3 opening it for a public hearing.
4 HEARING CONTINUES IN PUBLIC

585
RF 10N

1 RESUMING 4.35 P.M.
2 HEARING CONTINUES IN PUBLIC
3 COMSR: Mr Anderson, you were going to tell me
4 what the position is.
5 MR ANDERSON: I have just been able to convey briefly
6 to those counsel who were not engaged inside the hearing
7 room, what my instructions are, but I will repeat them
8 for everyone's benefit, in particular yours,
9 Commissioner.
10 The ABC instructs me that we are to insist that only
11 that part of the tape which relates to actual interviews
12 be part of the production to the commission. To explain
13 that, on the whole of the tape which has been produced,
14 there are various discussions in the course of
15 preparation for the program which eventually went to
16 air, which do not form part of the interview process,
17 and which discussions were obviously in the course of
18 just the production being made. We say they do not form
19 part of the interviews and, therefore, should not be
20 included.
21 There is also still-shots in the tape of various
22 tapes, notebooks, et cetera, which again strictly are
23 not part of the interview. We suggest, for what it is
24 worth, that Mr Smith look at the whole of the tape which
25 he hasn't had a chance to do in one go and see whether
26 anything that I have just said makes sufficient sense to
27 him to see that there is a clear distinction as between
28 the interviews and the other parts of the tape, because
29 it is only the interviews that he has subpoenaed.
30 In other words, to make our point clear, you will
31 find in the whole of the tape those parts of the
32 interviews that actually went to air. You will find
33 formal interviews which were takes and re-takes before
34 the final process was put to air. You will also find,
35 what I can call, idle discussion or chitchat going on

36 while the tapes were rolling. We say they are not part
37 of the interviews and that they shouldn't be part of the
38 production to this commission.

1 Furthermore, you will find parts where the camera is
2 on but nothing is happening except the camera might be
3 focused on a tape or on a notebook or something of that
4 nature. What has been requested of us are video tapes
5 of interviews, and, in particular, camera tapes of the
6 interview or interviews. So that is to explain the
7 position that we take.

8 I am not sure whether other counsel have had a
9 chance to absorb what stand we take, nor indeed whether
10 you would want to hear from them. I imagine you will,
11 with respect. If you accept my suggestion, and Mr Smith
12 vets the tape and makes a decision then upon what and
13 who should see them, ultimately, we say that whatever is
14 seen should be seen in camera.

15 COMSR: But why do you say that? You understand
16 we have seen the to-air tape.

17 MR ANDERSON: Yes, I do, the one that went to air.

18 COMSR: You say that there is additional
19 material and, insofar as there is additional material,
20 because of the nature of it, the tape should be viewed
21 in camera?

22 MR ANDERSON: Yes. If, indeed, Mr Smith, after seeing
23 them, forms the view that there is no need to take it
24 any further than what you have already seen, that may
25 well be his view but I don't want to pre-empt that, he
26 may advise that - having seen the tape, which I think
27 goes for about an hour 15, 20 minutes as distinct to the
28 one that went to air - there is a lot of matters that
29 fit the description that Mr Anderson gave, but none of
30 it is of any consequence and it doesn't make any
31 difference, it doesn't advance anyone's cause any
32 further, nor could it, therefore, it is not necessary.

33 If he takes that view, then of course it means we
34 are all wasting a bit of time. Out of an abundance of
35 caution, because of the way in which the subpoena has
36 been directed to the Australian Broadcasting Commission,
37 they take the view that that is what must be put, and

- 1 they are my instructions, to put that to you in those
2 terms.
- 3 COMSR: The tape, of course, has now been
4 admitted as an Exhibit.
- 5 MR ANDERSON: I wasn't sure of that. I read the
6 transcript. I saw it was described as an MFI at one
7 stage.
- 8 COMSR: It was then subsequently tendered.
- 9 MR ANDERSON: I am looking at p.144.
- 10 COMSR: Yes. It was originally marked for
11 identification.
- 12 MR ANDERSON: It might just be the terminology. At
13 line 6 on p.444 it says `Exhibit 22'. Then the
14 description says `On air tape and raw footage tape
15 marked 22 for identification'.
- 16 COMSR: That initially was the case. I
17 subsequently see `Marked for identification crossed out'
18 and I have marked it as Exhibit 22.
- 19 MR ANDERSON: I am not disputing that in the
20 slightest. I just couldn't find where it happened. I
21 have only had a brief opportunity of reading the
22 transcript.
- 23 MR ABBOTT: No, that is what happened.
- 24 MR SMITH: Yes.
- 25 MS PYKE: Yes, that is the case.
- 26 COMSR: I think you can be sure it was
27 voluntarily tendered.
- 28 MR ABBOTT: That is why you sought an undertaking
29 from Mrs Maharaj and Mr Gretsas as to its return.
- 30 MR ANDERSON: I appreciate that, and I also
31 appreciate, from reading Mr Abbott's cross-examination,
32 that he has deferred his cross-examination on matters
33 where he may wish to continue his topics subject to what
34 he sees. I appreciate all of that. It is probably no
35 different to any document which is produced in any court
36 or inquiry or hearing which is produced and then
37 someone, for whatever reason, takes a point and some
38 parts may or may not be expunged. They are my

1 instructions. I would like to be heard in reply, if
2 anyone has anything to say against what I have put.
3 MR SMITH: Perhaps I might cut short any
4 submissions. On behalf of the commission, I would
5 indicate that I will look at the entire tape and make a
6 decision and perhaps communicate that decision as to
7 whether or not I see some value in more than the
8 interviews. And, if that's the position, then I will
9 communicate that to all my learned friends at the bar
10 table, including Mr Anderson and the next step can be
11 taken. But I suggest that the first step be that I do
12 what Mr Anderson suggests, because it may be an academic
13 exercise to have any further disputation about the video
14 tape.
15 COMSR: Are counsel content that that be the
16 first step?
17 MR ABBOTT: Yes.
18 MS PYKE: Is that on the basis that this issue be
19 adjourned to tomorrow morning?
20 MR SMITH: It will take longer than that to
21 resolve.
22 MS PYKE: That is my only concern. We have got
23 Mrs Fisher, and I think we want to keep going with her
24 and not chop and change. It is too hard.
25 MR ABBOTT: Couldn't it be resolved tonight with my
26 learned friend looking at the tape and then deciding, if
27 necessary, to issue another subpoena?
28 MR SMITH: I will do it tonight in any event.
29 MR ABBOTT: I gather all that is going to be
30 required is another approach to you, Commissioner, for
31 another subpoena to issue, this time covering the field.
32 I must say, we formally requested that counsel assisting
33 consider whether a subpoena should be issued for raw
34 footage that related to the 7.30 Report. We assumed
35 that a subpoena which covered all footage was issued.
36 Indeed, the ABC responded by producing all footage.
37 So they originally considered the subpoena to do the job
38 that in fact it was intended to do. Now some legal

1 point is taken that only says interviews, but it will be
2 cured by another subpoena.

3 COMSR: We will consider whether that might be
4 necessary. But I think the first step is for Mr Smith
5 to view the entire footage and decide whether or not we
6 need to cover any more than is covered by the subpoena
7 as it stands. Then will we be ready to resume at 10
8 a.m. tomorrow with the witness?

9 MR SMITH: Before we deal with that, could you
10 adjourn to 9.30 in the morning. We had scheduled, if
11 you recall, submissions from the media about some of
12 their concerns at 2.15 today, but rather than interrupt
13 the evidence of Mrs Fisher we adjourned that off. I did
14 that behind the scenes, as it were. I did encourage
15 people to think you might be inclined to resume at 9.30
16 to dispose of the media submissions.

17 COMSR: I am quite happy to do that. I would be
18 quite happy to resume at 9 o'clock. I would be very
19 much surprised if the concerns of the media would be
20 dealt with in the half an hour that -

21 MR SMITH: They assure me they will be dealt with
22 in half an hour, so that we would be able to resume as
23 normal at 10. I will do my best to come to terms with
24 the video and take a position on that. I suppose my
25 learned friends would be content for me, if I took a
26 position that it was academic - I suppose they would
27 take my word for that. The matter would disappear.
28 Perhaps we will deal with that when it happens.

29 COMSR: I haven't noticed any general assent
30 from the bar to that proposition.

31 MR SMITH: I will contact Mr Anderson if there are
32 problems. So that we can be here at 10 o'clock.

33 COMSR: I just want to be sure of the status of
34 what is to occur in the morning. We are adjourning the
35 hearing until 10 o'clock or until 9.30?

36 MR SMITH: 9.30, open hearing status.

37 ADJOURNED 4.50 P.M. TO FRIDAY, 11 AUGUST 1995 AT 9.30 A.M.

1 COMSR STEVENS

2

3 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

4

5 FRIDAY, 11 AUGUST 1995

6

7 RESUMING 9.32 A.M.

8 MR SHORT: I seek to make some submissions today on
9 behalf of Channels 2, 7, 9, 10, the Advertiser, the
10 Australian and Australian Associated Press.

11 COMSR: That pretty well covers the whole of the
12 media, or does that still leave anyone?

13 MR SHORT: It leaves some to speak for themselves
14 if they wish. It's an unusual step. My clients have
15 some concerns about some occasions that were before the
16 commission. Those relate to the issue of notice for the
17 suppression of proceedings.

18 When counsel assisting gave the opening, there was
19 some discussion and it was indicated that the media
20 would be notified beforehand in the event of
21 suppressions or closures to take place, such that there
22 would be an adequate opportunity for submissions to take
23 place. As matters have developed, that obviously has
24 not happened. While we can understand that for the
25 practicalities of the matters, none the less, we were
26 encouraged, or my clients were, not to have
27 representation down here on the basis that notice would
28 be given.

29 COMSR: I must admit that I thought, well, you
30 would be aware of what was going on on a day-to-day
31 basis. I mean, it was clear that these applications for
32 closure were being made at virtually no notice to the
33 Commission, and it looks as though that is going to be
34 the case, Mr Short, with the evidence of a number of
35 witnesses and that it may arise at any stage of their
36 evidence in a way that is difficult for the Commission
37 to anticipate.

38 MR SHORT: We can understand it may arise. We ask

1 for consideration for the earlier statements that notice
2 be borne in mind in that regard. Where practical, that
3 we be given a reasonable opportunity so that we can
4 address the matter if it is considered appropriate. We
5 can understand that is not going to be possible in every
6 case, but if it could be borne in mind so that we have
7 some opportunity.

8 COMSR: I think that the problems that have
9 arisen and the arguments you want to address would be
10 similar in most instances, so perhaps you would care to
11 address those arguments to me.

12 MR SHORT: In the absence of matters before you, it
13 is frankly not appropriate at this time, in my
14 submission. What we prefer to do is deal with cases as
15 they arise and deal with considerations relating to a
16 particular submission, why is it being closed, or why is
17 evidence to be suppressed, rather than deal with it in a
18 generality or in a vacuum.

19 COMSR: You will appreciate that virtually any
20 witness that is called in a matter of this sort, given
21 the nature of the inquiry, that there could be an
22 application for a private hearing. Are you asking that
23 the hearing adjourn until such time as somebody can be
24 made available?

25 MR SHORT: We accept that it is a matter for your
26 discretion how the Commission is conducted.

27 COMSR: I am trying to address your concerns.

28 MR SHORT: I'm not suggesting it would be a
29 practical alternative to adjourn the matter in every
30 case. Where there is a matter going to arise and it can
31 be anticipated, we ask to have some notice of it. Where
32 there is a matter of significance, then it may be for
33 some of my clients to seek to have the matter adjourned,
34 depending on the circumstances, at the time; or it may
35 be they will seek to have the order reviewed at a later
36 date. We are aware of the practicalities, but we are
37 concerned at the moment that the balancing exercise is
38 not where we were wish it to be.

1 COMSR: I can understand it might not be where
2 you wish it could be. I think it could be said, in a
3 general way, that any of the anthropological evidence is
4 likely to involve some request for a private hearing, a
5 portion of it.

6 MR SHORT: If I can raise some other issues which
7 inter-relate. There is a concern as to what might
8 loosely be called a lack of formality about orders to
9 date in terms of suppression. My clients want to comply
10 with the suppression orders. It is difficult to do so
11 where it is uncertain that what is being ordered,
12 whether, indeed, a suppression order to be made isn't
13 made and you will make one in due course. We ask, so
14 far as practical, for some greater formality of what is
15 being suppressed, having regard to the terms of s.16(a)
16 of the Royal Commission Act and the Terms of Reference.
17 That is that suppression orders relate to specific
18 evidence, rather than generalities which become
19 difficult to comply with. Because you don't know what
20 is suppressed and that may lead to an argument down the
21 track of, no, that term wasn't suppressed, or, yes, it
22 was, or, who can tell.

23 COMSR: I'm trying to think of an instance. I
24 think that with some specific exhibits, there has been a
25 suppression order placed on a number of exhibits to date
26 and haven't been made available. Of course, in the
27 private hearings, there's been a suppression order as
28 far as the evidence of those is concerned. Although, in
29 one instance, of course, the transcript was released
30 after it was reviewed.

31 MR SHORT: That leads your Honour to a further
32 matter: In relation to the approach to be taken in
33 respect of the applications for closure or for
34 suppression. A large part of the value of a Royal
35 Commission and a public inquiry is the fact that it is
36 public. Perhaps to use the words of Mason J, as he then
37 was, in *Victoria v ABC, E & BLF*, 152 CLR 25 at p.97,
38 that deals with an application to retrain a Royal

1 Commission inquiring into the affairs of the BLF as a
2 result of the perceived difficulties with a
3 de-registration application taking place in court.
4 Mason J said about a Royal Commission:
5 'That to exclude the public from a Commission seriously
6 undermines the value of inquiry that it shrouds ...
7 attract.'

8 In our submission, the public has a substantial and
9 legitimate interest in knowing what is before this
10 Commission. There are other persons, for reasons of
11 their own, who are seeking to obtain publicity. It may
12 well be perceived that is with a view to undermining the
13 value and efficacy of this Commission. The public may
14 well be gaining a distorted perception of events because
15 the full picture of events at this Commission is not
16 able to come forward - and certainly if it does not come
17 forward, then one can anticipate that whatever the
18 findings of this Commission, there will be those
19 afterwards who will challenge its value, its standing,
20 its integrity and seek to undermine its standing as a
21 consequence. Those are adverse consequences which will
22 be strengthened by a lack of public admission and
23 reporting in relation to this Commission.

24 We understand and are sensitive to the need for a
25 balancing exercise with the difficulties that this
26 Commission faces. None the less, we are concerned that,
27 bearing in mind the terms of s.16(a) so far as
28 practicable, the Commission should be conducted in
29 public; that there should be, perhaps, a less ready
30 acceptance of a need to close the Commission or to
31 suppress material; that parties should be required to
32 put forward some positive material. For example, I
33 understand that there was a discussion some two days ago
34 where it was suggested that there was some topic that
35 counsel would prefer to ask in private, not because of a
36 s.35 reason, but simply because it was felt to be more
37 appropriate. That is not an appropriate approach which
38 would lend itself, in our submission, to being accepted.

1 COMSR: If counsel are putting to me that there
2 is something that, for a substantial reason, can only be
3 dealt with by way of a private submission, and the very
4 discussion of which might involve canvassing the areas
5 which may be sensitive for one reason for another, to
6 some extent, don't I have to accept counsel's
7 responsibly in putting forward that?

8 MR SHORT: To an extent, but you are -

9 COMSR: It may be that I don't agree, having
10 heard what is said.

11 MR SHORT: In a suppressed inquiry or discussion
12 with counsel as to the appropriateness, no-one knows.
13 You can understand that if that approach is
14 adopted, it would cause concern for those of my clients
15 and concern perhaps among the public.

16 COMSR: You have read to me a substantial
17 excerpt from a judgment, but what do you say is the
18 legitimate interest which the public has in knowing
19 about matters of Aboriginal tradition which are
20 protected by the Government and are made protected to
21 such an extent that to disclose them is made an offence?

22 MR SHORT: We do not seek to disclose s.35, the
23 prohibited evidence. Please do not think that we do. We
24 recognise that much of the material that will be put
25 before this Commission will appropriately not be put
26 before the public. Our concern is that there is a
27 balancing exercise that is involved and that, at
28 present, the line is being drawn in an inappropriate
29 place. There should be a greater reluctance to close
30 the Commission or suppress material than appears to be
31 occurring to date.

32 Now, in relation to what happens in a closed
33 session, it's difficult for us to make submissions
34 because we don't know what went on. We don't get the
35 opportunity beforehand to say that it shouldn't happen -
36 and that, as far as we know, there is no-one looking
37 after the public's interest in terms of reviewing what
38 has happened to determine: `Well, okay, now we have

1 heard it all, was it appropriate to have that closed for
2 that purpose or not?'

3 You said there has been some evidence released, but
4 my clients can't even be there, not with a view of
5 reporting, but with a view to deciding if we want to
6 oppose this closure. It is not appropriate. We want to
7 put the submission to be present and we don't seek to be
8 there for the purpose of reporting. We seek to be there
9 for the purpose of being in a position to decide whether
10 we can accept that it is a perfectly proper closure or
11 not. If it is not a proper closure, we would want to
12 contest that.

13 In particular, I refer to the situation where there
14 have been male, or as parties, permitted to remain in
15 the hearing, yet we can not attend for the purpose of
16 decide whether we want to oppose it or not. If the
17 situation is that we don't know what is coming up, what
18 can we do?

19 COMSR: You understand that the area covered by
20 anthropologists only relates to women's Aboriginal
21 traditions. They can relate to Aboriginal traditions as
22 a whole, which, if an anthropologist tells me are
23 matters which should be discussed in a private session
24 on the face of it, there is no-one better qualified to
25 make that sort of assessment. So, there is that
26 category where males can be permitted to be present -
27 and, of course, there's categories where I'm advised
28 that the discussion of the evidence is to concern
29 matters which only women can have knowledge of. So,
30 that's a further restriction there.

31 There may even be a further category of restriction
32 involved in this instance where it's suggested that only
33 myself, for instance, should know what the contents of a
34 particular piece of information are. So that it's not
35 even a simple situation where there is only one category
36 of confidential information that we are dealing with.

37 MR SHORT: We recognise again there will be
38 different situations and that it's your discretion, it

1 is a matter which is appropriate for a discretion.
2 Taking, for example, the situation of Betty Fisher,
3 she is not an anthropologist. Some of her evidence has
4 been closed. Again, from our clients' point of view,
5 without notice and the opportunity to assess whether to
6 challenge it or not, and about the opportunity to put to
7 you that portion of that evidence, perhaps all of it,
8 perhaps none of it, perhaps only a small amount of it
9 should or should not remain closed.
10 CONTINUED

1 COMSR: I take it you are familiar with the land
2 tribunal cases and the way in which the confidential
3 information is dealt with under those circumstances?
4 And it is quite clear, is it not, that, in relation to
5 Aboriginal tradition, there is a concern to ensure that
6 the confidentiality of the information be preserved and
7 that it not be divulged unnecessarily to anyone under
8 those circumstances. So that this is a special
9 category, as it were, of information that we are dealing
10 with here. As I understand it, what you are suggesting
11 is someone from the press be permitted to be present to,
12 as it were, go through the evidence and determine
13 whether or not there is a basis for making a submission
14 that some or other of it be released. Is that what you
15 are putting to me?

16 MR SHORT: My clients seek to be present during the
17 evidence. Not with a view to reporting it, but, yes,
18 with a view to deciding do we or do we not challenge it?
19 No-one sought leave to appear in this matter following
20 the discussions that took place or statements by counsel
21 assisting the Commission because everyone was reassured
22 that there was no need to be. If something was going to
23 be closed or suppressed we would have a fair opportunity
24 to deal with the matter and if necessary obtain
25 representation. But that is not the course which turned
26 out to be adopted and so we seek to adopt some other
27 course. Namely, to have the opportunity to put our
28 arguments. But we can't put that if we don't know what
29 has gone on. How can we challenge a closure if we don't
30 know what was closed? How can we seek a review of it
31 once you have heard the evidence and had the opportunity
32 to decide or to at least reflect upon what you have
33 heard?

34 MR ABBOTT: Could I make a suggestion that may
35 overcome my learned friend's problems?
36 We had a similar problem in the State Bank Royal
37 Commission, not related to Aboriginal tradition or
38 material, but to highly confidential commercial material

1 and in respect to which answers given as to the
2 financial viability could materially affect the price
3 that was being offered for the sale of some of the
4 assets. So it was peculiarly sensitive material. And I
5 say that, so that I can assure your Honour that -

6 COMSR: I take it, Mr Short, you are not
7 objecting to Mr Abbott making this submission?

8 MR SHORT: I suspect it wouldn't matter if I did.

9 MR ABBOTT: This Royal Commission is very different
10 from the State Bank Royal Commission and it would be my
11 submission that, on the issue of closure of courts, your
12 Honour should have complete flexibility to close without
13 notice to anyone, because it seems to me that closure is
14 one thing. And my learned friend has I think lumped
15 together, in an unsatisfactory way, the issue of closure
16 of the room with a suppression of the evidence. In the
17 State Bank Royal Commission we frequently closed the
18 Royal Commission and for the time suppressed the
19 evidence whilst it was being given. It would seem to me
20 that your Honour needs to consider the two issues as
21 separate and that different rules would apply to both
22 considerations. As to closure of the hearing room, it
23 should be in your Honour's complete discretion as to
24 whether the closure is for private hearings for counsel
25 and parties only, private hearings for women only, or
26 private hearing for women counsel and women parties only
27 or just as you said, you, the Commissioner, and counsel.

28 In the State Bank Royal Commission we handled the
29 issue of suppression of evidence in this way; that,
30 within 24 hours, the Commissioner made a ruling having
31 heard the evidence whether it would be released or not.
32 To enable the media to have input into that process,
33 where it was appropriate, counsel for the media and only
34 counsel were allowed to inspect it for the purpose of
35 making submissions in closed hearing. That system would
36 need to be extensively modified in this case. For
37 example, there may be material that only a woman counsel
38 should see for the purpose of making submissions. But

1 it would seem to me that your Honour needs to preserve
2 complete flexibility on the issue of closure without
3 having to give anyone notice. And that is demonstrated
4 if counsel wants to ask a question of a witness in the
5 course of cross-examination and does not want to ask it
6 in the presence of the media or the public, that your
7 Honour ought to be able to go immediately into private
8 session. But the issue of suppression of evidence
9 presents different considerations. In my submission,
10 what ought to happen to any evidence that is suppressed
11 is that it should be reviewed by you, Madam
12 Commissioner, and counsel assisting and a decision made
13 as to what, if any of it is to remain suppressed. And
14 consistent with that view, may I respectfully suggest
15 that you, Madam Commissioner, should make it clear to
16 all witnesses who come before you that whatever
17 conditions they want to impose on the giving of their
18 evidence, that the ultimate decision is yours and yours
19 alone as to what restrictions and conditions will attach
20 to it. And, in my submission, in relation to a proposed
21 continuing suppression of evidence, which is the only
22 category that my learned friend would be interested in -
23 that is, evidence which is going to be suppressed either
24 from the gaze of men, or from the public generally -
25 that could be handled by appropriate safeguards. And,
26 if necessary, either my learned friend, Ms Simpson,
27 conferring with a female counsel for the media and
28 informing her perhaps of the generality. And an
29 argument could then take place in private as to whether
30 or not any suppressed material should be released. The
31 media cannot complain merely because they are excluded
32 when a witness is giving evidence if the evidence is
33 thereafter released. Their only complaint could surely
34 be that, if they are excluded from a hearing, for good
35 reason, and they never hear what the evidence was and,
36 therefore, never have any opportunity to argue in
37 relation to the suppression of it. That, it seems to
38 me, to be the only basis on which there could be any

1 genuine complaint by the media. And the issue of
2 suppression only arises when it has been decided to
3 completely suppress for all time or to completely
4 suppress from, say, all men. And those issues, I would
5 have thought, could be handled between counsel assisting
6 and counsel at the bar table here making submissions to
7 your Honour.

8 COMSR: That may be so. But, Mr Abbott,
9 sometimes it requires the input from an anthropologist
10 and other persons to determine whether or not something
11 should be suppressed.

12 MR ABBOTT: I would have thought that would be
13 handled in the closed and separate hearing. But I think
14 we need to separate the closure of it, on the one hand,
15 which the media should have no input into - and that is
16 at your Honour's discretion - and the long-term
17 suppression, on the other, which they might have a basis
18 for saying they want some input into. And it is for us
19 to try and find a way in which they can be heard on an
20 application in relation to complete suppression only.

21 But those are matters that I raise by way of
22 intending to be of some assistance, if I can.

23 COMSR: Mr Short, have you anything further?

24 MR SHORT: There may not be that much of a
25 difference between Mr Abbott's position and mine.
26 Obviously our concern is to report the proceedings in a
27 coherent manner to the public of what is taking place.
28 In so far as evidence is available to be reported in a
29 timely manner, such as the reporting has some logic,
30 hopefully, that would be of assistance to my clients
31 and, of course, to the public and the standing of the
32 Commission. The suggestion of counsel for the media
33 reviewing the evidence is one course.

34 COMSR: It might be a course, but you do
35 understand that it is an offence under the Act to
36 divulge information contrary to Aboriginal tradition
37 without the authorisation of the Minister to any person?
38 And it is clear that the provision, of course, is

1 designed to protect the confidentiality of Aboriginal
2 tradition. The authorisation is designed to restrict
3 the number of persons to whom any information is
4 divulged and there, of course, is a responsibility, as
5 far as I am concerned, in ensuring that the
6 authorisation is not exceeded.

7 So, it isn't the normal situation, by any means, Mr
8 Short.

9 MR SHORT: We accept that. And, in a normal
10 situation, I wouldn't be standing here putting these
11 submissions to you.

12 We don't seek to interfere with - and we couldn't -
13 your flexibility as to the conduct of the proceedings.
14 We have raised a concern as to how it is being
15 conducted. That is a matter for you to consider and
16 give it such weight as you see fit. All we can do is
17 voice our concerns.

18 In relation to the suppression of evidence, at the
19 minute, you can understand our complaint is we don't
20 even get the chance to say the suppression order is
21 wrong and we never can, because we don't know what was
22 suppressed.

23 What I am seeking to explore is a means by which
24 that can be addressed and Mr Abbott has raised some
25 matters which seem to merit consideration. I can't, at
26 the moment, suggest any other alternatives. It may be
27 that counsel assisting have some suggestions as to what
28 is an appropriate course to address it, but one means or
29 one matter certainly that comes into it is, before
30 material is suppressed, having regard to the terms of
31 s.16 (a). And the submission that my clients wish to
32 put to you is requiring some positive assurance and
33 being satisfied in terms of the Act that this
34 suppression is appropriate beforehand and a review after
35 the evidence to take place to ensure that suppression,
36 having heard it, is still appropriate. We seek to be
37 part of that review process, because no-one is
38 representing my clients in that no-one has my clients'

- 1 interests in mind, or at least that is their concern.
2 And that is a concern that they want taken into account.
- 3 COMSR: You appreciate the Terms of Reference of
4 this Royal Commission are somewhat different?
- 5 MR SHORT: Indeed.
- 6 COMSR: In that they emphasise the matters of
7 privacy and confidentiality and the need to be sensitive
8 about those issues.
9 I don't know if you have anything further that you
10 want to put to me, Mr Short?
- 11 MR SHORT: The only further matter is in terms of
12 suppression orders that have been made to date. And it
13 is a matter that has been raised with counsel assisting,
14 the idea of, in effect, a register of those orders, so
15 that we can know what can and cannot be reported. That
16 is more an administrative matter, but it is perhaps one
17 that needs to be raised.
- 18 COMSR: That would appear to be something that
19 can be fairly readily achieved, if that is what you are
20 seeking, Mr Short.
- 21 MR SHORT: Yes.
- 22 MR SMITH: Perhaps I could indicate that some of
23 those suggestions about the speedy review, I think
24 perhaps we can get together and, subject to your
25 approval, organise something along those lines.
- 26 COMSR: I would have to give some thought to the
27 issue of whether information can be divulged - I mean,
28 information divulged outside the hearing room - for the
29 purpose of determining what portion of it should be
30 released or not.
- 31 MR SMITH: I think we can perhaps just speedily
32 consider the submissions that have been made by my
33 learned friend and Mr Abbott.
- 34 COMSR: Yes.
- 35 MR SMITH: And see if we can address some of those
36 concerns.
- 37 COMSR: Yes, perhaps I should point out a
38 practical difficulty.

1 The suggestion that the transcript can automatically
2 be speedily reviewed. It is not necessarily the case
3 that one can speedily review the transcript and
4 determine what parts of it could be released to the
5 public, because that may require the input of an expert
6 before that can be done. I think it would be dangerous
7 for Commission staff to go through, without any
8 anthropological or Aboriginal input into that, and
9 determine that something may or may not require to be
10 suppressed.

11 MR SHORT: It may require some further assistance,
12 but there may well be circumstances where it is not
13 required.

14 COMSR: Yes, there was an instance of that the
15 other day when Dr Clarke's evidence was released, having
16 obtained his opinion that there was nothing there that
17 required suppression.

18 MR SHORT: It may be appropriate undertakings could
19 assist and further discussions with counsel assisting
20 may assist. These are legitimate concerns.

21 COMSR: I understand your concerns and, if we
22 were dealing with the normal situation where the law,
23 itself, is not shown the same degree of protectiveness,
24 it would perhaps not involve the same problems as far as
25 the Commission is concerned. But it is clear that the
26 law is aimed at protecting confidentiality and that
27 cannot be taken lightly. I am not suggesting that you
28 are doing that, but I have a responsibility to ensure
29 that, inadvertently there is not some problem created
30 and I make no apologies for having been cautious in that
31 regard, Mr Short. I think I am obliged to be cautious
32 at least. And perhaps it may seem overly cautious, but
33 the damage, once done, couldn't be repaired, if there is
34 any damage. And it is for that reason that I think I
35 have to adopt the attitude of perhaps closing the court
36 where I get an intimation that the witness believes
37 that, or counsel advise me that we are about to enter
38 into an area where confidential matters may arise,

1 throughout the course of the evidence. And then to
2 consider, at a later stage, to what extent the evidence
3 given requires protection.

4 I don't know if you are suggesting anything
5 different to me, Mr Short?

6 MR SHORT: I am suggesting that there is force in
7 Mr Abbott's suggestion of a legal representative being
8 involved for media clients in that exercise and having
9 the opportunity to put submissions, albeit in closed
10 session, to put a different view.

11 COMSR: You mean, before a closure takes place?

12 MR SHORT: Before or after. Beforehand it is a
13 matter for your discretion as to what you do. And it
14 really must be in relation to afterwards that we are
15 concerned about the publication. If it is not going to
16 be published, we are concerned. If it is going to be
17 published, and that comes out promptly, then obviously
18 we don't have that concern.

19 COMSR: I wish it was an easy matter to address
20 your concerns, Mr Short. It is not apparent to me that
21 there is an easy resolution to what you are putting to
22 me.

23 MR SHORT: And it may not be resolved this morning.

24 COMSR: No.

25 MR SHORT: Could I perhaps suggest that discussions
26 continue with counsel assisting and see if a resolution
27 can be arrived at that meets all the interests?

28 COMSR: It may be advantageous to draw up a
29 guideline for these private hearings so at least there
30 is no difficulty in understanding what the rules are,
31 yes.

32 MR SHORT: And that would be of assistance.

33 MR ABBOTT: I have an application to make.

34 COMSR: In respect of the application -

35 MR ABBOTT: No.

36 COMSR: As far as Mr Short's application is
37 concerned, I indicate that I will consider the matters
38 that he has put before me. And I would anticipate, Mr

1 Short, that it is quite possible that we would have an
2 early application for closure of the court the moment we
3 have a witness before us. So, if that is of any
4 assistance to you.

5 MR SHORT: I have another commitment, but my
6 clients may seek to do something. I can't tell.

7 COMSR: What is your application, Mr Abbott?

8 MR ABBOTT: I understand, from counsel assisting,
9 that the issue of the video tape needs further time.

10 COMSR: I understand that.

11 MR ABBOTT: We can't proceed with the video tape
12 and, therefore, we can't proceed with Mrs Fisher, since
13 that is the remaining topic, if there were to be further
14 questions as a result of the video tape.

15 COMSR: Yes.

16 MR ABBOTT: That being so, I have an application to
17 interpose Mrs Bertha Gollan and Mrs Dorothy Wilson to
18 give evidence today. At least, their evidence-in-chief.

19 COMSR: Certainly I would be anxious not to
20 waste any of the hearing time available and, if you are
21 in a position to provide witnesses at -

22 MR ABBOTT: We are, I discussed this with counsel
23 assisting and, at your request, he has made enquiries as
24 to a venue and I understand he has a venue.

25 MR SMITH: Yes, that is so, Madam Commissioner. I
26 have, myself, and my learned friend, Ms Simpson, viewed
27 the video tape. Our tentative view is that it is
28 relevant. There is a necessity, however, for you to be
29 advised about certain things that arise out of the
30 exhibit and that cannot be done today or cannot be done
31 before we resume evidence. Therefore, Mr Abbott is
32 correct, it is not possible to use or show the tape
33 today. Further cross-examination, therefore, of Mrs
34 Fisher is not possible today and so her further evidence
35 will have to be deferred.

36 I indicate that for sometime the Commission has had
37 an alternative venue arranged to hear the evidence of
38 those dissident ladies.

- 1 COMSR: Yes, that's correct.
- 2 MR SMITH: Who are concerned about the hearing
3 room.
- 4 COMSR: This venue, yes.
- 5 MR SMITH: And we have, this week, all this week,
6 had a court available in the Sir Samuel Way Building, so
7 that we can take advantage of that today. So, as soon
8 as you can adjourn to that venue, we can commence the
9 evidence of the two people mentioned by Mr Abbott.
10 There is a possibility of that evidence continuing
11 into next week. So, I could indicate to Ms Nelson,
12 therefore, that that will be the case, because I think
13 she would like to be released at least until Wednesday.
- 14 MS NELSON: Yes, certainly, it would be helpful to
15 me if I could be released for Monday and Tuesday of next
16 week.
- 17 COMSR: You don't have a special interest in
18 this part of the evidence, I understand, and that,
19 therefore, it is not necessary for you to be in
20 attendance at all during this part.
- 21 MS NELSON: I don't believe I do. I think perhaps I
22 should at least hear the early part of the evidence to
23 assure myself that is the position. And, if it is going
24 to be heard today, that would meet that and then I would
25 be grateful to be released.
- 26 COMSR: I would propose to proceed to hear the
27 evidence rather than have another day go by.
- 28 MS PYKE: I doubt that I will be in any position
29 to cross-examine today.
- 30 COMSR: That may well be the case.
- 31 MS PYKE: As long as it is clearly understood that
32 we could probably be seeking at least some weekend time
33 to take instructions.
- 34 MR ABBOTT: That is understood. That is why I have
35 arranged for two of my clients to be available in an
36 expectation that we will get through the
37 evidence-in-chief probably of both.
- 38 MS PYKE: Yes, I have got no difficulty with that.

- 1 COMSR: We will adjourn to the Sir Samuel Way
2 Building.
3 Could you give an indication of where?
4 MR SMITH: It is court 19 on the top floor.
5 COMSR: That is, the 5th floor?
6 MR SMITH: It is the 5th floor.
7 COMSR: I think we will require half an hour
8 before we could resume. Not before 10.45, in that case.
9 ADJOURNED 10.15 A.M. TO SIR SAMUEL WAY BUILDING AT NOT
10 BEFORE 10.45 A.M.

1 RESUMING 11.20 A.M. IN SIR SAMUEL WAY BUILDING

2 MR SMITH: The first witness is Bertha Gollan. By
3 arrangement with counsel, Mrs Shaw and Mr Abbott, Bertha
4 Gollan will be led by Mrs Shaw. Certainly there has
5 been no debate about whether or not that course should
6 be followed, but it was a decision made by myself. I
7 think I consulted with you, commissioner, about it.

8 In light of the fact that these ladies have come to
9 court. I think it is appropriate that you relax the
10 practice direction to that extent: that is, the practice
11 direction that requires me to lead witnesses. If there
12 be any debate about that, then perhaps it should take
13 place now.

14 COMSR: I can see no objection to relaxing the
15 rules in these circumstances, and I propose to do so.

16 MR TILMOUTH: I have an objection, if you please. As
17 I understood the guidelines which have been handed down,
18 the general procedural direction, the idea of Mr Smith
19 or Ms Simpson being the persons who would lead the
20 witnesses was basically to ensure that all the matters
21 which apparently needed to be dealt with were put in
22 proper statement form, so that people would have notice.
23 No reason has been advanced why that general principle
24 should not be complied with here. In my submission,
25 there is every good reason to think that the supervening
26 exercise of counsel assisting would be beneficial.

27 The second thing is that we were only given notice
28 late yesterday that these witnesses were to be called.
29 Our expectation was that Dr Clarke would be back in the
30 box. This has thrown our schedule completely out. The
31 third thing to say is that we have not been given copies
32 of these statements.

33 COMSR: Mr Tilmouth, I think it was indicated
34 earlier in the week that arrangements could be made for
35 courtrooms to be available during the course of this
36 week, as I understood the situation, and it is not easy
37 to arrange an alternative venue.

1 MR TILMOUTH: That is not my point. I understand all
2 of that, but we have made arrangements basically on the
3 understanding that this sort of witness would not be
4 arriving. Anyway, I put that aside. My greatest
5 objection is the fact that we have not been given copies
6 of these statements. The undertaking is quite
7 irrelevant. The principle of fairness overtakes that.

8 COMSR: The principle of fairness can be
9 achieved by allowing you what reasonable time might be
10 required. In this case, I understand from what has been
11 said to me earlier, the witnesses will be led through
12 their evidence, and there will be the weekend to
13 consider it. This is, after all, not a trial. We are
14 in the process of gathering information.

15 MR TILMOUTH: But it is quite unfair that some people
16 have a written statement, whereas others of us only have
17 the oral evidence. We don't know whether the oral
18 evidence canvasses all that is in the written material
19 or not. We don't know how they compare, and so forth.

20 MRS SHAW: I can dispose of that very quickly. I
21 propose to tender the written statement at the
22 commencement of the evidence, which will be available to
23 Mr Tilmouth, depending on what Mr Smith's view is to
24 making it available to people who are not intending to
25 give evidence in this commission, because we would have
26 great objection to cross-examination by people who are
27 not prepared to give evidence in court and have not
28 given evidence in court.

29 COMSR: I, of course, take the view that where
30 there is a likelihood, or where it appears likely that I
31 must rely on the terms of my authorisation to receive
32 evidence, that I would require that the conditions be
33 met under which any statements might be released.

34 MR TILMOUTH: We have signed that undertaking. The
35 undertaking to call our clients is the one that we
36 haven't signed. That quite unaffected the principle of
37 fairness. There is no point in giving leave for parties

1 to be present at the commission, but only allowing them
2 to have half the material.

3 COMSR: I am sure if you are at a disadvantage
4 because of that, that concern can be met.

5 MR TILMOUTH: I am obliged for that information, but
6 at the moment, prima facie, we are at that disadvantage.

7 Can I make the point as well that what I just said
8 applies to both the witnesses to be called today, Bertha
9 Gollan and Dorothy -

10 COMSR: They will be giving their evidence
11 in-chief, you will hear it, and I understand you will be
12 supplied with the statement.

13 MR TILMOUTH: I was told we were not until a moment
14 ago.

15 MS PYKE: Is there some suggestion that, in the
16 absence of a signed undertaking, there will be no
17 opportunity to cross-examine? Is that what is being
18 suggested? I would very much want to be heard on that
19 in due course.

20 COMSR: That is not the undertaking that has
21 been signed.

22 MR SMITH: Neither Mr Tilmouth nor his clients or
23 instructing solicitor, nor Ms Pyke or her instructing
24 solicitor or her clients have signed the undertaking as
25 to willingness to give evidence. So there is a
26 perception, and it is a fair perception in my
27 submission, that for them to have the freedom to
28 cross-examine people who have provided statements and
29 who have taken the witness box to be, as it were,
30 tested, they should do the same to be accorded that
31 privilege. We can address that later.

32 COMSR: In any event, as I say, I am engaged in
33 an inquiry that is a fact finding inquiry, not a trial.
34 It should not be perceived to be a trial. Mr Tilmouth
35 and Ms Pyke will hear the evidence as it is given, and
36 they will be provided with statements.

37 MR STRATFORD: Sorry to also stand and raise an
38 objection. My client is in a somewhat unique position,

1 somewhat different to the position of Mr Tilmouth's
2 client and Ms Pyke's client. My client, you will
3 recall, is Mr Wooley, a solicitor employed by the ALRM.
4 He is not in a position to sign any undertaking at this
5 stage. In addition, he has the additional problems of
6 not having the ALRM files available to him. So this
7 makes it very difficult for him to instruct me with
8 respect to any cross-examination anyway.

9 The third problem with respect to him is that, if he
10 is called to give evidence, I understand that an
11 objection is going to be taken by Mr Tilmouth on the
12 basis of legal professional privilege. I raised with
13 you before the problems with these files, and it is
14 still very much a problem for my client.

15 COMSR: I appreciate that. As you are aware, of
16 course, in the commission, the commissioner can vary the
17 way in which the proceedings are conducted, and I
18 propose, in this instance, to permit Mrs Shaw to lead
19 these two witnesses through their evidence. As I
20 understand it, they are to be taken through their
21 statements today, and there is no suggestion that any
22 cross-examination will be involved in today's
23 proceedings.

24 MRS SHAW: That is right.

B. GOLLAN XN (MRS SHAW)

1 MRS SHAW CALLS

2 BERTHA GOLLAN SWORN

3 EXAMINATION BY MRS SHAW

4 Q. Mrs Gollan, you have signed a statement containing the
5 matters that you wish to tell the Royal Commission on
6 oath.

7 A. Yes, I have.

8 Q. Could you please look at this statement. Is that the
9 statement that you have signed for the purposes of your
10 evidence before this commission.

11 A. Yes, it is.

12 EXHIBIT 25 Statement of Bertha Gollan tendered by
13 Mrs Shaw. Admitted.

14 MRS SHAW: There have been some copies prepared. I
15 ask that it be noted that there are two corrections that
16 need to be made to the copies. First of all, this
17 doesn't concern Mrs Gollan, for the purposes of the
18 copies, a correction needs to be made to p.4, para.2.2.
19 The third line should read `9' rather than `all'. Mrs
20 Gollan has made that correction in the other copy. And
21 in paragraph 3.6 on p.7, the first word is `before' not
22 `after'.

23 XN

24 Q. I now propose to ask you some questions so that you can
25 tell Madam Commissioner about the matters that you know
26 are before this commission. First of all, how old are
27 you.

28 A. Pardon?

29 Q. How old are you.

30 A. 74. 75 on 29 September this year.

31 Q. Where were you born.

32 A. Point McLeay.

33 Q. What was your father's name.

34 A. Charles Wilson.

35 Q. Where was he born.

36 A. Point McLeay.

37 Q. What was your mother's name.

38 A. Mary Jane.

B. GOLLAN XN (MRS SHAW)

- 1 Q. Her surname.
2 A. Watson.
3 Q. Where was she born.
4 A. Kingston in the South-East.
5 Q. Can you tell us the names of your grandparents on your
6 father's side.
7 A. John Wilson.
8 Q. And your grandmother.
9 A. Eliza Wilson, nee Wilkins.
10 Q. Do you remember your grandfather, John Wilson.
11 A. Yes, I remember him.
12 Q. What about your grandmother.
13 A. No. I think she died before I was born.
14 Q. Was John Wilson, your grandfather, someone who lived on
15 Point McLeay.
16 A. Yes, he did.
17 Q. For as long as you knew him, did he live on Point
18 McLeay.
19 A. Yes, he did.
20 Q. How old was he when he died.
21 A. He was 100 when he died.
22 Q. Did your father have more than one marriage.
23 A. Yes, he did.
24 Q. And what was the name of his first wife.
25 A. Blanche Watson.
26 Q. Your mother was his second marriage.
27 A. That's right.
28 Q. How many children were there of your father's second
29 marriage.
30 A. Second marriage?
31 Q. Yes.
32 A. There was eight of us.
33 Q. Of your father's first marriage.
34 A. Three.
35 Q. Where were your brothers and sisters born.
36 A. All but one of my brothers were born - we were all born
37 on Point McLeay except one of my brothers, who was born
38 - this is Lindsay Wilson, who was born in Kingston in

B. GOLLAN XN (MRS SHAW)

1 the South-East.

2 Q. From your father's first marriage, were there two
3 persons, Val Power and Muriel Van Der Byl, who were
4 descendants.

5 A. Yes.

6 Q. Were they born on Point McLeay.

7 A. No, they weren't born on Point McLeay.

8 Q. Where were they born.

9 A. Well, I don't know where they were born, but my sister
10 came back to Point McLeay when Val Power was 4 years
11 old. I remember that quite vividly.

12 Q. Her name was, your sister.

13 A. Mary.

14 Q. Was she really your half-sister.

15 A. Yes, that's right.

16 Q. Where was your half-sister born.

17 A. Kingston in the South-East, both of them - both of my
18 sisters and my brother.

19 Q. Did you know what your grandfather's father's occupation
20 was. What did he do.

21 A. Well, to my knowledge - that's my grandfather Wilson, is
22 it?

23 Q. Your grandfather's father. Your great grandfather.

24 A. He was a whaler, as far as we were told. My grandfather
25 was a whaler from Encounter Bay.

26 Q. Is it your great grandfather who was the whaler.

27 A. Yes, that's right.

28 Q. Was he an Aboriginal or a white person.

29 A. I wouldn't know.

30 Q. What have you been led to believe.

31 A. Pardon?

32 Q. Have you been led to believe whether he was -

33 A. We were led to believe that he was a white person
34 because my grandfather, dad's father, was very fair.

35 CONTINUED

B. GOLLAN XN (MRS SHAW)

- 1 Q. You were born on Point McLeay.
2 A. Yes.
3 Q. You married Leonard Gollan.
4 A. Yes, I did.
5 Q. How many children have you and Leonard Gollan.
6 A. 11.
7 Q. Where was Leonard born.
8 A. Point McLeay.
9 Q. How many of your children were born at Point McLeay.
10 A. I only had two that weren't born there. They were born
11 at Meningie, when I moved to Meningie to live.
12 Q. How long did you live at Point McLeay.
13 A. I left Point McLeay when he was 40 - around about 45 to
14 move to Meningie.
15 Q. Why did you move to Meningie at that time.
16 A. My husband worked in the Highways from Meningie down to
17 Lucendale in the South East.
18 Q. When did you leave Meningie to come to Adelaide.
19 A. After my husband had died.
20 Q. How long ago.
21 A. That's 33 years now.
22 Q. The person Audrey Dix is one of your children.
23 A. Yes.
24 Q. I want to ask you some questions about your childhood
25 and what you learnt during your life at Point McLeay.
26 Can you explain to the Commissioner the part that the
27 church played.
28 A. Yes. We had a very good upbringing as far as the church
29 went. We, as children, we went to Sunday school. As we
30 got older, we went to the other services. I can
31 remember every Wednesday, we used to have 'Christian
32 Endeavour'. As I got older and I left school, I worked
33 for the Reverend Reid, who was then the Minister there
34 up until I got married.
35 Q. How far did you go at school.
36 A. Up to the 8th grade.
37 Q. Did your father teach you about any aboriginal
38 lifestyle.

B. GOLLAN XN (MRS SHAW)

- 1 A. We knew some of the language, the Aboriginal language,
2 and when my mother used to make baskets and mats and -
3 but mostly we lived in the European environment.
4 Because up until then, there was no - what you have been
5 hearing just lately, there was all everything about the
6 spiritual and all that sort of thing. Fair enough, we
7 believed we knew there used to be spiritual, but that
8 was all gone by the time we were grown up, and even as
9 children.
- 10 Q. Were you taught anything about Aboriginal culture in the
11 school.
- 12 A. No. Mr Lawrie never taught us anything. He taught us
13 the basic European education.
- 14 Q. You said that you mentioned the language. Did your
15 grandfather and your father speak the language.
- 16 A. Yes, they did.
- 17 Q. What about you.
- 18 A. I could say a sentence. I know - even up to this day, I
19 know quite a lot of the words. I'd know if someone was
20 saying anything, I'd know what they are talking about.
21 But as for speaking it fluently, no.
- 22 Q. What about the other children as you were growing up at
23 Point McLeay, did they ever speak in sentences in the
24 language.
- 25 A. No, they spoke as much as I did.
- 26 Q. I have asked you whether you learnt anything about your
27 history. Were you told anything, for example, about
28 what's been described as the `Ngarrindjeri Dreaming
29 Story'.
- 30 A. The `Ngarrindjeri Dreaming Story'?
- 31 Q. Yes.
- 32 A. No, we heard about that in later years.
- 33 Q. When you say you learnt that in later years, how late.
- 34 A. It's just come out of books now.
- 35 Q. Did you ever hear anything of any dreaming stories when
36 you were a child.
- 37 A. No. We just all - we were told about the Mulywonk.
38 That was more or less to scare us if we didn't do what

B. GOLLAN XN (MRS SHAW)

1 we were told to do.

2 MR ABBOTT: A drawing of one is in Dr Clarke's
3 thesis which has been tendered.

4 XN

5 Q. Apart from a story to scare you or something of that
6 nature, were you ever told anything that was said to be
7 something that belonged to your tradition or your
8 culture.

9 A. No.

10 Q. Were you taught about, for example, in particular ways
11 to cook food, or -

12 A. Yes. We were told how to cook fish on the coals and
13 even rabbits. See, my brothers and my father, they did
14 a lot of shooting and fishing.

15 Q. Did they make wurleys.

16 A. Yes. We went - not every year, but we would go down to
17 what is called Marks Point, put up wurleys there and
18 have a couple of weeks during the Christmas holidays.
19 And this is my brother who is now deceased, one of them
20 - I've only got two with me now - Lindsay that is, he
21 was very, very knowledgeable in everything. He's made
22 tapes, he's done a lot and I'm very, very proud of what
23 he's achieved and what he has also given to the Adelaide
24 Museum. Lindsay was a straightforward, honest man.

25 Q. Are you referring to Lindsay Wilson.

26 A. Yes. My brother, yes.

27 Q. Who is married to Dulcie.

28 A. Yes.

29 Q. She was Dulcie Wigham.

30 A. That's right.

31 Q. I asked you about making wurleys. Did you ever live in
32 a whirley.

33 A. Not live, just at holiday times.

34 Q. What kind of house did you live in on the mission.

35 A. We had quite a nice house, it was built of real solid
36 rocks, very solid. My place was what you would term now
37 as a maisonette where I lived and there was another
38 family next to us. We had five rooms on our side of the

B. GOLLAN XN (MRS SHAW)

- 1 house, the building, and the other had four.
- 2 Q. From where did you get your food at the mission.
- 3 A. We had a general store there.
- 4 Q. Did the women at the mission do quite a bit of baking.
- 5 A. Yes. My mother was an excellent cook and so was my
- 6 father. My dad used to go cooking for the shearers.
- 7 Q. Were you ever asked to run errands for your mother.
- 8 A. Yes.
- 9 Q. What kind of errands.
- 10 A. Well, there were quite a lot of errands I had to do.
- 11 Q. What about for your mother when she baked.
- 12 A. Mum did a lot of baking and she was very fond of the
- 13 older people and she made damper and she used to make a
- 14 lot of cake, lots of cakes, and my sister and I, or even
- 15 one of my brothers, we had to - if she said 'Take this
- 16 to someone', we had to do it. And as I said, she wasn't
- 17 from Point McLeay, but she was very well liked.
- 18 Q. When you would take the cakes to these ladies, did you
- 19 chat to them.
- 20 A. Yes.
- 21 Q. In all of your years on Point McLeay, did you ever hear
- 22 any talk of any women's business.
- 23 A. No, never.
- 24 Q. Was it ever suggested to you that there was ever any
- 25 secret knowledge that was being passed on to you.
- 26 A. No. When as children growing up, especially the young
- 27 girls, we were never told how babies were born and the
- 28 changing of us in our bodies - which is, well - now,
- 29 these days, every mother tells a girl. We were never
- 30 told that. We had to experience this on our own. So,
- 31 if there would have been any sacred business, women's
- 32 business, I know we would have been told. So, if the
- 33 old ladies and my mother, if they didn't tell us the
- 34 changing of our bodies and how our children were born,
- 35 why weren't we told about the sacred business - which we
- 36 were never.
- 37 Q. Were you told anything about where babies came from.
- 38 A. No. We had to find out for ourselves. We were told

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- 1 that the babies were found out under the big fig tree
2 outside the hospital.
- 3 Q. Would you describe Point McLeay as a community where
4 everybody knew everybody.
- 5 A. Yes, definitely.
- 6 Q. How would you describe it in terms of how many people
7 went to church.
- 8 A. Quite a lot.
- 9 Q. You said that you worked for Reverend Reid, did you.
- 10 A. Yes.
- 11 Q. As a domestic.
- 12 A. As a domestic, yes, that's right.
- 13 Q. Did he have some influence on the people at Point
14 McLeay.
- 15 A. I wouldn't call it 'influence'. People just, they just
16 believed in what was right. See, at that time, there
17 was no drink allowed on Point McLeay as I was growing
18 up, and the men, they did - they all worked - those who
19 lived on Point McLeay, there was plenty of work there
20 for them.
- 21 Q. What kind of a school teacher was Mr Lawrie.
- 22 A. Mr Lawrie was a very strict, very strict teacher. His
23 wife taught us the domestic, like of sewing and more or
24 less cooking, but my mum - I knew how to cook without
25 anyone else telling me.
- 26 Q. Who do you understand delivered you when you were born.
- 27 A. That was old lady Pinkie Mack.
- 28 Q. Did you, yourself, later learn to assist in deliveries
29 and delivering.
- 30 A. Yes. I did with an Aboriginal Sister Faith Coulthard.
31 She trained in the Royal Adelaide here and was sent to
32 Point McLeay by the Government and I used to assist her
33 with some of the confinements.
- 34 Q. Pinkie Mack is the mother of the person whose name we
35 won't mention because she died recently.
- 36 A. That's right, yes.
- 37 Q. During the course of helping Sister Coulthard and Sister
38 Flower to deliver babies, was anything ever said to you

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1 about any women's business or Aboriginal business.

2 A. I didn't assist Sister Flower, I was only - might as
3 well say a kid then.

4 Q. But she helped.

5 A. She was also sent there by the Government to - when
6 Pinkie Mack was there. She helped, Pinkie Mack used to
7 help Sister Flower with the confinements.

8 Q. During the years that you helped in the delivery of
9 babies, did anyone ever say to you anything about any
10 secret women's business.

11 A. No.

12 Q. Who did you understand as a people you were.

13 A. I knew that I was Nunga Aboriginal from Ngarrindjeri,
14 that is from Point McLeay, because there are different
15 clans: Point Pearce, Ceduna, places like that.

16 Q. But apart from that, was there anything else you knew
17 about your culture.

18 A. No, not really. We used to know how to cook and get
19 cockles, that is when we went down to the Coorong. And
20 if someone had a boat, row across to the hummocks and
21 get the cockles. We knew how to get the cockles and
22 things like that.

23 Q. Were you ever told any stories at all that you were told
24 ought to be passed on to your children.

25 A. No, not really.

26 Q. In 1995, did you go to a meeting at Camp Coorong.

27 A. Yes, I did.

28 Q. And was that for the election of the Lower Murray
29 Aboriginal Heritage Committee.

30 A. Yes, that's right.

31 Q. Whom did you go with.

32 A. Major Sumner.

33 Q. Who was he.

34 A. He worked for the society here in Adelaide.

35 Q. Was he a friend of yours.

36 A. Yes.

37 Q. How did you find out about that meeting.

38 A. We were all given pamphlets, sent out pamphlets through

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1 the mail.

2 Q. What was your particular interest in going to that
3 meeting.

4 A. Well, they did say that there would be the women there,
5 and referring to the women for the Hindmarsh Island
6 affairs, so I thought I would just go along.

7 Q. At that stage, were you aware of claims of existence of
8 secret sacred women's business.

9 A. Yes.

10 Q. Had you been able to find out, up until then, what it
11 was supposed to be all about.

12 A. No. We were still wondering what the secret business
13 was.

14 Q. Who did you drive down with.

15 A. Major Sumner and Lorraine Wilson.

16 Q. How old is Lorraine Wilson, just approximately.

17 A. She would be in her, she would be in her 60s, late 60s.

18 Q. Was she from Point McLeay.

19 A. Yes, she was.

20 Q. On the way down there, did you speak to Major Sumner and
21 Lorraine Wilson about the women's business.

22 A. Yes, we certainly - I certainly did.

23 Q. What did you say.

24 A. Well, we discussed it and they both said - Major
25 referred to his mother not knowing anything about it and
26 Lorraine said the same. She said 'We were never told
27 anything', and Lorraine's mother was also a midwife, and
28 that's Mrs - she was Mrs Vera Carter.

29 Q. Was Major Sumner's mother in Point McLeay.

30 A. Yes, she was.

31 Q. What was her name.

32 A. Charlotte.

33 Q. When you arrived at the meeting, did the elections take
34 place.

35 A. Yes.

36 Q. Did you agree to nominate for the committee.

37 A. I was nominated.

38 Q. You were elected.

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- 1 A. Yes.
- 2 Q. Did you go there to be elected to the committee.
- 3 A. No, I didn't.
- 4 Q. Were there any white people at this meeting.
- 5 A. Yes, there were two gentlemen there.
- 6 Q. Do you know their names.
- 7 A. Yes: Steve Hemming and Patrick Byrt.
- 8 Q. Who was Patrick Byrt.
- 9 A. I understood him to be a barrister.
- 10 Q. Had you met him before.
- 11 A. Yes, I met him before.
- 12 CONTINUED

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- 1 Q. Where had you met him before.
2 A. I met him several times.
3 Q. Had he ever approached you to get you to support Doreen
4 Kartinyeri.
5 A. He came one night to my place, it was 9 o'clock at
6 night, and asked me if I was ready to go down to
7 Hindmarsh Island and I said 'Go down to Hindmarsh
8 Island?' I was in bed, when he arrived there. And I
9 said 'Go down to Hindmarsh Island? What for?' He said
10 'The women have gone down', he said 'for the meeting
11 tomorrow.' I said 'No, I am not going.'
12 Q. Did you know Steven Hemming, before that meeting.
13 A. Yes, I knew Steve.
14 Q. You understood him to be from the museum.
15 A. Pardon?
16 Q. He was from the museum.
17 A. Yes, I met Steve several times.
18 Q. Had you met him in the company of your brother, Lindsay
19 Wilson.
20 A. Yes.
21 Q. What did you hear between Lindsay Wilson, your brother,
22 and Steve Hemming. What kind of things were discussed.
23 A. Lindsay used to tell him all about his life on Point
24 McLeay and, as I said before, we used to go down to
25 Kingston for holidays. Not every year, but
26 occasionally, and Lindsay knew of every, what can I say,
27 watering hole, from Point McLeay right through to
28 Kingston. And he explained all this to Steve. He told
29 Steve a lot of things I don't think Steve knew himself.
30 And he has also made tapes and there is tapes I know,
31 right now, in his home, at Millicent.
32 Q. Did you see who Steve Hemming appeared to be with, at
33 the meeting.
34 A. Pardon?
35 Q. Who was Steve Hemming with, at the meeting.
36 A. He was there with, as I said, when I saw them, they were
37 sitting outside the building, he and Patrick Byrt.
38 Q. Had they been excluded from the meeting.

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- 1 A. Yes, I was told that they weren't allowed in.
2 Q. Did anyone get a bit upset about that.
3 A. Yes.
4 Q. Who was that.
5 A. Maggie Jacobs.
6 Q. Had you seen Maggie Jacobs in the company of Steve
7 Hemming on a number of occasions.
8 A. Yes.
9 Q. How did the meeting start. Did Daisy Rankine do
10 something.
11 A. Daisy read a poem that Patrick Byrt was supposed to have
12 written, but I couldn't hear exactly what she was
13 saying, because she was right at the back of the
14 building - the room, rather.
15 Q. How did it come about that the men came to be excluded.
16 Who said that the men had to leave.
17 A. They weren't in the room at all. I think they were told
18 before the meeting began that they wouldn't be allowed
19 in there.
20 Q. They were obviously there when the elections were held
21 for men.
22 A. Yes, they were sitting outside.
23 Q. Just to clear this up, at one stage, were the white men
24 excluded, that is, Patrick Byrt and Steven Hemming.
25 A. That's right.
26 Q. And then, at a later stage, did the Aboriginal men
27 leave.
28 A. Yes, when the meeting - when the - when they selected
29 the new committee or the committee, the chairman, who
30 was Matt Rigney, said that after lunch they were - the
31 men were excluded from the room, because the women were
32 going to talk of woman's business.
33 Q. How did you feel about that.
34 A. I was quite happy. I thought I was going to hear all
35 about the sacred women's business.
36 Q. Did you say something to Lorraine Wilson.
37 A. Yes, I did. I mentioned it to her. I said `Now we'll
38 know what the secret women's business is.'

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- 1 Q. After the men, Aboriginal men had left, what in fact
2 happened.
- 3 A. The women were all seated and Doreen Kartinyeri said
4 that she had got us there to talk about the secret
5 women's business, but nothing at all came up about the
6 sacred women's business. All she was going on about was
7 getting Michael Armitage sacked and Chris Gallus, that
8 is all we heard. Nothing, not one word was mentioned
9 about secret women's business. And I mentioned - I said
10 Chris - I was sitting not far from where she was
11 standing. I said `Doreen', I said `are you going to
12 tell us about the sacred women's business?' And whether
13 she heard me I don't know, but she didn't even answered
14 me.
- 15 Q. Was anything said by Doreen about the Chapmans.
- 16 A. Yes, she did say `If there is anyone in this room who
17 are friends of the Chapmans, they are to leave.'
- 18 Q. Did she say that on one occasion or more than one
19 occasion.
- 20 A. She said it on more than one occasion.
- 21 Q. Did she refer to any other kind of contact other than
22 being friends with the Chapmans.
- 23 A. Yes, she did.
- 24 Q. What did she say.
- 25 A. And she also mention that `If anyone is faxing anything
26 to the Chapmans, they are to leave.'
- 27 Q. Did she say that more than once.
- 28 A. No, only that once.
- 29 Q. Did you have any idea of whether that appeared to be
30 directed at anybody.
- 31 A. Not until after and I realised then -
- 32 OBJECTION Ms Nelson objects.
- 33 COMSR: You are objecting to the conjecture, are
34 you?
- 35 MS NELSON: I am objecting to the witness giving her
36 interpretation or inference which I think is what she
37 was about to do. Obviously she can say what she saw,
38 she can say what she said, and she can say what she

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- 1 heard, but I don't think she can say what she thought.
- 2 MS SHAW: I don't think Mrs Gollan was going to
3 tell us what she thought. I think she was going to tell
4 us what she learnt later.
- 5 MS NELSON: She started off with 'I realised'.
- 6 COMSR: I think perhaps the way she introduced
7 that might have suggested that, Ms Shaw.
- 8 XN
- 9 Q. What did you learn later about -
- 10 A. I learnt later that they were against Dorothy Wilson.
- 11 Q. Was Sarah Milera at the meeting.
- 12 A. Yes, she certainly was.
- 13 Q. And Shirley Peasley.
- 14 A. Yes, she was there.
- 15 Q. Did Shirley Peasley do or say anything.
- 16 A. Yes, Shirley was walking up and down and demanding that
17 Michael Armitage be sacked and Chris Gallus.
- 18 Q. She be sacked too.
- 19 A. Yes, that they both be sacked from their positions in
20 the Government.
- 21 Q. I now want to go to a new topic and that is to deal with
22 how you came to make a decision to speak out publicly
23 about what you believed about this sacred secret women's
24 business. When was it that you heard for the first time
25 of any secret sacred women's business stories.
- 26 A. I read it in the paper, about, if the bridge went ahead,
27 that is, down at Hindmarsh Island, it would stop the
28 fertility of the women and I made a statement to that
29 and I said it would never stop the fertility, because
30 they still were breeding like rabbits.
- 31 Q. Could I take you back and deal with two different
32 things. One, when you first heard about it and, two,
33 when you first spoke about it, yourself. You first
34 heard about it, I think, when it was in the papers in
35 mid 1994, is that right.
- 36 A. That's right.
- 37 Q. After you first heard about it, did you have chats with
38 Dulcie Wilson, your sister-in-law.

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1 A. Yes, I did.

2 Q. What was the discussion that you had with Dulcie.

3 A. The final discussion we had is when I went down to
4 Millicent in April, on the 8th, that was my son's 50th
5 birthday and we went down to celebrate with them.

6 Dulcie and I left the party and we drove back to
7 Millicent and we sat and we started to talk about this
8 secret business. She said 'Look', she said 'there is
9 something - we just have to do something about it.' We
10 referred to the women as 'girls'. And I said 'These
11 girls are going a little bit too far, when they referred
12 to the - ', that that I just mentioned, about if the
13 bridge went ahead it would stop the fertility. Also the
14 - what the island represented. That -

15 COMSR: I just wonder, we are not getting into
16 any area that I have to be concerned about, are we?

17 MS SHAW: We will only be dealing with topics that
18 are in the media.

19 COMSR: That is in the public knowledge?

20 MS SHAW: Yes, because Mrs Gollan was not told
21 anything by anyone else.

22 COMSR: I just wanted to be sure before we
23 proceed.

24 XN

25 Q. You were telling us that you and Dulcie were talking to
26 each other about your concerns about these stories of
27 secret women's business. Did anything happen in
28 relation to Lindsay Wilson's photo.

29 A. Yes, we both sat and we looked at his photo and we both
30 had the same thoughts. That -

31 OBJECTION Ms Nelson objects.

32 COMSR

33 Q. I think you can't say what someone else thought, unless
34 they told you what they were thinking about, but you can
35 tell us what thoughts you had.

36 A. Yes, I was thinking -

37 OBJECTION Ms Nelson objects.

38 MS NELSON: I don't really think that what this

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1 witness thought is proper evidence.

2 XN

3 Q. Can you first of all tell us what you said to Dulcie
4 when you looked at the photo.

5 A. Yes, I said to Dulcie that `If he was alive today, he
6 would be putting some of them straight', because Lindsay
7 knew more about the culture than these girls. And I
8 will say `girls' again because they are all younger than
9 I am and there is quite a few of them. All I have seen
10 on TV they don't even - never even lived on Point
11 McLeay, weren't even born there, so how would they know
12 the culture from Point McLeay when they weren't born
13 there?

14 Q. Did you eventually attend a meeting, on 1 May 1995,
15 with Dorothy Wilson, Dulcie Wilson and Audrey Dix.

16 A. That's right.

17 Q. And I think Sue Lawrie, who was W.T. Lawrie's
18 granddaughter, set up that meeting.

19 A. That's right.

20 Q. Did you, at that time, sign a statement to be issued
21 publicly.

22 A. That's right, I did.

23 Q. Just looking at that document, now before you, dated 1
24 May 1995, is that the document that was prepared that
25 day after you had discussions with the other women you
26 have named in that document.

27 A. That's right.

28 Q. Your signature appears on there.

29 A. Yes, it is here.

30 EXHIBIT 26 Statement, dated 1 May 1995, tendered by
31 Ms Shaw. Admitted.

32 MR TILMOUTH: Could I make a point?

33 We haven't got a copy of that. I don't know on what
34 basis it is tendered, whether it is a self-serving
35 document.

36 I have it now.

37 Could you note my objection, at this stage, until I
38 read the document?

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- 1 COMSR: Yes.
2 I think Mr Tilmouth is asking that he have time to
3 read the document.
4 MR TILMOUTH: I have read it. At the moment, I only
5 see it as a self-serving statement.
6 COMSR: The weight of it, of course, is -
7 MR TILMOUTH: Indeed, Ms Shaw might refer to questions
8 about what happened to it. I don't know, but you have
9 noted my objection.
10 COMSR: Yes.
11 XN
12 Q. After that statement was signed, did you and those women
13 that you have named speak out publicly about the claims
14 of sacred secret women's business at Hindmarsh Island.
15 A. We did.
16 Q. After you spoke out publicly, did you receive any
17 threats.
18 A. Yes, I did.
19 Q. Can you tell us what you were told.
20 A. I was told that I was going to be -
21 OBJECTION Ms Pyke objects
22 MS PYKE: Who told her?
23 MS SHAW: I will come to that.
24 MS PYKE: It just seems it is hearsay.
25 COMSR: Perhaps we should establish that first.
26 MS SHAW: Your Honour can appreciate my client is
27 a 74 year old lady and I am asking her questions, not
28 according to how the lawyers might like to ask them, but
29 how I think might be most helpful to her.
30 COMSR: You are going to cover that?
31 MS SHAW: I was, Madam Commissioner.
32 XN
33 Q. What were you told.
34 A. I was told that I was going to be got - I would be got
35 rid of. And that is in the Aboriginal tradition.
36 Q. Who told you that.
37 A. Shirley Peasley contacted one of my girls and told her
38 that she was worried about me.

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- 1 OBJECTION Ms Pyke objects.
2 MS PYKE: That is not even direct conversation
3 with this witness.
4 XN
5 Q. You tell us what - are you telling us what one of your
6 daughters told you.
7 A. Yes.
8 Q. Can you tell us what one of your daughters told you.
9 OBJECTION Ms Pyke objects.
10 MS PYKE: Perhaps you could rule on the objection
11 first?
12 MR SMITH: Can I say that this is rather sensitive
13 evidence from Aboriginal ladies. We will, the
14 Commission will accord the same, if you like, tolerance
15 to any Aboriginal witness. You have given a practice
16 direction that relaxes the rules of evidence. You have
17 the power to do that under the Act. I submit as counsel
18 assisting you that this witness should be left to give
19 her evidence as best she can and matters that would
20 customarily be the subject of objection in an
21 interpartes trial can be left to the question of weight.
22 COMSR: Certainly I have power to receive
23 evidence in this form, because the Commission is not
24 bound by the rules of evidence, of course. It can
25 certainly be put to me, at a later stage, submissions as
26 to the weight that is to be accorded to certain
27 evidence, but I propose to allow the witness to give
28 this evidence.
29 XN
30 Q. I will ask you again, can you tell us, in your own
31 words, what you were told by one of your daughters.
32 A. Yes, that the women, that is -
33 COMSR: Perhaps there is a matter that I would
34 like to bring up, at this stage, Ms Shaw.
35 There is the question of relevance. Is this
36 relevant to the terms?
37 CONTINUED

B. GOLLAN XN (MRS SHAW)

1 MRS SHAW: It is relevant, in my submission, as to
2 this witness's entire approach to this very sensitive
3 issue within her people, and her continuing to come
4 forward today. It is also relevant to the conduct of
5 those who claim there is secret sacred women's business.
6 Although the evidence as to what she has been told by
7 her daughter is itself hearsay, her daughter can give
8 direct evidence of what the actual words are, and, as
9 indicated, she is prepared to do so.

10 COMSR: At the present moment I am just
11 addressing myself though to the relevance of this
12 evidence. Of course, it doesn't have to be central or
13 the core of the terms, but I haven't quite followed why
14 you say this is relevant.

15 MRS SHAW: It is relevant in two ways. That is,
16 that it first of all indicates the consistency and the
17 perserverance of Mrs Gollan to want to speak the truth
18 publicly, and it secondly indicates, to a very large
19 extent, what might be the credibility and motivation of
20 those who speak against her. In any event, in my
21 submission, it is a matter that we can address at the
22 end of the day when all of the evidence is in, and you
23 can then, at that time, assess its weight and
24 significance.

25 COMSR: What you are putting to me is that this
26 is evidence about something which is in the nature of
27 the deterrent of the witness proceeding to give
28 evidence?

29 MRS SHAW: Yes, a specific deterrent and not the
30 only one.

31 COMSR: I don't know if anyone wants to be heard
32 on the issue of relevance? It doesn't, of course, as I
33 say, have to be central to the Terms of Reference. I
34 would propose to permit this line of evidence to be led
35 then.

36 XN

37 Q. I think for the fifth time - it is certainly nothing to
38 do with your responsibility, let me assure you - can you

B. GOLLAN XN (MRS SHAW)

- 1 tell us what one of your daughters said that she had
2 been told by Shirley Peasley.
- 3 A. Yes. That the women were getting someone from the
4 north. That's a different people completely. We've
5 never mixed with them, and their counsel is to continue,
6 ours is finished, and they were getting someone from
7 there, which they have already been - I've seen someone
8 in the courts from there - to come down and get rid of
9 me.
- 10 Q. When you say you've seen someone in the courts, you
11 yourself haven't been at court.
- 12 A. No, I haven't, but I've seen the lady on television,
13 also with that stick that she's had, and she's from a
14 different culture completely.
- 15 Q. Were you also told by Dorothy Wilson that a threat had
16 been made.
- 17 A. Yes. Dorothy heard that when they had a meeting out at
18 Murray Bridge.
- 19 Q. What did Dorothy tell you about that threat.
- 20 A. That it was said that they were getting someone and -
21 well, in our language `milin'. That's to get rid of me.
- 22 Q. Was there anything said about how it was going to occur,
23 what they were going to do.
- 24 A. At that meeting, I was supposed to have been stoned to
25 death.
- 26 Q. Is that something that Dorothy told you.
- 27 A. That came from the meeting out there, yes.
- 28 Q. Did Allan Campbell contact you about these threats.
- 29 A. Yes. He heard it and he rang me and I said to him not
30 to worry because I'm not worried.
- 31 Q. Did he mention a person called Willy to you.
- 32 A. Yes, he mentioned him. He said he's an old man. He
33 said `I'll give you his phone number. He's from the
34 Northern Territory. He's a Christian now'. He said
35 `And they have stopped - they don't do this sort of
36 thing any more'. Those were Allan's words to me over
37 the phone. He said to tell me - Willy to tell me not to
38 worry, because they didn't carry out these -

B. GOLLAN XN (MRS SHAW)

- 1 Q. I think since that time you have been spoken to about
2 your attitude to these threats - by the press, for
3 example - and what have you said.
- 4 A. I said 'If I die tomorrow, I'll die with a clear
5 conscience'.
- 6 Q. You know Maggie Jacobs.
- 7 A. Yes, I know her well. We grew up together on Point
8 McLeay.
- 9 Q. What's the difference in your ages.
- 10 A. Five months.
- 11 Q. You were married, I think, when you were 22.
- 12 A. Yes, that's right.
- 13 Q. Was Maggie still at Point McLeay when you got married.
- 14 A. No, she wasn't.
- 15 Q. Did she ever come back and live at Point McLeay.
- 16 A. Not while I was there.
- 17 Q. Before you spoke out publicly in May 1995, did you
18 travel on a bus with Maggie Jacobs down to Glenelg.
- 19 A. Yes, I did.
- 20 Q. Did Maggie, on that bus trip, say something about the
21 daughter of Pinkie Mack.
- 22 A. Yes, she did.
- 23 Q. What did she say.
- 24 A. She mentioned in terms of 'That old lady, if she changes
25 her statement' - 'she's already made a statement, if she
26 changes that, she'll be in trouble'.
- 27 Q. Did she say where she would be in trouble, with who.
- 28 A. She said 'She'll be in trouble if she has to go to
29 court'.
- 30 Q. Did you say something to her about her claim that she
31 was the oldest person.
- 32 A. Yes. She kept on repeating that she was the oldest left
33 on Point McLeay. And I told her, I said 'No, you are
34 not'. I said 'There's four or five who are older than
35 you are'. And she kept saying 'No, Auntie Bertha, I'm
36 the eldest from there now'. And I named the women who
37 were - well, there is still some of them still alive.
- 38 Q. Who were those older women that you named.

B. GOLLAN XN (MRS SHAW)

- 1 A. One is Violet Rankine. She is in her 80s.
2 Q. And Pinkie Mack's daughter was still alive at that time.
3 A. She was. Hilda Wilson and Nanna Laura. I said `Those
4 women, they're still alive. They're older than you
5 are'.
6 Q. How old is Hilda Wilson.
7 A. She's 84.
8 Q. Did you speak to Maggie Jacobs on the telephone before
9 you went public and had arguments about this.
10 A. Yes. Not really arguments but just, you know, telling
11 her that she was wrong. To my knowledge, I've never
12 ever heard of any women's business - sacred women's
13 business, and, as I pointed out to her, I lived there
14 longer than she did. We were both born there, but she
15 left and I lived on. I married and had children, and I
16 was in my 40s when I left.
17 Q. Did she tell you who she claimed had told her.
18 A. Yes. She said `Mum didn't tell me anything, but my
19 grandmother did'.
20 Q. Did you know her grandmother.
21 A. Yes, I knew her grandmother very well.
22 Q. What was her name.
23 A. Ada Stanley.
24 Q. Why was it that you knew Ada very well.
25 A. Ada was always in and out of my home.
26 Q. How did that come about.
27 A. She was a friend of my mum's, and then there was times
28 when her husband got very aggressive with her and she'd
29 come there and dad would just, you know, sort him out a
30 bit.
31 Q. I think you say in your statement you knew Auntie Ada
32 even better than Maggie, her own granddaughter.
33 A. Yes, I did.
34 Q. Why was that.
35 A. Because she was more or less more around us than she was
36 with her own daughter and grandchildren.

B. GOLLAN XN (MRS SHAW)

- 1 Q. When Maggie claimed that it was her grandmother who told
2 her, what did you say.
- 3 A. I told her `Well, if your grandmother told you about the
4 sacred women's business, she would have told me too'.
- 5 Q. We have mentioned Val Power and Muriel Van Der Byl, who
6 are your nieces. Do you know Connie Roberts.
- 7 A. Yes. I know Connie Roberts very well.
- 8 Q. Did you have an understanding as to whether she was born
9 on Point McLeay.
- 10 A. No, Connie was not from Point McLeay.
- 11 Q. Where was she from.
- 12 A. She was born at Meningie.
- 13 Q. What about the Eileen McHughes.
- 14 A. Eileen McHughes was born at Tailem Bend.
- 15 Q. Before you spoke publicly, did you speak to Val Power at
16 your daughter's place.
- 17 A. Yes, I did.
- 18 Q. Was there talk about Hindmarsh Island.
- 19 A. Yes. She told me that Hindmarsh Island - about the
20 secret women's business. And I said `No, I don't' - `I
21 was never told anything, Val'. And she then turned
22 around and said `But Auntie Bertha, you forget things'.
- 23 Q. What did you say.
- 24 A. I said `I'm far from senile'.
- 25 Q. Did you know Doreen Kartinyeri.
- 26 A. Yes. I've known Doreen from when she was two or three
27 years old - or a baby, as a matter of fact.
- 28 Q. How many years did she live at Point McLeay.
- 29 A. Doreen left when she was ten.
- 30 Q. Did you know her father.
- 31 A. I knew her father. I knew her mother.
- 32 Q. What were their names.
- 33 A. Thelma Kartinyeri and Oswald.
- 34 Q. What was Thelma's maiden name.
- 35 A. Rigney.
- 36 Q. Did you know her grandparents, that's Doreen's
37 grandparents.
- 38 A. Yes.

B. GOLLAN XN (MRS SHAW)

- 1 Q. What were their names.
2 A. Sally Kartinyeri and Archie.
3 Q. Is Sally Kartinyeri Grandma Sally.
4 A. That's right.
5 Q. One of the persons that Doreen Kartinyeri has claimed,
6 in various public statements at least, told her.
7 A. Yes. She has said that, but Nanna Sally, as I refer to
8 her, she is not a Ngarrindjeri woman. She was born on
9 the West Coast, Poonindie. She came from there and
10 married and then came and lived on Point McLeay.
11 Q. Did you know Doreen's mother.
12 A. Thelma?
13 Q. Yes.
14 A. Yes, I knew Thelma very well.
15 Q. How was it that you got to know Thelma very well.
16 A. They lived next-door to us.
17 Q. When you say `next-door', do you mean in the adjoining
18 maisonette.
19 A. Yes, that's right.
20 Q. Did you know Thelma's father.
21 A. Yes, I knew Ben Rigney.
22 Q. And Thelma's sister.
23 A. Yes. She had Rose, there was Phyllis, and she also had
24 a brother, Ron.
25 Q. Rose is the Auntie Rose that Doreen Kartinyeri claims
26 told her about secret women's business on Hindmarsh
27 Island.
28 A. That's right.
29 Q. Would it be fair to say that you spoke to Thelma on a
30 daily basis when you were living next-door.
31 A. Yes. We were more or less in and out of one another's
32 homes constantly.
33 Q. Did either Thelma or Rose ever say anything to you about
34 any secret women's business on Hindmarsh Island or
35 anywhere else.
36 A. I didn't have much to do with Rose, because she was more
37 or less - she'd come and go, but Thelma, as I said, I
38 had a lot to do with her, but Hindmarsh Island's secret

B. GOLLAN XN (MRS SHAW)

- 1 business - women's business was never ever mentioned.
2 As a matter of fact, no sacred women's business was ever
3 mentioned.
- 4 Q. Did you understand whether or not Archie Kartinyeri was
5 born on the mission or off the mission, that's Grandma
6 Sally's husband.
- 7 A. I understood that he was born off the mission.
- 8 Q. When Doreen left the mission, you have seen it in
9 publications, that she did claim at some stage she was
10 taken away from her family.
- 11 A. No, she wasn't taken away from her family. She - her
12 father - when her mother passed away, her father and
13 grandmother, because Nanna Sally wasn't a young woman
14 then, they just couldn't cope. So Doreen, with some of
15 the other girls from Point McLeay, were not taken by
16 force. They were brought down to Fullarton Girls Home
17 to further their education and to either be a domestic
18 or whatever.
- 19 Q. Did they come back for holidays.
- 20 A. They came every holiday.
- 21 Q. You have also learnt that Doreen has claimed, I think in
22 the 'Who Weekly', that perhaps some of you women were
23 not told because you were Christians. You have heard
24 that claim.
- 25 A. Yes, I've heard that claim, but if that's the case,
26 everyone - every woman on there was inclined to have a
27 good religion.
- 28 Q. What about Grandma Sally.
- 29 A. Grandma Sally was a very Christian woman.
- 30 Q. Did you know the daughter of Pinkie Mack fairly well.
- 31 A. Yes.
- 32 Q. We are not referring to her name because of -
- 33 A. That's right, no. I knew her quite well. I also knew
34 her two sisters, May and Helen. Helen is the mother of
35 Daisy Rankine.
- 36 Q. Did the daughter of Pinkie Mack spend a lot of her time
37 living off the mission.
- 38 A. Yes, she did.

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1 Q. Where did she live.

2 A. She lived at what was termed as three miles out of
3 Tailem Bend, on the Meningie Road.

4 Q. Did you ever hear the daughter of Pinkie Mack say
5 anything about any secret sacred women's business on
6 Hindmarsh Island.

7 A. No, I did not.

8 Q. I want to ask you some questions about these claims and
9 what you knew of Hindmarsh Island. Did Hindmarsh Island
10 ever feature in your thinking at Point McLeay.

11 A. No, Hindmarsh Island was just another place. We had to
12 learn that in history, in school, about the islands, the
13 Hindmarsh Island, Mundoo Island.

14 Q. Did you ever hear it referred to as Kumarangk - that is,
15 the Hindmarsh Island being called Kumarangk.

16 A. That's the native name for it.

17 Q. Did you know that native name when you were growing up.

18 A. I probably would have, but I've forgotten about it.

19 Q. Did you know of anyone who ever said anything at any
20 stage about any women ever going to that island.

21 A. No.

22 Q. Did you yourself ever go over that way.

23 A. I went down to Port Elliot. One of my aunties - one of
24 dad's sisters used to live at Port Elliot, and no more
25 than three times, I think, I went down during school
26 holidays and had a few days there with her.

27 CONTINUED

28

B. GOLLEN XN (MRS SHAW)

- 1 Q. Was there ever any suggestion made to you at any stage
2 in your 60-plus years that there was something special
3 about the waters around Hindmarsh Island, or anywhere
4 else in that area.
- 5 A. No.
- 6 Q. Was it ever suggested to you that Hindmarsh Island had
7 any specific importance to your people.
- 8 A. No, it was never, ever suggested.
- 9 Q. Was it ever suggested to you that you ought to go to
10 Hindmarsh Island when you were growing up to assist your
11 fertility.
- 12 A. No.
- 13 Q. Did you know Rebecca Wilson.
- 14 A. I knew Rebecca very well.
- 15 Q. You may yourself have seen a 7.30 Report where some
16 words of hers were read out. Was she a woman whom you
17 would describe as speaking in faltering pigeon English.
- 18 A. Rebecca Wilson was a very educated woman. She had a
19 marvellous speaking voice. She spoke at meetings and
20 she was also a staunch member of the Salvation Army.
21 She had the full uniform and Rebecca always stood up and
22 spoke as a woman. I know I've come down to Adelaide
23 quite a few times when we've come down to the Salvation
24 Army congress meetings here, and Rebecca was always
25 there. She never, ever spoke in pigeon English.
- 26 Q. Can I put it this way. What I want to do now is put to
27 you claims that have been made by Doreen Kartinyeri and
28 for you to tell Madam Commissioner what you say about
29 Doreen's claims. I'll read out one of her claims:
30 'I've always known about the stories associated with
31 Ramindjeri and Ngarrindjeri women's business, but until
32 recently I didn't know the exact place that they were
33 referring to. My grandmother, Sally Carter, and my
34 great aunt Lawrie Kartinyeri and my auntie Rose
35 Kartinyeri passed on these stories about women's
36 business to me.' What do you say about that claim of
37 Doreen's.
- 38 A. Well, if they were passed on to Doreen when she was ten

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1 years old, how come the other girls weren't told, the
2 rest of us?

3 Q. I put to you this statement about the claimed secret
4 sacred women's business about Hindmarsh Island that
5 appeared in the media. I'm reading from a letter to the
6 editor on 18 June 1994: 'The Aboriginal legend covering
7 this Lower Murray area has been a mother figure with the
8 Murray Mouth as the vagina, Hindmarsh Island as the
9 woman, Mundoo Island as the egg and the river and
10 surrounding lakes and mainland as a connective part of
11 the whole.' What do you say about that claim.

12 A. All I can say is, it's a disgrace to the Aboriginal
13 women - not only Aboriginal women, but all women. And
14 the map that is supposed to have been shown in that hut
15 down there -

16 OBJECTION Mr Tilmouth objects on the ground that
17 this evidence is speculation and is
18 hearsay.

19 LINE OF QUESTIONING NOT PURSUED

20 Q. I read to you what Doreen Kartinyeri said on 17 July,
21 what was published on 17 July 1995 by Margaret Parker in
22 the 'Who' magazine, which says: 'The map of Hindmarsh
23 Island contours mirror the shape of the female
24 reproductive system. Hindmarsh Island is sacred ground
25 and home to the Ngarrindjeri tribe's secrets relating to
26 women's business, which must not be shared with men.
27 Hindmarsh Island is the Ngarrindjeri tribe's special
28 place where young women learn about womanhood and
29 traditional tribal ways. It was secret to the older
30 people because of their spiritual beliefs because the
31 whole waters around there represent the woman and all
32 that.' Can I just ask you, first of all, what do you
33 say about the suggestion that, or the claim by Doreen
34 Kartinyeri that Hindmarsh Island is sacred ground and
35 home to the Ngarrindjeri tribe's secrets relating to
36 women's business which must not be shared with men.

37 A. Well, up until this business with Hindmarsh Island,
38 no-one from Point McLeay has ever been down there to go

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1 and be there in that sacred place it's supposed to be.

2 Q. Did you ever hear of anybody at Point McLeay who learnt
3 about womanhood and traditional tribal ways of Hindmarsh
4 Island.

5 A. No. We didn't hear about it and I'm sure we wouldn't
6 have been going down to Hindmarsh Island to hear about
7 it.

8 Q. When she says, that Doreen refers 'It was sacred to the
9 older people because of their spiritual beliefs because
10 the whole waters around there represent the woman and
11 all that', of all the old people of your age and your
12 elders that you knew at Point McLeay during your 45
13 years there and whom you have spoken to, no doubt,
14 since, have you ever heard any suggestion from any of
15 the older people that Hindmarsh Island and the waters
16 around it have any special and, more importantly, sacred
17 significance to Ngarrindjeri people.

18 A. None whatsoever.

19 Q. What about Mundoo Island, have you ever heard any
20 suggestion that that was a place of men's business.

21 A. No.

22 Q. What about the suggestion that it was the mortuary for
23 Ngarrindjeri people.

24 A. As far as I know, everyone at Point McLeay was buried
25 there.

26 COMSR

27 Q. Buried where.

28 A. In Point McLeay.

29 XN

30 Q. Have you ever spoken to Ian McLachlan, the member of
31 Parliament.

32 A. No. Only the time that he rang and asked if I was all
33 right when these threats were advertised. He rang and
34 asked if I was all right. That's the only time I've
35 ever spoken to him.

36 Q. What about Michael Armitage, the Minister.

37 A. He rang and asked me the same thing.

38 Q. Is that the only time you have ever spoken to him.

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1 A. That is the only time.

2 Q. What about the Chapmans, Mr and Mrs Chapman.

3 A. I've never, ever spoken to them.

4 Q. I think in court this morning you, asked Mr Iles who she
5 was.

6 A. I asked who the lady was that was sitting there in the
7 red tracksuit.

8 Q. That is when you first found out who Mrs Chapman was.

9 A. Who she was.

10 Q. Do you have any view one way or the other whether or not
11 the bridge should be built.

12 A. I couldn't care less about the bridge. All I want is
13 that the truth should come out and stop all of that
14 nonsense.

15 MRS SHAW: That completes my evidence-in-chief
16 except for one topic and that relates to the evidence
17 given by Mrs Fisher, which I haven't had the opportunity
18 to speak to Mrs Gollan about specifically. I have
19 spoken about her generally and reserve the right to lead
20 the evidence from her on that topic when she is
21 recalled. At this stage, I ask that this witness be
22 stood down, unless anyone wishes to cross-examine at
23 this time.

24 MR SMITH: I indicate for the benefit of the press,
25 that you have already suppressed from publication the
26 name of the deceased person, the daughter of Pinkie
27 Mack. That occurs twice in the statement of evidence
28 and I think it's been mentioned by the witness.

29 COMSR: That is done out of deference to
30 Aboriginal tradition. That name is suppressed and that
31 suppression will continue.

32 NO FURTHER QUESTIONS

33 WITNESS STANDS DOWN

- 1 MR SMITH CALLS
2 FRANCIS ELLEN ANDERSON SWORN
3 EXAMINATION BY MR SMITH
4 Q. I think you're a Government investigation officer
5 employed by the Crown Solicitor of South Australia; is
6 that correct.
7 A. Yes, that's right.
8 Q. I think you're currently seconded to the Royal
9 Commission as officer-in-charge of investigation work.
10 A. Yes, I am.
11 Q. I think on 12 July 1995, you journeyed from Adelaide to
12 Hindmarsh Island in possession of an authority from the
13 Royal Commissioner to make certain investigations; is
14 that correct.
15 A. Yes, I did.
16 Q. I think you've produced your authority to me in case
17 anyone wants to look at that.
18 A. Yes, I have.
19 Q. I think at 3 p.m. on 12 July, you met with a lady by the
20 name of Anne Lucas.
21 A. That's right.
22 Q. And Anne Lucas was the owner of certain premises on the
23 island, was she not.
24 A. That was my understanding, yes.
25 Q. And the name of those.
26 A. She owned three. One in named as or known as the Mouth
27 House.
28 Q. Can you tell us approximately where Mouth House is
29 located on the island.
30 A. Mouth House is the last house that looks to the mouth of
31 the river.
32 Q. Although the points of the compass might be difficult,
33 is that generally the southerly end of the island.
34 A. Yes, generally, yes.
35 Q. The opposite end.
36 A. To where we went to the island.
37 Q. By ferry.
38 A. By ferry, yes.

- 1 Q. Did you inspect that house at some time during the day.
2 A. Yes, I did.
3 Q. At about what time.
4 A. About 3.15, 3.30.
5 Q. I think you drew a plan, a rough plan, of the house, did
6 you not.
7 A. Yes, I did, while I was there.
8 Q. Having been given access by Anne Lucas.
9 A. In Mrs Lucas's presence as well.
10 Q. Looking at the plan produced, I think on one side of the
11 plastic sleeving is your very rough plan and then a
12 neater plan which you prepared from your notes; is that
13 right.
14 A. Should be, yes. (PLAN PRODUCED). That's right.
15 Q. I think the plan, apart from setting out the layout of
16 the floor plan of Mouth House, also particularly refers
17 to certain photographs that were on the walls of the
18 house.
19 A. Yes, it does.
20 Q. Can you indicate for us on the plan where these
21 photographs are located and what was marked.
22 A. There were three photographs hanging on the walls that I
23 located in the house: two were in what I would call the
24 main room of the house; one was over a table which I
25 referred to as photograph one; one was over a lounge
26 settee which I have referred to as photograph 2; and,
27 then, in another room which I believed to be the main
28 bedroom, there was a third photograph which I referred
29 to as photograph 3.
30 Q. I think you, in fact, took a photo of each of those
31 three photos.
32 A. Yes, I did.
33 Q. Looking at this plastic sleeve containing three
34 photographs, do you recognise those three photographs as
35 photographs taken by you of the aerial photographs which
36 you have marked in the plan, two being in the main room
37 and one being in the bedroom.
38 A. That's right,.

1 Q. You have located them by reference to photograph 1, 2,
2 3.

3 A. That's right.

4 EXHIBIT 27 Rough plan of house and neater plan of
5 house tendered as bundle by Mr Smith.

6 Admitted.

7 EXHIBIT 28 Three photographs of the photographs
8 tendered as a group by Mr Smith.

9 Admitted.

10 Q. I think then you subsequently attended at Map Land on
11 Richmond Road, Netley.

12 A. Yes, I did.

13 Q. Can you remember the date.

14 A. I think it was about the 14th, but I am not absolutely
15 certain.

16 Q. What did you do there.

17 A. With the photographs of the aerial photographs that I
18 had taken in the house, the Mouth House, I then found
19 the corresponding large aerial maps and purchased them
20 from that place.

21 Q. Looking at these three large aerial photos, or maps,
22 would you tell us if you recognise those. Perhaps
23 dealing with them one by one and hold them up for us if
24 you would.

25 A. This first photograph is the same photograph as I
26 referred to in my floor map as photograph one; that
27 being the photograph that was hanging on the wall over
28 the table in the main room.

29 Q. The aerial photograph that you have displayed there is
30 what photograph number.

31 A. One.

32 CONTINUED

- 1 Q. Which is a reproduction of the very one that is over the
2 table in the main living room of Mouth House.
- 3 A. The main room of the house, yes.
- 4 Q. You have marked that, I think, have you not.
- 5 A. Yes, I have.
- 6 Q. Indicating just that.
- 7 A. Exactly.
- 8 Q. Taking the second aerial photograph,.
- 9 A. That is photograph 2 on my floor plan and that is in the
10 main room of the Mouth House over the lounge settee and
11 I have marked that one accordingly.
- 12 EXHIBIT 29 Aerial photo marked 1 tendered by Mr
13 Smith. Admitted.
- 14 EXHIBIT 30 Aerial photo marked 2 tendered by Mr
15 Smith. Admitted.
- 16 Q. Looking at the third aerial photograph, is that, indeed,
17 photograph no.3 then.
- 18 A. Yes, it is.
- 19 Q. Remind us again, that is a duplication of the one that
20 appeared in the bedroom, is it not.
- 21 A. In the main bedroom, on the wall over the bed.
- 22 EXHIBIT 31 Aerial photo marked 3 tendered by Mr
23 Smith. Admitted.
- 24 Q. Is it the case that the last three exhibits, being the
25 large aerial photographs just tendered through you,
26 being Exhibits 29, 30 and 31, are the same size as the
27 ones that you observed in the house.
- 28 A. Yes, they are.
- 29 Q. I think you returned to Hindmarsh Island on 18 July of
30 this year, did you not.
- 31 A. That's right.
- 32 Q. What did you do on that occasion, in particular in
33 reference to Mouth House.
- 34 A. On that occasion I took a number of photographs of the
35 rear of the house and a photograph standing at the front
36 windows of the house looking out towards the sea.
- 37 Q. Did you also take a photograph of Graham's Castle.
- 38 A. That was taken on the 12th.

1 Q. On the 12th.

2 A. Yes.

3 Q. Looking at this bundle then of photographs, now before
4 you, marked 4, 5, 6, 7, 8, 9, 10, 11 and 12, are they
5 the photographs you have mentioned, including the
6 Graham's Castle photograph.

7 A. Yes, they are.

8 EXHIBIT 32 Photographs 4 to 12 tendered as a bundle
9 by Mr Smith. Admitted.

10 MR MEYER: I take it that each photograph is
11 identified?

12 COMSR: With a number, yes

13 XN

14 Q. You have provided a caption under each, haven't you.

15 A. Yes, I have.

16 COMSR: Is it likely that this witness will be
17 required for questioning at all?

18 MS PYKE: Not by me.

19 MR SMITH: Perhaps counsel can consider their
20 position over lunchtime?

21 COMSR: Yes, we will be calling another witness,
22 as I understand, another Aboriginal lady.

23 MS SHAW: That is at 2.15.

24 COMSR: We will adjourn then until 2.15.

25 ADJOURNED 1.05 P.M.

- 1 RESUMING 2.20 P.M.
2 COMSR: This witness hasn't as yet been
3 released, because I was giving counsel the opportunity
4 to see if any further questions will be directed at her.
5 As there are no questions, I propose to release the
6 witness.
7 WITNESS F.E. ANDERSON RELEASED
8 MR SMITH: Before we commence the next witness,
9 there is the question of the statement of Bertha Gollan
10 and the release of that. Can I just draw attention to a
11 couple of areas of it, before it is released?
12 The ladies and gentlemen of the media are aware of
13 the daughter of Pinkie Mack question, so that is
14 covered. But, if we go to p.13, para.5.1, certainly
15 this material is in the public arena, I acknowledge, but
16 I wonder if any counsel have got any views about whether
17 or not, notwithstanding that it has occurred in at least
18 one publication, I think The Advertiser that I know of,
19 whether or not that is capable of breaching s.35 and
20 ought to be suppressed?
21 COMSR: You are talking about p.13 of the
22 statement of Bertha Gollan, para.5.1, the material in
23 that paragraph?
24 MR SMITH: Yes, certainly the witness dismisses the
25 suggestion out of hand that she canvasses the
26 suggestion.
27 COMSR: The witness may dismiss it, of course,
28 but other witnesses may attach some weight to it. So, I
29 don't know if it has been suggested by anyone that it is
30 capable of -
31 MS NELSON: Can I just raise a general matter?
32 COMSR: Yes, certainly.
33 MS NELSON: There are inherent difficulties in
34 releasing a statement like this to the media.
35 COMSR: I am aware of that.
36 MS NELSON: Because, when a statement is taken by
37 proofing a witness one takes down what the witness says.
38 Now that generally is okay, but there are some aspects

1 that are incapable of being received into evidence.
2 And, if I could just invite you to look at p.13, the
3 fifth sentence on that page, it talks about apparent
4 knowledge which she and Dulcie Wilson have, but really
5 it is a statement of the witness's opinion. And that
6 opinion is not able to be received by you in evidence
7 for the obvious reason that, at the end of the day, it
8 is your opinion which is to be the determining factor
9 not what this witness thinks is the position about
10 fabrication or otherwise. And I simply raise that,
11 because I think, as a matter of caution, those problems
12 arise from time to time in the statement. When all is
13 said and done, the ladies and gentlemen of the media
14 have heard her evidence.

15 COMSR: They have heard the evidence and the
16 transcript will be available and, as far as the
17 transcript of the evidence is concerned, that canvasses
18 virtually the whole of the ground that is covered in the
19 statement.

20 MS NELSON: Yes, I don't really see that there is
21 any significant discrepancy between her statement and
22 what she said in her oral evidence, but I do alert you
23 to the fact that there are statements of opinion in this
24 statement which couldn't be received by you as evidence
25 and shouldn't be received by you as evidence and,
26 therefore, shouldn't ultimately really be published
27 because, as I say, it is your opinion as to what has
28 happened which counts not the witnesses.

29 MR ABBOTT: The opinions may well be received by
30 you, it is a question of whether you act on them.

31 COMSR: Act on them, yes.

32 MR ABBOTT: And, as my learned friend has pointed
33 out, the ultimate issue is yours, but to suggest that
34 the opinions can't be received I think is too definite a
35 stance to take. And we tendered this as the evidence of
36 Mrs Gollan which has been supplemented by her oral
37 evidence. We don't seek to have this distributed to the
38 press because it is her evidence. But, at the same

1 time, we are concerned that those who assert secret
2 sacred women's business in relation to Hindmarsh Island
3 can, in the one breath, tell the media all about it and,
4 in the next breath, say it can't be mentioned amongst
5 the Royal Commission. We find that stance a bit -

6 COMSR: It is not a question of whether they say
7 it can't be mentioned or not, the question is, is there
8 a problem about divulging information of the type that
9 is dealt with there? Not that it goes into it in any
10 great detail, I must say.

11 MR ABBOTT: I wouldn't have thought that this
12 statement transgresses any s.35 position. But we are
13 quite happy for it not to be released to the media as a
14 matter of practice for your Honour not to generally
15 release witness' statements to the media.

16 COMSR: Yes, that is so. And, in any event,
17 this witness hasn't been cross-examined and one never
18 knows what may flow from cross-examination. So,
19 certainly for the present I would be suppressing this
20 statement from being released, at this stage, now.

21 MS PYKE: I might make one comment just referring
22 to what is contained in para.5.1.

23 I have just shown a particular part of it to Dr
24 Fergie and she is of the same view, if I can put it that
25 way, of perhaps counsel assisting, that it is the sort
26 of area where out of if only an abundance of caution
27 that s.35 should apply to that. Not only relating to
28 the statement, but any evidence that is given about
29 that.

30 COMSR: Yes, as I say, I don't think that, as
31 far as the media are concerned, they are disadvantaged
32 in anyway, because the evidence has been gone through if
33 that were a consideration. But when it comes to my
34 exercising my discretion, of course, I have to have
35 regard to other matters. And that is the extent to
36 which I am authorised to divulge or permit the
37 divulgence of information. And at present I will not
38 permit the release of the statement.

- 1 MR SMITH: That will mean that ultimately when the
2 witness is finished and the statement of evidence being
3 an exhibit, apart from those areas of sensitively that
4 are not cleared, it should be available.
- 5 COMSR: Yes, at that stage, when the witness's
6 evidence has been completed, so that I am in a better
7 position to know what the consequences might be of any
8 particular part of the statement.
- 9 CONTINUED

- 1 MS SHAW CALLS
2 DOROTHY ANN WILSON SWORN
3 EXAMINATION BY MS SHAW
4 Q. How old are you.
5 A. I am 48.
6 Q. Where were you born.
7 A. Point McLeay.
8 Q. What was the name of your father.
9 A. Mervyn Winslow.
10 Q. Where was he from, as far as you believed.
11 A. He was from Tasmania.
12 Q. And your mother.
13 A. Is Hetty Winslow.
14 Q. What was her maiden name.
15 A. McHughes.
16 Q. Who were the parents of Hetty McHughes.
17 A. Hughie McHughes and Lena Gollan.
18 Q. Who was the father of Hughie McHughes.
19 A. William McHughes and Sally Patty Smith.
20 Q. That is Sally Patty Smith Walker.
21 Q. And she was a sister of Joseph Walker.
22 A. Yes.
23 Q. Where was your mother born, as far as you understand.
24 A. Point McLeay.
25 Q. The name of your mother's mother.
26 A. Lena Gollan.
27 Q. She was also a Point McLeay woman.
28 A. Yes.
29 Q. And your grandmother's father was Alfred Gollan.
30 A. Yes.
31 Q. Can you tell us how, in your ancestry, as you understand
32 it, you are related to Queen Louisa.
33 A. Yes, she was a sister to my greatgrandfather, William
34 McHughes.
35 Q. Where did your father work.
36 A. Dad worked on the railways.
37 Q. During the course of his work, did you live off the
38 mission.

1 A. Yes.

2 Q. But did you return to the mission for all of your
3 holidays.

4 A. Yes.

5 Q. When your father was working in the railways, can you
6 just explain what his work entailed in terms of
7 travelling. Where would he go, what sort of places did
8 you live at.

9 A. We lived at different places. We lived at Ki Ki which
10 was out from Tailem Bend. We lived at Keith. We lived
11 at Wanbie and Alawoona and Taplan, Mabra. We went over
12 to the west coast and lived over at Maltee for a little
13 while.

14 Q. Did you remain with your family until your father died
15 of a heart attack.

16 A. My father had a heart attack when he was working on the
17 railways, and we went to Tailem Bend and then to Murray
18 Bridge from there.

19 Q. How old were you then.

20 A. Twenty-one.

21 Q. During the years that you were growing up and during the
22 time that you spent at Point McLeay, did you learn
23 anything about the Ngarrindjeri culture.

24 A. No, I didn't.

25 Q. Have you yourself in more recent years, read the book 'A
26 World That Was', by Berndt and Berndts.

27 A. Yes, I have.

28 Q. Have you in other ways attempted to familiarise yourself
29 with the Ngarrindjeri culture.

30 A. Yes.

31 Q. Did you know the daughter of Pinkie Mack.

32 A. Yes, I did.

33 Q. Can you say how she was regarded as far as you could see
34 amongst your people.

35 A. She was the eldest person in our community and people
36 looked up to her and she knew a lot of the knowledge.

37 CONTINUED

- 1 Q. Did you know, from your discussions with her, that she
2 would deliver babies.
- 3 A. Yes.
- 4 Q. Can you tell us what your specific relationship with the
5 daughter of Pinkie Mack was.
- 6 A. Well, she used to ring me up if she got some letters
7 that she didn't understand or she had some forms that
8 had to be filled in. She would ring me up at the Nunga
9 Centre, that's where I worked as a local support worker,
10 and I would go up there and fill in forms for her and
11 tell her about what the letters were - what she didn't
12 understand about the letters. I would also take her to
13 the doctor's and go in with her so that I could explain
14 to her why the doctors were giving her different
15 tablets.
- 16 Q. Over what period of time did you have this kind of
17 relationship with the daughter of Pinkie Mack.
- 18 A. For about 8 years.
- 19 Q. How was the daughter of Pinkie Mack related to your
20 ancestors.
- 21 A. Pinkie Mack and my great grandfather, Wilson McHughes,
22 were brother and sister.
- 23 Q. Did you become aware that the daughter of Pinkie Mack
24 had knowledge about practical things like bush medicine.
- 25 A. Yes.
- 26 Q. What kind of things did you learn that she was familiar
27 with.
- 28 A. She told us about the different plants that we use for
29 medicine for our people. She also told us that she has
30 delivered many many babies.
- 31 Q. Did she ever talk about any dreaming stories.
- 32 A. No, I've never heard her speak of any.
- 33 Q. Did she ever talk about the Ngarrindjeri dreaming story.
- 34 A. No, I've never heard it.
- 35 Q. Did she ever tell you anything that she said was
36 something that she wanted you to pass on or was to be
37 passed on.
- 38 A. No.

- 1 Q. Did she ever suggest to you that, within your culture,
2 there existed any secret sacred women's business.
- 3 A. No.
- 4 Q. In particular, did she ever mention Hindmarsh Island.
- 5 A. No, she never.
- 6 Q. You are also related to Allan Campbell.
- 7 A. Yes, I am.
- 8 Q. And how was he related to your family.
- 9 A. Allan's mother and my mother were sisters.
- 10 Q. I think you were married to Victor Wilson's brother,
11 Harold.
- 12 A. Yes, I was.
- 13 Q. He is a person who has figured prominently in the Lower
14 Murray Aboriginal Heritage Committee.
- 15 A. Yes, he is.
- 16 Q. You have three boys and a girl of your own.
- 17 A. Yes, I have.
- 18 Q. Who were the parents of your husband.
- 19 A. Aileen Varcoe and Mark Wilson.
- 20 Q. Who was Aileen Varcoe's father.
- 21 A. Cyril Rigney.
- 22 Q. Was he a brother to Thelma and Rosette Rigney, Thelma
23 Rigney being Doreen Kartinyeri's mother.
- 24 A. Yes.
- 25 Q. So, is it the case that your children are descendants of
26 the same family as Doreen Kartinyeri.
- 27 A. Yes.
- 28 Q. To summarise that, was Grandma Sally the great great
29 grandmother of your children.
- 30 A. Yes, she was.
- 31 Q. Pinkie Mack was a great great auntie to your children.
- 32 A. Yes.
- 33 Q. Auntie Rose was a great auntie to your children.
- 34 A. Yes.
- 35 Q. And the daughter of Pinkie Mack was a great auntie to
36 your children.
- 37 A. Yes.

- 1 Q. As to the community at Point McLeay and the Ngarrindjeri
2 people from that area in particular, have you taken a
3 special interest in the relationships amongst them, that
4 is, followed through their parentage.
- 5 A. Yes, I have.
- 6 Q. Is it the case that it's plain that the people that are
7 involved from Point McLeay, one can find that generally
8 they are related in one way or another.
- 9 A. Yes.
- 10 Q. Even though you weren't told of - I am not sure if you
11 have said this - you have never heard of the Ngurunderi
12 dreaming story.
- 13 A. No, I hadn't.
- 14 Q. But you have seen it on video.
- 15 A. Yes.
- 16 Q. I want to now take you to the events commencing in late
17 1993, in particular, meetings that were held at that
18 time in relation to the Hindmarsh Bridge area. You,
19 yourself, were familiar with the activity of the Lower
20 Murray Aboriginal Heritage Committee in a general sense.
- 21 A. Yes.
- 22 Q. What did you know about their activity in late 1993.
- 23 A. Well, at a meeting at Camp Coorong in October of 1993
24 George Trevor spoke to us. We had a meeting down at
25 Camp Coorong, it was a Ngarrindjeri meeting that we had
26 there, and George Trevor told us about the bridge
27 down at Hindmarsh Island.
- 28 Q. What did he tell you was the agenda of the committee.
29 What did they intend to do about the bridge.
- 30 A. Well, he told us that they wanted to stop the bridge
31 from being built down there because we had a lot of
32 burial sites down there, and that Wendy Chapman had been
33 carting away truck loads of bones from the island. He
34 also told us that they were going to - if they put a
35 bridge from Goolwa to Hindmarsh Island, that they were
36 going to build another bridge from the mouth, the Murray
37 Mouth, across to the South-East road.
- 38 Q. Did you know at that time about the work of Dr Draper.

1 A. No, not at that meeting. No, I didn't.

2 Q. When did you first learn about him.

3 A. I read about Dr Draper in January, when Sarah Milera
4 told me at the Nunga Centre that he was down on
5 Hindmarsh Island looking for significant sites -
6 Aboriginal sites.

7 Q. At this particular meeting, was there ever any
8 suggestion of the existence of women's business as being
9 relevant to any fight about Hindmarsh Island.

10 A. Is that the October meeting?

11 Q. The October one.

12 A. No, there wasn't.

13 Q. Was the case Mabo mentioned at the meeting -

14 A. Yes, it was.

15 Q. In the context of land claims.

16 A. Yes.

17 Q. Can you remember now what was said about that in a
18 general sense, or not. If you can't -

19 A. No, I can't.

20 Q. Do you have a notice of that meeting that was provided
21 to you.

22 A. Yes, I do.

23 Q. In addition to that, a document dated 11 October 1993
24 entitled `Ngarrindjeri Land Meeting Whiteboard Notes'.

25 A. Yes.

26 Q. The first notice, was that given to you before the
27 meeting, or at the meeting.

28 A. No, at the meeting.

29 NOTICE PRODUCED TO WITNESS

30 A. No, it was given to us at the meeting.

31 Q. The second document now produced, can you tell us what
32 that document is.

33 A. This was the agenda.

34 Q. Was this a document forwarded to you after the meeting.

35 A. Yes, it was.

36 Q. I'm referring to the document headed `Ngarrindjeri Land
37 Meeting Whiteboard Notes'.

38 A. Yes.

1 Q. Dated 11 October 1993.

2 A. Yes.

3 EXHIBIT 33 Notice of meeting and whiteboard
4 notes dated 11 October 1993 tendered by
5 Mrs Shaw. Admitted.

6 Q. Was there any reference at that meeting to the Tendi.

7 A. Yes, there was.

8 Q. What was said about that.

9 A. The people there decided that we should elect in a new
10 Tendi committee.

11 Q. What did you understand the Tendi to refer to.

12 A. I understood it to mean that we would elect Ngarrindjeri
13 people onto the Tendi, who would speak on behalf of
14 Ngarrindjeri people.

15 Q. Why did you go to that meeting.

16 A. Because I was interested in being on the Tendi. I was a
17 member of the old Tendi committee when it was first
18 formed.

19 Q. At that time, did you hold a particular position in
20 Murray Bridge in your work.

21 A. Yes. I was the program director of the Nunga Centre at
22 Murray Bridge.

23 COMSR

24 Q. Of which centre did you say.

25 A. Of the Nunga Centre. Lower Murray Nunga's Club, I
26 should say.

27 XN

28 Q. Was there another meeting in late 1993 in relation to
29 the bridge.

30 A. We had another meeting to discuss the Tendi. That was
31 held at Port Adelaide, and it came up again about the
32 bridge. They wanted the people at the meeting to go
33 down to Goolwa, and give them some support down there in
34 stopping the bridge.

35 Q. Did you go to any subsequent protest about the bridge
36 that year.

37 A. No.

- 1 Q. Did you become aware of Sarah and Doug Milera living
2 down at Goolwa at the end of 1993.
- 3 A. Yes.
- 4 Q. When did you first learn of that.
- 5 A. After we had the Port Adelaide meeting, Daisy rang and
6 called the meeting at Tailem Bend at the town hall.
7 Some of the members of the Lower Murray Heritage
8 Committee came to the meeting, and they had come from
9 Hindmarsh Island. They had been staying down on the
10 Hindmarsh Island, and they came to the meeting at Tailem
11 Bend. So I was aware then that they were staying down
12 on Hindmarsh Island.
- 13 Q. You mentioned earlier that you learnt about Dr Draper's
14 involvement in January. Can you say what you learnt
15 about that.
- 16 A. Sarah Milera came to the Nunga Centre in January, and
17 she told me that Neale Draper had been down on the
18 island and she was going around showing Neale Draper
19 where some sites were and some midden.
- 20 Q. Did she tell you for whom Dr Draper was doing this work.
- 21 A. She said the Lower Murray Heritage Committee had hired
22 him to do it.
- 23 Q. Did you yourself have any particular view at that stage,
24 this is in early 1994, about the bridge issue.
- 25 A. No.
- 26 Q. I want to then come to the meeting of 9 May 1994 at
27 Hindmarsh Island. How did you learn about that meeting.
- 28 A. I was told at the Nunga Centre by Eileen McHughes and
29 Isobel, that they were looking for some women to go down
30 to the meeting on Hindmarsh Island.
- 31 Q. Did you, at that time, know any more about the activity
32 of the Lower Murray Aboriginal Heritage Committee on the
33 bridge issue.
- 34 A. No, I didn't.
- 35 Q. You hadn't had any involvement in it at all.
- 36 A. No.
- 37 Q. It was on a Sunday, the 9 May meeting.
- 38 A. Some of the women from Murray Bridge went down on a

- 1 Sunday, yes.
- 2 Q. You learnt about it on the Friday.
- 3 A. Yes.
- 4 Q. And what arrangement did you make to go down.
- 5 A. Well, I arranged to go down on Monday.
- 6 Q. Was there a reason for that.
- 7 A. Well, the meeting wasn't until Monday. It was just that
- 8 some of the women went on the Sunday.
- 9 Q. Who did you go down with.
- 10 A. I went down with Raelene Rigney.
- 11 Q. Who organised that meeting.
- 12 A. It was organised by Victor Wilson.
- 13 Q. What were you told about its purpose.
- 14 A. It was said to us - well, said to us - yes, said to me,
- 15 rather, by Eileen and Isobel, that the men had been
- 16 trying to stop the bridge, but it looked like the bridge
- 17 was still going to go ahead, so they needed the women to
- 18 go down there.
- 19 Q. Your position at that time.
- 20 A. Was program director of the Lower Murray Nunga's Club.
- 21 Q. What did you think would be happening when you went to
- 22 the meeting.
- 23 A. Well, I didn't really know what to expect.
- 24 Q. Was Doreen Kartinyeri's name mentioned at any stage -
- 25 A. No, I never heard it.
- 26 Q. Before you got there.
- 27 A. No.
- 28 Q. Had you heard Doreen Kartinyeri's name mentioned in any
- 29 respect in relation to the bridge issue at Hindmarsh
- 30 Island.
- 31 A. No.
- 32 Q. Did you know her.
- 33 A. Yes, I did.
- 34 Q. How long before 1994 was it that you had last seen her,
- 35 just approximately.
- 36 A. It would have been about 7 or 8 years before that I had
- 37 seen her.
- 38 Q. About how many women went down to Goolwa on the Sunday.

- 1 A. I think there was about twelve of them that went down.
2 Q. How did they go down.
3 A. They went in a bus that was given to them by Kalparran.
4 Q. Could you explain what Kalparran Farm is.
5 A. It is a drug and alcohol place that Victor Wilson runs.
6 Q. He was a director of that place.
7 A. Yes, he was.
8 Q. You travelled down on the Sunday with Raelene Rigney on
9 the Monday.
10 A. I went down on the Monday, yes.
11 Q. What time did you arrive.
12 A. We arrived at about 11, half past 11.
13 Q. And had accommodation been provided for the women on
14 Hindmarsh Island.
15 A. Yes, there was.
16 Q. What did you understand to be the premises that they
17 were staying at. What sort of premises was it.
18 A. I call it the Bunkhouse because it was just like a
19 bunkhouse. It had - it just had a big room with a lot
20 of beds in it and a small lounge and kitchen area. I
21 was told it belonged to - it was either the university
22 or one of the TAFE colleges that owned it.
23 CONTINUED
24

- 1 Q. Was it on the northern side of Hindmarsh Island.
2 A. I believe it was.
3 Q. Just before the caravan park.
4 A. Yes, it was. It was just before the caravan park.
5 Q. Did you see Doreen when you arrived.
6 A. Yes, I did.
7 Q. When you arrived, did she tell you how she came to be at
8 the meeting.
9 A. Yes, she did.
10 Q. What did she say.
11 A. She said that Victor had rung her up and asked her to
12 come down and that she had come down to tell us about
13 the women's business on the island. She also said that
14 Victor Wilson had told her that they couldn't stop the
15 bridge, so it was up to us women to stop it.
16 Q. Had Doreen been at Camp Coorong in October 1993.
17 A. No.
18 Q. What about at Port Adelaide.
19 A. No.
20 Q. After you arrived at the Bunkhouse, did you sit down and
21 talk to some of the other ladies that were there.
22 A. Yes. I sat down at the table with Doreen and Edith
23 Rigney.
24 Q. Was Iris Sparkes in that group.
25 A. Yes, Iris came and sat down with us.
26 Q. What did Doreen tell you whilst you were sitting at the
27 table.
28 A. She said that she had something to tells us women and
29 that after we had lunch then she would tell us about the
30 women's business that she heard.
31 Q. Did she say anything to you about your ancestry.
32 A. Yes. She said to me that my family wasn't connected
33 with Hindmarsh Island, that only the Rigney family was
34 connected to Hindmarsh Island. But she also went on to
35 say that because my children had Rigney blood in them,
36 she would tell me about it so I could pass it on to my
37 children.
38 Q. Did she tell you in general terms what it was that she

- 1 would be talking to the women about in relation to
2 Hindmarsh Island.
- 3 A. She said just women's business.
- 4 Q. You also have had, as you have said, three sons.
- 5 A. Yes.
- 6 Q. Did she say anything to you to suggest that you wouldn't
7 be able to tell your sons.
- 8 A. No. She just said that she would tell me so that I
9 could pass it on to my children.
- 10 Q. Doreen eventually called the women together after lunch;
11 is that right.
- 12 A. Yes.
- 13 Q. At that stage, were there only women present.
- 14 A. Yes.
- 15 Q. Of the women who travelled down to the Bunkhouse, were
16 some not there at the time that Doreen spoke.
- 17 A. Yes.
- 18 Q. Who was that.
- 19 A. Patricia Kropinyeri and Raelene Rigney, Dehlia
20 Kropinyeri and Sally Kropinyeri.
- 21 Q. Where were they at that time.
- 22 A. They had gone to Goolwa.
- 23 Q. Did you understand for what particular purpose.
- 24 A. Well, Rayleen told me it was to go and get something to
25 eat.
- 26 Q. What about Shirley Trevorrow, was she there.
- 27 A. No, she was not.
- 28 Q. Where was she.
- 29 A. Shirley was at the shack, the Mouth House shack.
- 30 Q. Was Sarah there, Sarah Milera.
- 31 A. She was at the Mouth House.
- 32 Q. When did she arrive.
- 33 A. She arrived not long after we did.
- 34 Q. Going forward for the purpose of identifying the women
35 who were there. Eventually at the Mouth House, was a
36 document prepared which had a number of signataures on
37 it.
- 38 A. Yes.

- 1 Q. Were the names of the women who were down there included
2 in printed form on that document; that is, the names
3 printed out before the signatures were placed
4 underneath.
- 5 A. No, the names were not printed where the signatures
6 were.
- 7 Q. If I show you a document produced. Looking at that
8 document, it's a photocopy of a document, at least some
9 of which you saw that day.
- 10 A. Yes.
- 11 Q. Your signature appears on the photocopy.
- 12 A. Yes.
- 13 Q. On or just above the signatures are the printed names of
14 a number of women.
- 15 A. Yes.
- 16 Q. By going through each of those women, are you able to
17 indicate which one are relatives of Victor Wilson's.
18 Perhaps if you go through them.
- 19 A. Yes. Sarah Milera, myself - who Victor was my
20 brother-in-law. Edith Rigney was a cousin of Victor's.
21 Doreen Kartinyeri was a cousin of Victor's. Judith
22 Kropinyeri, she's a cousin of Victor's, so was Eileen
23 McHughes. Leah Rankine was a cousin. Shirley Trevorrow
24 was a cousin and Patty Kropinyeri.
- 25 Q. You have gone through the signatures. Just above that,
26 do you see the printed names.
- 27 A. Leah Rankine.
- 28 Q. Was she a cousin.
- 29 A. Yes, she was a cousin.
- 30 Q. Going next from Leah Rankine is Edith Rigney.
- 31 A. Yes.
- 32 Q. She was a cousin.
- 33 A. Yes.
- 34 Q. Sarah Milera.
- 35 A. No, I don't know about Sarah.
- 36 Q. Dorothy, that is you.
- 37 A. Yes.
- 38 Q. Through your husband, he was a brother.

- 1 A. Yes.
- 2 Q. Eileen McHughes.
- 3 A. Yes.
- 4 Q. Was she related to Victor.
- 5 A. Yes.
- 6 Q. What was the relationship.
- 7 A. Eileen's mother and Victor's mother was brother and
- 8 sister.
- 9 Q. Isobel Norvill. Iris Sparkes you said -
- 10 A. No, I didn't say Iris Sparkes. Her name wasn't down.
- 11 She hasn't signed the letter. Iris Sparkes was a
- 12 cousin.
- 13 Q. Judith Kropinyeri is a cousin.
- 14 A. Yes.
- 15 Q. Patty Kropinyeri.
- 16 A. Yes.
- 17 Q. A cousin.
- 18 A. Yes.
- 19 Q. Dehlia Kropinyeri.
- 20 A. Yes, she was a cousin.
- 21 Q. A cousin.
- 22 A. Yes, she was.
- 23 Q. Then Doreen Kartinyeri.
- 24 A. Yes.
- 25 Q. A cousin.
- 26 A. Yes.
- 27 Q. Cathy McHughes, a cousin.
- 28 A. Yes.
- 29 Q. A cousin.
- 30 A. Yes.
- 31 Q. Sally Karpinyeri.
- 32 A. Yes.
- 33 Q. A cousin.
- 34 A. Yes.
- 35 Q. Raelene Rigney.
- 36 A. Yes.
- 37 Q. A cousin.
- 38 A. Yes, she was a cousin.

1 Q. And Peta and Monique.

2 A. Peta's Iris Sparkes' granddaughter, about nine, and
3 Monique is Dehlia Kropinyeri's daughter and she was
4 about two.

5 Q. Did the nine year old and the two year old sign this
6 document.

7 A. No.

8 Q. Of the names that you have read out, was Sarah the only
9 one that wasn't related to Victor.

10 A. As far as I know, yes.

11 Q. Then, just coming back to the Bunkhouse, you said that
12 Doreen called the women together after lunch; is that
13 so.

14 A. Yes.

15 Q. Can you then just tell us in your own words what
16 happened after Doreen called you together, called the
17 group together after lunch.

18 A. Well, when she called us together, she said that Victor
19 had rung and spoken to her on the phone and he had
20 wanted her to come down to Hindmarsh Island to talk to
21 the women about the women's business that she knew that
22 was on the island.

23 Q. Did she say anything about what the men had been able to
24 achieve.

25 A. Yes. She said that Victor told her that the men
26 couldn't stop the bridge from being built and now it was
27 up to the women to stop it.

28 Q. Did she use the word 'sacred' in relation to the island.

29 A. No, not at that stage, no.

30 Q. Did she, at a later stage, use that word.

31 A. Yes.

32 Q. Did she give you more details about what the island
33 meant to women.

34 A. Yes.

35 Q. What did she say.

36 A. She told us then that her grandmother Sally and Auntie
37 Rose had told her about the island being sacred to them
38 because our ancestors used to go there and have their

1 babies in water.

2 Q. Did she say which ancestors in particular.

3 A. No.

4 COMSR: Are we going to go into detail
5 concerning this again? Should this be in the public
6 arena?

7 MRS SHAW: As I understand it, it is.

8 MR ABBOTT: It is in the book of 1864.

9 MRS SHAW: Obviously from Dorothy Wilson's point of
10 view, it may not breach the Heritage Act, but there may
11 be areas or others who say that it does.

12 COMSR: Precisely. While the matter is in
13 issue, I have to deal with it as though it were a
14 tradition and now it may be that it is in the public
15 arena already.

16 MS PYKE: I make a submission in relation to that.
17 Dr Fergie instructs me that this is not in the public
18 arena in the sense that what is given is evidence about
19 the connection of a place with the event, if I can put
20 it that way, and that, in our submission, it is quite
21 inappropriate evidence to be given in the public arena.
22 Whilst certain topics have been raised, it is not a
23 connection of place and topic.

24 COMSR: I don't propose to allow any further
25 evidence along these lines in public session without
26 hearing argument about that.

27 MRS SHAW: I can hand you up a copy of the
28 statement to look at for the purposes of -

29 COMSR: It is not a question of what the witness
30 believes.

31 MRS SHAW: I appreciate that. In terms of what she
32 is going to say. Perhaps I can ask the witness to look
33 at her statement and simply ask her whether she adopts
34 what she says in her statement at this stage on that
35 topic.

36 MS PYKE: I object to that statement at this
37 stage. None of us have received that. That is, as I
38 understand it, not in accordance with the directions

1 issued as to the progress of this matter. That is not
2 like the last witness's statement which was identified
3 and tendered in evidence. I suggest that the process
4 that we are all told about in the beginning should be
5 adopted; that is, the statement should be released.

6 MR SMITH: The statement contains material which is
7 at the heart of the issue of women's business,
8 discussions between this witness and other people about
9 what other people contend to be women's business. So
10 the general issuing of the statement, certainly until
11 this witness is finished, cannot be done at this stage.

12 MR ABBOTT: Can I say something? The material in
13 the statement has not been referred to by this witness
14 in the course of giving evidence to date - and I know
15 that it was not our intention to do so, that the witness
16 do so at this stage. But, to overcome going into
17 private session, my suggestion is that the witness be
18 permitted to look at her, only certain paragraphs which
19 touch on this issue and be asked whether she adopts
20 those paragraphs, and those paragraphs only. Then, as
21 it were, go into evidence at this stage and your Honour
22 can suppress those particular paragraphs.

23 COMSR: I will certainly do at least that. But
24 I -

25 MR ABBOTT: Otherwise we will be in and out of
26 private session.

27 COMSR: That is an unfortunate aspect. But that
28 arises, of course, from the provisions of the
29 legislation and -

30 MR ABBOTT: We can get around it by giving that
31 portion -

32 COMSR: We can defer anything at this stage, if
33 you like, until it is more convenient to go into private
34 session. I wouldn't think it is necessary to canvas
35 detail at this stage.

36 XN

37 Q. If you look at your statement for the purposes of
38 addressing this particular topic produced. If you look

1 at p.14 and in particular at para.3.17. Just read that
2 to yourself for the moment.

3 MS PYKE: It seems to me here that this is
4 evidence which would be normally given in camera and is,
5 in some way, being given in open court. That means that
6 no-one knows and that it's secret, secret, secret.

7 COMSR: I gather what is proposed here is that,
8 at this stage, to avoid the necessity of going into
9 private session, the witness is simply being asked to
10 adopt something which will later be heard in private
11 hearing. Is that right?

12 MRS SHAW: Yes.

13 COMSR: Or otherwise we could, of course, go
14 into private session now.

15 MS PYKE: Or it could be deferred until the
16 private session. I understand from what is said, there
17 is other evidence that will be given, or evidence that
18 is going to be given and that no-one will be in the
19 private session other than those who are entitled to be
20 there and who can hear it.

21 COMSR: It is not an easy situation to deal
22 with, of course. Is it necessary to canvas these
23 details at all at this time?

24 MRS SHAW: It's impossible for Mrs Wilson to give
25 her account without, in her own mind, going through all
26 of the matters that were said one way or another,
27 otherwise we won't know what I'm passing over and
28 deferring until later.

29 COMSR: In that case, it might be necessary to
30 consider closing the public hearing and having a private
31 hearing. If we have got to that stage of the evidence
32 before it must, of necessity, deal with these issues -

33 MRS SHAW: The only point I'm making is that this
34 might only take three minutes in a private session and
35 then after five minutes we will be back. The purpose of
36 doing it this way was to allow us to proceed on and then
37 come back to it at the end. If that is not
38 satisfactory.

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- 1 COMSR: Well, I don't know if there are other
2 parts of the evidence you can go on with, or just get
3 from the witness at this stage that whatever was said,
4 she did or didn't adopt, or whatever.
- 5 MRS SHAW: I can certainly, for the purposes of
6 moving on, allow the witness to have sighted 3.17 so
7 that she knows herself from where to move on.
- 8 Q. After Doreen had told you what was in para.3.17, did she
9 say, one way or the other, whether she knew anything
10 more about the island.
- 11 A. Yes, she did mention that she knew that Mundoo Island -
- 12 COMSR: Are we in the same position again?
- 13 MRS SHAW: This is Mundoo Island. This is men's
14 business.
- 15 COMSR: Men's business is -
- 16 MRS SHAW: Except that -
- 17 COMSR: This is in the public arena.
- 18 MS PYKE: Again, Dr Fergie has instructed me she
19 thinks this is squarely within s.35.
- 20 COMSR: Aboriginal tradition is not limited to
21 women's business or secret women's business, it can
22 include others.
- 23 MRS SHAW: I appreciate that. I think I haven't
24 made my question clear to Mrs Wilson.
- 25 Q. I'm still referring to Hindmarsh Island. Did Doreen
26 tell you that this was all she knew about Hindmarsh
27 Island after she told you the matters or told the women
28 the matters in 3.17.
- 29 CONTINUED

- 1 A. She told us that's all she knew about it.
- 2 Q. Did she say, without telling us what was said, who told
3 her these things.
- 4 A. Yes, she said it was Grandmother Sally and Auntie Rose.
- 5 Q. Did she mention the daughter of Pinkie Mack.
- 6 A. No.
- 7 COMSR: Just before we move on, there has been a
8 reference already to the Hindmarsh Island in connection
9 with possible women's business. I propose to suppress
10 from publication any mention of that.
11 The press should be under no difficulty in
12 identifying what is being suppressed from publication.
13 It was a question put to the witness and the answer
14 given concerning the -
- 15 MR SMITH: It was given in open court, so to
16 identify it might as well -
- 17 COMSR: Relating to abortion I think.
- 18 MR MEYER: That's right.
- 19 COMSR: That is what I am suppressing from
20 publication, any mention of that question and answer.
- 21 MS PYKE: There was mention of men's business and
22 Mundoo Island. That should also be. It is the same
23 principle.
- 24 COMSR: There is probably going to be some
25 argument addressed to me and, on the basis of being
26 certain rather than sorry about it later, I propose to
27 suppress from publication any mention of men's business
28 on Mundoo Island.
- 29 MR SMITH: I think that that should be absolutely
30 clear so the media know what they can do and cannot do.
31 The question and the answer that raises the question
32 of aborted babies, that is suppressed.
- 33 COMSR: Yes.
- 34 MR SMITH: The question and answer.
- 35 COMSR: Yes, the question and the answer
36 relating to Mundoo Island.
37 The media should have no problem identifying those
38 passages.

1 XN

2 Q. What was your reaction to what you were told as at the
3 time set out in para.3.17.

4 A. I was surprised because I hadn't heard of it before.

5 Q. Did you ask any questions.

6 A. Yes, I asked where specifically it happened and was told
7 that -

8 COMSR: Perhaps again we have got the same
9 problem?

10 MS SHAW: There is not a problem with this answer,
11 but I am certainly happy to defer it just so that there
12 is no discussion and I will move on.

13 XN

14 Q. Did she also say something about Mundoo Island and,
15 without telling us what was said, is it contained in
16 para.3.19.

17 A. Yes, she did.

18 Q. After she had or while she was telling you the matters
19 in para.3.17, did she say that those matters were
20 confidential to women.

21 A. She said it was women's business.

22 Q. Did she say anything about it being secret.

23 A. No.

24 Q. Was there any reaction from Edith Rigney.

25 A. She said that she wasn't told by Grandmother Sally or
26 Auntie Rose, but if Doreen was told then she believed
27 it.

28 Q. And Eileen McHughes, did she say anything.

29 A. Yes, she said the same thing. That she wasn't told by
30 her grandmother.

31 Q. You have mentioned, is it, Isobel Norvill.

32 A. Yes.

33 Q. And Eileen, did they both have the same grandmother.

34 A. Yes, they did.

35 Q. Was that someone called Connie Kropinyeri.

36 A. Yes.

37 Q. And she was Grandmother Sally's eldest daughter.

38 A. Yes.

- 1 Q. When Edith said that she wasn't told anything, did she
2 mention Grandma Sally or Auntie Rose or both. That is,
3 that neither told her.
- 4 A. Yes.
- 5 Q. What was your reaction to Doreen's account in para.3.17.
6 Did you believe her or not believe her. What was your
7 reaction.
- 8 A. I believed her.
- 9 Q. Why was that.
- 10 A. Because she had said that it was told to her by
11 Grandmother Sally and Auntie Rose, because she was older
12 than me, anyhow, and probably knew more than what I did,
13 that I just accepted it.
- 14 Q. Was there an agreement, without telling us any of the -
15 mentioning what Doreen may have said about Hindmarsh
16 Island, was there an agreement amongst the women about
17 the island and its sacredness.
- 18 A. Yes, there was.
- 19 Q. What was said on that.
- 20 A. It was said that we should do up a letter and send off
21 to Mr Tickner.
- 22 Q. Who suggested that.
- 23 A. Eileen McHughes.
- 24 Q. Had you actually been to the island, Hindmarsh Island,
25 with Eileen previously.
- 26 A. Yes, I did.
- 27 Q. Her mother, Connie, as you have said, was Grandma
28 Sally's daughter.
- 29 A. It was Eileen's grandmother.
- 30 Q. Eileen's grandmother.
- 31 A. Yes.
- 32 Q. Who suggested that a letter be drawn up.
- 33 A. Eileen did.
- 34 Q. Did she indicate what they ought to tell Mr Tickner.
- 35 A. Yes, she did.
- 36 Q. What did she say -
- 37 COMSR: Again -
- 38 MS SHAW: Again, it doesn't involve the detail of

- 1 para.3.17, this answer.
- 2 COMSR: Yes, but does it involve any other
3 detail?
- 4 MS SHAW: It involves no detail beyond what Mrs
5 Wilson has already said in general terms.
- 6 COMSR: I must admit that I am -
- 7 MS SHAW: I will pass over it.
- 8 COMSR: I am uneasy about it.
- 9 XN
- 10 Q. Just looking at the statement in para.3.31, on p.18, so
11 you are not confused as to what stage we are at in your
12 account.
- 13 COMSR: I mean, I may be being unduly cautious
14 here, but it is just that I don't know what answer is
15 likely to come forward to questions such as this.
- 16 XN
- 17 Q. You have said that it was agreed to send a letter to
18 Tickner about the island.
- 19 A. Yes.
- 20 Q. Was the bridge mentioned, at that stage.
- 21 A. No.
- 22 Q. Who wrote out the letter.
- 23 A. Eileen McHughes.
- 24 Q. Just looking at the document that you already have in
25 front of you on which the names appear that you referred
26 to earlier, is part of that what Eileen McHughes wrote
27 out.
- 28 A. Yes, the first part.
- 29 Q. When you say the first part, do you mean the entire
30 section in the same handwriting down to just over
31 halfway down.
- 32 A. Yes.
- 33 Q. Did any of the other women contribute to the preparation
34 of that letter, without telling us what was said.
- 35 A. Yes, we did.
- 36 Q. I won't go into any further detail, at this time, but,
37 without telling us, was there also mention of Mundoo
38 Island.

- 1 A. Yes, there was.
- 2 Q. You have said that Shirley and Patty weren't there, at
3 that time.
- 4 A. Yes.
- 5 Q. What happened to the letter after Eileen had finished
6 writing the first part on the first page of the
7 document.
- 8 A. I think she gave it to Sarah Milera.
- 9 Q. Was anything said about what Sarah might do with it.
- 10 A. No, I went out the room, so I don't know what was said.
- 11 Q. Did Sarah subsequently approach you and ask you to drive
12 her somewhere.
- 13 A. Yes, she did.
- 14 Q. Where did she ask you to drive her.
- 15 A. She asked me to take her to the shack, to the Mouth
16 House.
- 17 Q. Had Sarah said at any stage that she knew someone who
18 had a fax machine.
- 19 A. Yes, I think she did.
- 20 Q. Did she indicate where they were around Goolwa, at what
21 location.
- 22 A. She just said that she would show me where.
- 23 Q. She asked you then to drive her over to the Mouth House.
- 24 A. Yes.
- 25 Q. Is that where you understood Sarah and Doug were living.
- 26 A. Yes.
- 27 Q. Did she say, in particular, why she wanted you to drive
28 her over there.
- 29 A. No, she didn't. She just said she had to pick up
30 something from home.
- 31 Q. When you last saw the document at the Bunkhouse, was it
32 signed or unsigned.
- 33 A. No, it was signed.
- 34 Q. Looking at the document now, are those signatures
35 presently on that page.
- 36 A. Yes.
- 37 Q. Where do they appear, do they appear on that page or on
38 a different page of the document.

- 1 A. There is two pages here with our signatures on it. I
2 remember signing this document (INDICATES).
- 3 MR ABBOTT: Can we give your Honour a copy of this?
4 MS SHAW: Perhaps, if I might, I will get the
5 document tendered.
6 XN
- 7 Q. Just looking at the two page document, now before you,
8 does your signature appear on the second page.
9 A. Yes.
- 10 MS SHAW: I tender that document.
11 COMSR: I will have a look at the document,
12 first.
13 I would propose to mark this for identification
14 only, at this stage, Ms Shaw, and we can deal with it
15 when we go into private hearing.
- 16 MR TILMOUTH: Can I raise a point about that letter?
17 COMSR: Yes.
- 18 MR TILMOUTH: It is another point entirely. I
19 understand that was a letter that went ultimately to the
20 Minister, Mr Tickner.
21 COMSR: Yes.
- 22 MR TILMOUTH: And I understand that was part of the
23 documents which were tendered in the Federal Court.
24 Those documents were subject to undertakings that they
25 would only be used by the parties and their counsel for
26 the purposes of those proceedings.
27 COMSR: And that may well be the undertakings
28 that will be required here.
- 29 MR TILMOUTH: That may be, but the question is what is
30 the source of this copy? At the moment, there is no
31 valid basis for it being produced to this Royal
32 Commission. As I understand it, it is only - it was
33 only permitted to be distributed in the Federal Court on
34 a very limited basis. And I understand as well when the
35 copy documents were prepared that Registrar Fisher also
36 made orders which, in effect, preserved confidentiality.
37 If that is right, that means the only source of this
38 photocopy must be the Federal Court documents which are

1 subject to Federal Court orders.

2 MR ABBOTT: This is a ridiculous point for someone
3 who doesn't represent any of the women, in respect to
4 a woman who signed this document. It is, after all, her
5 document.

6 COMSR: But you must recall, Mr Abbott, that one
7 of the terms of the Commission is that the Commission is
8 to avoid prejudicing the Federal Court proceedings.

9 MR ABBOTT: Of course it is a term.

10 COMSR: And I -

11 MR ABBOTT: This document and having this witness
12 recount how she came to sign it and thereafter her
13 evidence in relation to it, it has got nothing to do
14 With the Federal Court proceedings I would have thought.

15 MR TILMOUTH: Could I be more specific?

16 COMSR: Yes.

17 MR TILMOUTH: In the Federal Court, at p.101 of the
18 transcript before O'Loughlin J who heard the original
19 Administrative Appeals Judicial Review application, his
20 Honour noted the agreement between counsel that only
21 counsel and the instructing solicitor will have access
22 to the same. Namely, the s.13 documents, which I
23 understand included this letter. And will preserve
24 Confidentiality in respect to the same. Order that the
25 first respondents supply a copy of the aforesaid book of
26 documents to the legal representatives of each of the
27 other parties.

28 And, moreover, Madam Commissioner, I believe that,
29 on 28 March this Year registrar Fisher of the Federal
30 Court at the settling of the appeal index made a
31 direction that none of the administrative appeal
32 documents be available to the public without leave of
33 the judge.

34 At the moment, my understanding is that the only
35 legitimate source, so to speak, of this document must be
36 the Federal Court papers, which are subject to court
37 orders in that court. And, Madam Commissioner, you are
38 quite right to treat this seriously. It is far from

- 1 ridiculous. This has the capacity to be a contempt of
2 the Federal Court if not treated seriously.
- 3 COMSR: I would certainly propose to do that.
4 I don't know the source from which the document comes,
5 but I certainly do not propose to admit it as an exhibit
6 without further investigation.
- 7 MS SHAW: What I will do is simply ask the witness
8 to recount the events and she can refresh her memory
9 from it and the document need not be tendered.
- 10 COMSR: I don't know that we can do that.
- 11 MR TILMOUTH: Where does the document come from? That
12 is the first question. Is it legitimate?
- 13 COMSR: If there is any question that it can't
14 be used, then I would want to have to consider carefully
15 whether it could even be used for the purpose of
16 refreshing the witness's memory.
- 17 MR SMITH: I suggest we just mark the document for
18 identification and resolve the matter at some later
19 stage.
- 20 COMSR: I certainly don't propose to permit any
21 questions on the document.
- 22 MS SHAW: I will just ask the witness what
23 happened. I will just ask her about the events,
24 continue with the events of that day and ignore the
25 document, for the moment.
- 26 COMSR: Yes, as far as I am concerned, I am not
27 prepared to receive the document without being sure that
28 there is no possible transgression of the terms of the
29 reference of this Commission.
- 30 CONTINUED

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- 1 MR TILMOUTH: I press my earlier point though. What
2 is the source of this copy document that has been
3 produced? That should be resolved here and now.
- 4 MR SMITH: Mr Tilmouth is not necessarily entitled
5 to an answer to that question. I suggest that it just
6 be marked and left, and we will clear it up.
- 7 COMSR: I think I have to be satisfied before I
8 even mark it for identification. At this stage, I would
9 say I am not prepared to hear any questions which go to
10 the document itself. The witness has spoken about her
11 recollection of events, but as to the document, I
12 certainly have to hear argument on that matter. But if
13 we can proceed with this witness's evidence.
- 14 MRS SHAW: I will proceed with evidence about a
15 document - as to the events. If the document itself,
16 for the moment, wasn't here, this witness could still
17 give evidence about what happened.
- 18 COMSR: She can give evidence about what
19 happened and her recollection of events, but I am in no
20 way concerned and would wish to avoid anything which
21 touches upon the exercise by the Federal Minister of his
22 responsibilities. That is completely outside the Terms
23 of Reference of this Royal Commission. If there is even
24 a suggestion that we might be heading that way, I prefer
25 that I hear some argument about the matter before we
26 take any steps that might bring us into possible
27 conflict.
- 28 MR SMITH: Are you going to mark the letter, at
29 least. It has been the subject of debate. It should be
30 marked and kept by the commission.
- 31 COMSR: At this stage, I certainly do not know
32 whether marking it for identification even is a problem.
33 I do not wish to receive it at this stage.
- 34 MS NELSON: The trouble is there has been
35 considerable debate about it and there has to be some
36 way of identifying it.
- 37 COMSR: Yes, that is right.

- 1 MR MEYER: Perhaps the letter could be held by Mr
2 Smith, as counsel assisting, and he can give an
3 undertaking to hold the letter while we debate the
4 matter. That will solve the problem.
- 5 COMSR: Do you see any problems with that
6 course?
- 7 MR SMITH: No.
- 8 COMSR: Are you prepared to give the undertaking
9 that you will retain this copy in your safe custody
10 then?
- 11 MR SMITH: Indeed.
- 12 XN
- 13 Q. You went over to the Mouth House.
- 14 A. Yes.
- 15 Q. And on the way over there, did Sarah point out any sites
16 to you.
- 17 A. Yes, she did. She pointed out a couple.
- 18 Q. When you arrived at the Mouth House, who was there.
- 19 A. When we arrived there, there was Tim Wooley.
- 20 Q. Who is Tim Wooley.
- 21 A. He is an Aboriginal Legal Rights lawyer.
- 22 Q. Is he an Aboriginal person, to your knowledge.
- 23 A. No.
- 24 Q. Who else was there.
- 25 A. Victor Wilson was there, Doug Milera was there, George
26 Trevorrow was there, and George's wife, Shirley, was
27 there.
- 28 Q. Did you know all of those people.
- 29 A. Yes, I did.
- 30 Q. When had you previously known Tim Wooley.
- 31 A. I knew Tim Wooley from when he came to the Lower Murray
32 Nunga's Club.
- 33 Q. Did you have any idea he would be there.
- 34 A. No, I didn't.
- 35 Q. Did you ever have any idea what he was doing there.
- 36 A. No.
- 37 Q. Did you have any idea as to the stage that the bridge
38 dispute was at.

1 A. No, I didn't.

2 Q. When you arrived, where were people sitting or standing.

3 A. When we walked in - when I walked in the door, Tim
4 Wooley was the first person that I saw because he was
5 sitting just straight in from the door, and when I
6 looked over to where the table was, Shirley and George
7 Trevorrow were sitting on one side of the table, and
8 Victor Wilson was sitting on the other side, and Doug
9 was standing up - Doug Milera was standing up.

10 Q. What did you do after you arrived.

11 A. I went into the bedroom with Sarah.

12 Q. Did the other women come over to the Mouth House.

13 A. Yes, they did.

14 Q. Were all of the women who were at the first meeting at
15 the Bunkhouse, at the Mouth House: that is, did they all
16 come over.

17 A. No, not all of them.

18 Q. Who wasn't at the meeting at the Bunkhouse.

19 A. Patty Kropinyeri wasn't at the bunkhouse, and neither
20 was Dehlia Kropinyeri and Sally Kropinyeri.

21 Q. What about at the Mouth House, which of the women were
22 not present at the meeting in the Mouth House.

23 A. Raelene Rigney wasn't there, Dehlia Kropinyeri wasn't
24 there, Cathy McHughes wasn't there, Dehlia's daughter,
25 Monique wasn't there and Mossy's granddaughter, Peta,
26 wasn't there either.

27 COMSR: We do have a problem now in that this
28 courtroom is required at 4 p.m. this afternoon. I
29 understand it is going to take us at least a quarter of
30 an hour to pack up to enable the court to be used by 4
31 p.m.. Clearly we would not get through this witness's
32 evidence in any event. Mr Smith, can you tell us what
33 is proposed?

34 MR SMITH: The arrangements are that we resume on
35 Monday morning at 10 a.m. in Supreme Court complex,
36 courtroom 11, which is in the old complex off King
37 William Street. It is beyond the news stand, further
38 south down King William Street. The steps are virtually

D.A. WILSON XN (MRS SHAW)

1 opposite the Court Cafe. We can continue to resume
2 there for all the week, if necessary. So if you could
3 adjourn to Supreme Court number 11 at 10 a.m. Monday
4 morning.

5 COMSR: Are there any orders I need to make as
6 to any restrictions on the evidence today?

7 MR ABBOTT: I am not asking for orders of
8 restrictions on the evidence. I am asking that you at
9 least make it clear to the public that Mrs Bertha Gollan
10 and Mrs Wilson are now under the protection of the Royal
11 Commission, having been witnesses who have given
12 evidence in-chief and who are, in the case of this
13 witness, yet to complete their evidence in-chief. I
14 invite you to say something about any contact with them,
15 because I take it you will not view favourably any
16 contact being made with them about their evidence, by
17 anyone other than their solicitors, of course.

18 COMSR: Yes. I think there are some concerns
19 that have been expressed to me, that the witnesses feel
20 that they may be placed under some strain or pressure if
21 they are approached by people during the course of their
22 giving evidence, and that you wish me to particularly
23 state that they are not to be approached during the
24 period of the adjournment.

25 MR ABBOTT: Yes. Until their evidence is completed.

26 COMSR: Until their evidence has been completed.
27 We will adjourn then until Monday morning at 10 a.m. in
28 courtroom number 11, in the Supreme Court.

29 ADJOURNED 4.45 P.M. TO MONDAY, 14 AUGUST 1995 AT 10 A.M.

1 COMSR STEVENS

2

3 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

4

5 MONDAY, 14 AUGUST 1995

6

7 RESUMING 10.06 A.M.

8 MR SMITH: The programme for today is, firstly,
9 there is to be an application for this witness's -

10 Dorothy Wilson's - evidence to be heard in camera. The
11 second matter that I wish to address is the question of
12 the letter, which is certainly at least a copy of part
13 of the Federal Court documentation and was the subject
14 of the objection on Friday.

15 Can I address that immediately, Madam Commissioner,
16 so that you know the position with that letter.

17 Certainly there were, shall I say, restrictive orders
18 made in relation to what were called s.13 documents in
19 the Federal Court proceedings. The letter which was
20 produced in Dorothy Wilson's evidence on Friday is one
21 of those s.13 documents; that is, it was a letter from a
22 number of persons, including Dorothy Wilson, that
23 eventually found its way to the Federal Minister, Mr
24 Tickner.

25 On behalf of the Commission, the Crown Solicitor has
26 instructed to make an application to the Federal Court,
27 subject, of course, to considering all the material for
28 the release of not only that letter from the
29 confidentiality order, but any other s.13 documents that
30 are pertinent to the terms of reference of this inquiry.

31 That may take some days and, for the time being, that
32 document and any others that fall into its category
33 should simply be marked for identification in this
34 inquiry, pending an exploration of the order of

35 O'Loughlin J.

36 COMSR: Mr Smith, at present, you have given an
37 undertaking to keep that letter safe.

38 MR SMITH: If that be identified, because I think

1 it was whisked down to me on Friday. If the witness
2 could identify the letter, being one I now have
3 possession of. I'm suggesting no more than that.

4 COMSR: I would suggest at this stage that that
5 might be the preferable course to adopt if counsel are
6 happy to accept your undertaking that you will keep that
7 letter secure.

8 MR SMITH: That deals with that letter and any
9 other documents that might come to pass that do fall
10 into that category. The witnesses for today are Dorothy
11 Wilson, who will continue her evidence, and it's
12 envisaged that she will take most of the day in
13 evidence-in-chief. The plan, and I have announced this
14 to counsel, is that cross-examination of these
15 Aboriginal lady witnesses will commence on Wednesday
16 with the cross-examination of Bertha Gollan. Subject to
17 problems arising in the hearing, Dorothy Wilson should
18 be cross-examined on Thursday.

19 As to witness statements, bearing in mind there is
20 an application for an in camera hearing, subject to what
21 decision you make about that, can I indicate to you that
22 the witness statement, for instance, of Dorothy Wilson,
23 which has yet not been marked as an exhibit and, as yet,
24 has not been in any way released, her statement
25 necessarily embraces matters that arise under s.35 of
26 the Aboriginal Heritage Act; and, in particular, in
27 places discusses secret sacred women's business, or,
28 rather, what is contended in conversations with Dorothy
29 and other people to be that. So, you would suppress
30 that and you would also, no doubt, suppress the matters
31 that it is argued are covered by s.35.

32 So, as to witness statement of Dorothy Wilson, there
33 are two statements, in effect. One statement has all
34 the matters which are arguably s.35 problems blacked
35 out, and illegible. The attitude taken by myself on
36 behalf of the Commission and my learned friend Mrs
37 Simpson is that anything that remotely smacks of a
38 disclosure of Aboriginal tradition, and it's all to do

1 with or contended as women's business, has been
2 blackened out. The balance of Dorothy Wilson's
3 statement has no such problems and, therefore, that
4 statement, once identified and taken into evidence,
5 subject to your decision and arguments from the bar
6 table, could safely be released.

7 COMSR: Released to whom?

8 MR SMITH: Released for publication, because there
9 is nothing in it other than blackened out portions which
10 is any more than narrative and the knowledge of the
11 evidence about Dorothy Wilson's activities. In addition
12 to that, there is attached to the statements an envelope
13 - dare I bring into play another envelope - but an
14 envelope which contains those pages of material which
15 deal with s.35; in particular, the contended for secret
16 sacred women's business, and that is plainly set out in
17 the pages.

18 So that in a closed hearing with women only, that
19 material, of course, will be in the hands of the persons
20 you allow in the hearing room; that is the female
21 clients, the family representatives and yourself. So, I
22 give you that information so that you can contend with
23 any other applications that are made.

24 COMSR: So that I understand the physical
25 process involved, you say that a statement to be
26 released, or that you contend could be released, has
27 been blacked out in some way. Does that completely
28 obliterate the details?

29 MR SMITH: It does to the extent that we, having
30 blacked it out, checked it and actually photocopied the
31 original so that it couldn't be read through. I think,
32 in any event, you will suppress that which is blackened
33 out, so that if by any ingenious scientific method -

34 COMSR: That is not my concern. My concern is,
35 first of all, with the divulgence of information
36 contrary to s.35, and that is the divulgence to anyone
37 other than the persons permitted to remain at the
38 hearing. That's my timely concern in dealing with

1 matters that come into that category.

2 MR SMITH: I can tell you that it is completely
3 illegible. Subject to your views about this, once the
4 witness Dorothy Wilson has properly identified her
5 statement and it can be distributed to counsel at the
6 bar table and the female counsel can receive the
7 statement which has attached to it the envelopes
8 contained in the material which is blackened out,
9 therefore, your situation the Commission's situation in
10 s.35 will be properly attended to.

11 COMSR: That is what you are proposing now?

12 MR SMITH: That is letting you know how we can deal
13 with these problems, subject to your orders.

14 COMSR: I notice Mr Short is here. I don't know
15 whether you propose to make an application?

16 MR SMITH: I think it's Mrs Shaw on behalf of this
17 lady has an application to make, and that will
18 undoubtedly concern Mr Short.

19 MRS SHAW: Perhaps, first of all, if I announce
20 that in addition to the previous 11 women that we have
21 indicated that we are acting for, we are now also acting
22 for Lena Gollan, Beryl Kropinyeri and Margaret Sinclair.
23 So that, in all, we now act for 14 women who will be
24 giving evidence during the course of this Royal
25 Commission on the issues that have arisen.

26 My application this morning, which I make with some
27 regret, bearing in mind the endeavours of my client on
28 Friday to give her evidence publicly, your Honour can
29 appreciate that she has always maintained and continues
30 to maintain that she wishes the truth to come out. It
31 was for that reason that she commenced her evidence in
32 the public forum. But, as will appear from her
33 statement which will be tendered in due course, after
34 her public disclosure of what occurred, she is a member
35 of the Murray Bridge community and was subjected to a
36 number of deterrents, if I can use that fairly unusual
37 phrase, for her to continue on with her disclosure.

38 The first was a letter in writing that she received

1 from the Lower Murray Nunga's Club, which stated that:
2 `A motion had be moved by the executive committee of the
3 Lower Murray Nunga's Club that it supported the women
4 with their stand with their beliefs behind Hindmarsh
5 Island and, therefore, any group who does not support
6 the same principle will be refused access to facilities
7 and resources of the Lower Murray Nunga's Club.'
8 That, of course, was my client and the other women for
9 whom we act.

10 Further to that, she was informed that the women
11 from up north were involved and there was talk of her
12 being sung to death. Following upon that information
13 being provided to her, she was then to witness on the
14 television on the first day of the hearing, the presence
15 of a woman from up north carrying a stick and, as it
16 turned out securing an audience with you Madam
17 Commissioner.

18 She has also been informed or was informed before
19 this Commission started and after she spoke out publicly
20 by another Ngarrindjeri person in Murray Bridge, that
21 the other Ngarrindjeri person was not allowed to travel
22 in the same car as her or she would be banished from the
23 tribe.

24 There was then a meeting of women held in June in
25 which it was resolved that those who had spoken out
26 against the secret women's business were banished from
27 the tribe, and there were public statements made on TV
28 which branded her and the other women for whom we act as
29 traitors. Her face was cut out of a photograph hanging
30 on the wall at the Nunga Centre in Murray Bridge and
31 after Doug Milera spoke out about the truth of what
32 occurred in the Mouth House, she was informed that an
33 arrangement was being made to have her `milled', which
34 she understood is to have her killed. Prior to going
35 public -

36 MR TILMOUTH: I have allowed this to go on. What is
37 the application?

38 COMSR: I am trying to see - what are you

1 addressing me?

2 MRS SHAW: What I'm addressing is that against that
3 background, Mrs Dorothy Wilson made a decision to not be
4 deterred and attempted to give her evidence in public.
5 However, once she commenced to give her evidence, she
6 found that the many objections during the course of
7 giving her evidence and the conduct of some persons in
8 the courtroom provided such a distraction to her that
9 she was unable to recount as accurately and fully as she
10 would have wished the events which she is obliged to
11 recount.

12 COMSR: She is still in the witness box.

13 MRS SHAW: That is so. It is my application that
14 she continue her evidence in private; that the issues
15 that arise because of s.35 be resolved after she has
16 given all of her evidence in private. That is that she
17 be permitted and you Madam Commissioner receive her
18 evidence de bene esse in private so that she be able to
19 recount, without interruption, her best memory of many
20 meetings which she attended and important conversations
21 that she had with persons who claim that there was
22 secret women's business. Further, that she be able to
23 give that evidence to you without the pressure of
24 interruptions and distractions that take place in the
25 public hearing.

26 I might say that it is still her wish that her
27 evidence be public, it be made public, and I ask that
28 that occur after appropriate rulings by you as to what
29 does or does not cause a problem with s.35 at the
30 completion of all of her evidence in private.

31 COMSR: Her primary application for having the
32 private hearing is due to the nature of the stresses
33 that she has been subjected to and the difficulty that
34 she has found in giving evidence in this courtroom
35 setting where there is action taken from time to time -
36 and I'm not sure what the other conduct is that you are
37 alluding to anyway?

38 MRS SHAW: I don't wish to go into details. Your

1 Honour can appreciate that it is not surprising that
2 there should be reactions to certain things she says
3 which she found distracting. I indicate that she
4 actually thought that she may have made a mistake in
5 something she said. I haven't probed that. I didn't
6 think it was appropriate, bearing in mind she is giving
7 evidence. But it's for that reason that she's concerned
8 that she has not been able to give her evidence as
9 accurately as she would wish because of what is
10 occurring in the public setting.

11 Her evidence constitutes some 90 pages in the
12 written form, therefore, she is required to be in the
13 witness box for a long time, and it includes many
14 conversations and statements by various people.

15 CONTINUED

1 MR TILMOUTH: Could I be heard on this application, at
2 the appropriate time?

3 MS SHAW: Perhaps in conclusion can I say this:
4 My client was fully aware, at the time that this
5 Royal Commission was announced and at the time when the
6 Terms of Reference were decided, that she would be
7 receiving such assistance as you were able to provide
8 her in this very sensitive area. Sensitive, not only
9 because of what she has to say, but also because she is
10 a Ngarrindjeri woman who is effectively as has been said
11 many times publicly going against other Ngarrindjeri
12 women and it is that sensitive nature of it
13 that, in my submission, is quite important in your
14 consideration of this issue.

15 MR SHORT: Today I appear for Channels 7, 9 and 10,
16 The Advertiser, The Australian and Associated Press.

17 In relation to the submission to have the Commission
18 closed to the public so far as the submission relies
19 upon the behaviour of some persons in this courtroom,
20 that is a matter that can readily be addressed and
21 satisfactory addressed, in our submission, by a
22 direction to the gallery as to the conduct expected of
23 those present here today by appropriate steps by the
24 Commission security staff. In the event that anyone
25 does behave in an inappropriate manner, they should be
26 ejected from the gallery. That should not be tolerated.
27 It is a drastic step to close the Commission to the
28 public where other means exist.

29 COMSR: We are not entirely in the area of
30 Aboriginal evidence.

31 MR SHORT: In so far as it relates to s.35.

32 COMSR: No, I am not talking about traditional
33 matters, I am talking about the reception of evidence in
34 areas where Aboriginal evidence is being taken it is not
35 unprecedented for the evidence to be taken in rather
36 unusual ways even where groups of Aborigines give
37 evidence sometimes in land claims. What is being put is
38 not something without precedent at all, Mr Short. The

1 question is the extent to which I can consider the
2 application in circumstances such as these.

3 MR SHORT: I have some other matters that may bear
4 on that.

5 In so far as objections by counsel are concerned,
6 whether the public are present or not, counsel have the
7 right and the obligation to represent their clients'
8 interests as they see fit.

9 COMSR: Yes, but this is an Inquiry and it is
10 not the situation where counsel have to be unduly
11 technical about these matters.

12 MR SHORT: I simply make the observation that
13 whether the public are present or not counsel will
14 remain present and will continue to represent their
15 clients in the proper manner and if that called for
16 objections on Friday presumably it will call for
17 objections on Monday whether the public are here or not.

18 In so far as there may be concerns about particular
19 persons in the public gallery, I assume there is no
20 suggestion, and I have heard none, that members of the
21 media are engaged in inappropriate behaviour or
22 intimidation in this courtroom and I am sure there is no
23 such submission.

24 MR SMITH: There is no suggestion of that.

25 COMSR: Of course, the mere presence of a number
26 of press outside the court could be stressful to someone
27 unused to that situation, Mr Short.

28 MR SHORT: The Commission has no control over what
29 people do outside.

30 COMSR: I appreciate that. I am talking about
31 another area of stress for the witness.

32 MR SHORT: That area of stress will continue
33 whether you close the Commission or not. If anything it
34 will mean there will be more people outside the door of
35 the Commission with a greater interest in knowing what
36 went on. But if you are considering any form of closure
37 could I suggest that members of the media should be
38 exempt from that? If any of them misbehave they are

1 subject to the same rules, but there is no suggestion at
2 all that they have done anything inappropriate nor any
3 suggestion that they would. Other than the s.35
4 material they should be permitted to remain.

5 If it were considered to be stressful for the
6 witness to be looking at members of the media they can
7 readily shift into the body of the court, just looking
8 at the physical set up of this courtroom.

9 In so far as s.35 material arises we have no
10 opposition to that. If you were to close the courtroom
11 then, as I think Ms Shaw suggested, there should be a
12 review of the evidence at the end with a view to only
13 that material properly falling within s.35 being
14 suppressed from publication and obviously the issue of
15 intimidation would not then be pertinent to the manner
16 in which the witness gave her evidence, because she
17 would have given it.

18 COMSR: Yes, as far as the s.35 matters are
19 concerned, it is not perhaps quite so easy to make the
20 assessment at the end of each day not knowing what
21 cross-examination might bring forth concerning a
22 particular witness's evidence. Some material I suppose
23 could readily be identified as not infringing, but it is
24 not apparent to me that the appropriate time to make
25 that assessment is at the end of each day's evidence. I
26 would see difficulties in that which are perhaps better
27 addressed by considering the evidence as a whole after
28 the cross-examination is completed rather than a
29 piecemeal approach as day by day goes by.

30 MR SHORT: As you have said, there will be some
31 material which clearly should not be suppressed which
32 should be available to the public. There may be other
33 material which clearly should never be released and
34 there will be some material which may fall into the grey
35 category where it is appropriate to wait and see. In
36 respect to that which should not be suppressed and it
37 clearly is so could I suggest an appropriate course is
38 that should be made available at the earliest

1 opportunity? In terms of the members of the public
2 understanding what is happening in this Commission as it
3 unravels, it is far easier to do so in a coherent,
4 comprehensive manner day by day for those following the
5 Commission rather than to do it in a lump after some
6 week of evidence.

7 COMSR: Yes, it is not without its difficulties,
8 Mr Short.

9 MR SHORT: That last one is a practical matter
10 which can, I suggest, be readily dealt with. But, in
11 relation to the prime submission as to the closure of
12 the court, I have indicated what I suggest is a method
13 which may more appropriately deal with the matters. It
14 may be that, if you left the courtroom open, matters may
15 develop and it may be appropriate to consider the
16 matter.

17 COMSR: The primary application before me, the
18 one that you are concerned with, as I understand it, is
19 here is an Aboriginal lady who has been subjected to a
20 number of pressures and she is finding the pressures are
21 affecting her ability to give her evidence in a logical
22 and accurate manner. I understand that is the situation
23 and, as I understand Ms Shaw, those pressures continue
24 in the hearing room and that is the basis on which she
25 is making that application.

26 MR SHORT: I have put the matters that we say more
27 appropriately deal with that and what I call the halfway
28 house with members of the media being permitted to
29 remain where it is clear that they are not engaging in
30 any intimidating or any inappropriate behaviour. And,
31 in relation to their presence, that is, of course,
32 subject to s.35. For that material, of course they
33 should not be present.

34 COMSR: Yes, that would be a different matter.
35 Is there anything more you wish to put?

36 MR SHORT: No.

37 MR TILMOUTH: Putting it as shortly as I can, the
38 application to hear this evidence in private, which is a

1 new variation on the earlier orders which related really
2 to secret matters, of course, offends all the basic
3 principles and that point is obvious.

4 In so far as the foundation is said to rest upon the
5 in-courtroom pressures, an examination of the
6 transcript shows that the witness was led, without any
7 difficulty, for well over 60 pages, beginning at p.612,
8 or interruption, save only minor procedural matters.
9 The only substantial interruption came from my objection
10 relating to the letter to Mr Tickner. Now, of course,
11 the question of s.35 and the question of prejudicing the
12 Federal Court proceedings, etc., is always ever-present
13 and it could easily and no doubt was foreseen that it
14 was bound to arise. So, my submission is that when one
15 looks at the transcript and considers what happened on
16 Friday there is nothing in the in-courtroom situation
17 which sustains the objection at all. And the pages are
18 p.612 to p.676 for that purpose. More than that, in my
19 submission, to say we will hear all the evidence
20 uninterrupted in a more or less voir dire manner is just
21 an impermissible procedure and what the application
22 really entails is let's hear the evidence that way, pay
23 no regard to term 3 (a) of your Commission, 'Avoid
24 prejudicing any judicial proceedings', namely, the
25 outstanding Federal Court proceedings and also enables
26 the evidence to be received without any consideration,
27 at that stage, of any s.35 applications. That is just
28 not permitted, in my submission, by the Terms of
29 Reference. What is being asked to do here is simply
30 avoid the Terms of Reference for the time being and
31 delay the decision and that would be most impermissible.
32 My submission is that the evidence should proceed in
33 logical fashion. We heard reference to, without detail,
34 the Bunkhouse meeting. In my submission, that should
35 proceed first. It may, of course, properly proceed in
36 camera, because it relates to women's issues. I would
37 have no objection to that. Then it should proceed
38 logically to the Mouth House incident, which can't be in

1 camera or in private, in my submission, in view of the
2 opening of Mr Smith about the apparent importance of
3 that meeting. And, in my submission, that is the only
4 way to deal with it except for two further matters.

5 I would object to any evidence being lead in any
6 way, whether it is open or closed or in private, about
7 the letter which was sought to be submitted on Friday,
8 because that would be doing indirectly what can't be
9 achieved directly. In other words, giving secondary
10 evidence of the letter which is, at the moment, subject
11 to a Federal Court order. And I would also object to
12 any conversation at Mouth House occuring between my
13 clients and Mr Wooley on the grounds of legal
14 professional privilege. That no doubt may arise later,
15 but I flag that and, as you know, that has been flagged
16 from the word go by Mr Stratford on several occasions.

17 MR SMITH: Could I just address your powers,
18 because it has been suggested to you erroneously, in my
19 submission, that to close the court would offend against
20 basic principles. The fact of the matter is that you
21 have, to close the hearing room, robust powers under s.6
22 and s.16 (a) of the Act itself. I refer you also to
23 what is said about those powers in the article by our
24 present Chief Justice in the Laws of Australia (1992).
25 There is an entire chapter, at p.47, on the question of
26 prohibition of publication of proceedings. You don't
27 need to look at it essentially, but if I could let you
28 know dealing with the question of whether there is some
29 inherent principle, the learned Chief Justice says:
30 'A Commission may proceed in private or in public
31 subject to any statutory direction to the contrary.
32 Unlike a court, there is no common law obligation which
33 requires a Commission to proceed in public unless good
34 cause exists for excluding the public.'

35 And the learned author goes on to make the point
36 that it is a matter for the Commissioner. It is not a
37 court proceeding, it is an Inquiry. And that point is
38 further made by the learned author, at p.19, para.19.

1 If there is a foreseeable risk of contempt, for
2 instance, the Commission, you, do not have to wait for
3 that to happen. You can simply proceed to close the
4 hearing and to take evidence in private or withhold
5 publication of material. So, you have the power. The
6 principle is quite the contrary. That is, you have the
7 power to close the hearing if you see fit.

8 COMSR: Yes, I think I am capable of taking this
9 into account.

10 MR SHORT: I wonder if I might take off for another
11 court? I have put my submissions.

12 COMSR: Yes, certainly.

13 I haven't heard if any other counsel, of course,
14 wanted to make submissions on this point.

15 Yes, I do have regard to the fact that the witness
16 is an Aboriginal lady and different considerations may
17 well arise.

18 There is only this, Ms Shaw:

19 I understand what you are putting to me and the
20 pressures under which you say the witness is giving her
21 evidence. It wasn't apparent to me that she was having
22 difficulty in coping, if I can put it that way, with the
23 giving of her evidence.

24 MS SHAW: It was certainly apparent to me, because
25 I was aware, having spoken to her before, that her
26 method of giving or telling her account is to take
27 herself back to that day and recall the events as if she
28 was there. And she was simply not able to do that and
29 hence was not able to give all of the conversation that
30 she knows she can give if she is able to give it without
31 the pressure of all of the people in the courtroom and
32 the interpretations, because of s.35 and because of
33 there having to be people coming and going or having to
34 pass over a part of her account that brings her back to
35 this courtroom instead of allowing her to remain back at
36 the Bunkhouse or the Mouth House.

37 COMSR: Yes, I don't minimise the problems, by
38 any means, that you have recounted to me, Ms Shaw. As I

1 understand it, it is the problem of being confronted
2 with a courtroom full of people on top of the pressures
3 that you have recounted that are causing the
4 difficulties.
5 MS SHAW: And knowing that she will have to go on
6 after she has given her evidence at the end of the day
7 with those same pressures. It is not something that
8 ends now. It is a constant pressure she has had now for
9 12 months. I need not repeat what I have already said.
10 CONTINUED

1 COMSR: What has been suggested to me by Mr
2 Short is that, whatever might be done with members of
3 the public, that the presence of members of the press,
4 if there is nothing exceptional about their conduct,
5 should not cause any difficulties as far as your client
6 is concerned.

7 MRS SHAW: That is certainly so. There has been no
8 suggestion that there has been anything from the press
9 gallery that has caused my client any concern
10 whatsoever. The only reservation I have about that is
11 the need for her account to be interrupted whilst
12 matters related to Section 35 are canvassed, because -

13 COMSR: I think they can be canvassed at this
14 stage. We can perhaps deal with those matters of
15 argument before the witness is recalled and dispose of
16 that so that her evidence is not unduly interrupted. I
17 am sympathetic to what you are putting. I am aware that
18 there is ample precedent, as I say, for the evidence of
19 Aboriginal persons to be received in a different manner
20 from the normal manner that might be the case in the
21 hearing of European persons. But I am not quite sure at
22 this stage that it requires anything so drastic as, in
23 addition to having members of the public excluded,
24 having members of the press excluded. I understand that
25 her evidence in-chief would be concluded today.

26 MRS SHAW: We would hope so. In my submission, it
27 is not a drastic step. Firstly, because it is a
28 commission but, more importantly, because it is not an
29 attempt to keep her evidence suppressed. It is only a
30 mechanical process really of delaying its release and
31 attempting to assist her, bearing in mind she is the
32 only person who is prepared to speak honestly about what
33 occurred in the Bunkhouse and Mouth House. It is in
34 that endeavour that she feels pressured.

35 COMSR: I am certainly prepared to consider a
36 ruling that, for the reasons that you have advanced,
37 members of the public be excluded from the hearing. If
38 you are not pressing the point that members of the press

1 be excluded, I would propose to allow members of the
2 press to remain.

3 MRS SHAW: I have not said I am not pursuing that
4 point. I have said the opposite. My concern is that if
5 the press are here, then it is an invitation to counsel
6 to object pursuant to Section 35. On the other hand, if
7 those matters are sorted out in advance -

8 COMSR: That is what I have in mind. I am not
9 making the order now. I am telling you what I am
10 considering at this stage. What you are saying is that
11 the constant interruption interrupts the flow of thought
12 of the witness?

13 MRS SHAW: That is so.

14 COMSR: For that reason, she cannot give her
15 evidence in an orderly manner.

16 MRS SHAW: Yes, and recall all she wishes to say.

17 COMSR: What other matters are outstanding about
18 which there requires to be argument at this stage prior
19 to proceeding with her evidence? There is the Section
20 35 matter. I do not know if there is going to be too
21 much in the way of submissions on that aspect of it.

22 MRS SHAW: I understand Mr Smith has considered Mrs
23 Wilson's statement from that point of view.

24 MR SMITH: That is so. Any potential Section 35
25 matters have been marked in the statement, and, in
26 effect, blacked out on one version of the statement.

27 COMSR: At this stage, that statement has been
28 distributed to counsel?

29 MR SMITH: No-one has that at this stage, but the
30 usual course would be that the witness adopts the
31 statement in a formal way, then it would be made
32 available to counsel with leave to appear here.

33 COMSR: With any potentially objectionable or
34 confidential matters blacked out.

35 MR SMITH: Yes, blackened out. For the female
36 counsel and clients, the envelopes attached to the
37 statements contain the Section 35 material.

1 MR MEYER: I apologise for being late this morning,
2 I was unfortunately detained in another court, and I
3 have come in on the end of these matters. I have not
4 heard the whole of Mrs Shaw's application. I support
5 any application which enables any witness - and in this
6 instance it is Mrs Wilson - to be able to give their
7 evidence in the manner which assists you in obtaining
8 that evidence in a proper and fair manner.

9 Section 16A of the Royal Commissions Act provides
10 that you can exercise powers pursuant to the section in
11 order to prevent undue prejudice or undue hardship to
12 any person. They are powers which are much wider than
13 ordinarily occur in a trial situation. Consistent with
14 the position that has been put previously, there is the
15 ability to publish any matter after evidence has been
16 given.

17 Can I make the suggestion that perhaps the way to
18 consider this matter is: what prejudice may arise in
19 relation to the giving of evidence if it is conducted in
20 the way that is sought by Mrs Shaw? And, in my
21 submission, no prejudice would arise. If that will
22 assist in your Honour being able to obtain a full and
23 complete understanding of the evidence, then I support
24 the application.

25 MS PYKE: It is all very well to suggest that no
26 prejudice will arise, but a member of the public, for
27 example, who clearly has a general interest in the
28 proceeding of this commission, unless they are permitted
29 to be present, it should not be forgotten that they are
30 going to be dependent entirely on what is going to be
31 reported in the press. No disrespect to the press, but
32 if one reads what is reported, it is a very truncated,
33 selected version of what is going on. So I simply
34 remind you that the public are, generally speaking,
35 interested in these proceedings. They, of course, will
36 not get transcript of what happens.

37 COMSR: I understand they are interested, of
38 course, but I am in the position of conducting an

1 inquiry where there are limitations inherent in the
2 legislation in that respect. There is power to hold a
3 private hearing if need be and sufficient reason exists.
4 I am told that, under these circumstances, the witness
5 is unable to give her evidence in the best possible
6 manner because of certain pressures. They are matters
7 that have to be weighed up.

8 MS PYKE: All I was really wanting to put is that
9 there is an interest in the public being present in
10 these proceedings. It is not fair to say it is an
11 interest to be ignored. Certainly it is a balancing
12 process. I bring to your attention that members of the
13 public who are not present during these proceedings are
14 going to have little opportunity to be informed of what
15 goes on in them. I am not suggesting anything unfair in
16 the way the media reports the matter, but if you look at
17 the newspaper you get a couple of inches at the end of
18 the day. That has to be balanced up really against all
19 of the other factors.

20 MR SMITH: I would have thought Dr Fergie would
21 have a vigorous interest in being sensitive to an
22 Aboriginal witness.

23 MS PYKE: We are. That is why I have made that
24 simple submission, that is, the public have an interest.
25 I just thought the gist of Mr Meyer's submission really
26 suggested there could be no prejudice. I simply point
27 out we are most anxious that this hearing proceed with
28 as much sensitivity as possible.

29 COMSR: Are there any other matters that I also
30 have to take into account before I deal with this issue?
31 If there is going to be objections raised as the
32 evidence proceeds and they are foreseeable at this
33 stage, in order to avoid unduly distracting the witness,
34 interrupting the flow of evidence, if any counsel wishes
35 to make a submission on this point.

36 MS PYKE: The statements haven't been released yet
37 so it is very hard for us to predict what is coming
38 next. Not many objections were raised on the last

1 occasion before you, but I think some of those that were
2 might have been avoided if, indeed, the statement was in
3 front of us because, certainly speaking for myself, the
4 manner in which the evidence was led, from my
5 perspective, was, in many ways, quite offensive to the
6 Rules of Evidence. But on the basis that the statement
7 probably would be tendered, I didn't take objection. It
8 would certainly make life for counsel much easier if the
9 statement were given out to counsel to try to facilitate
10 the smooth process.

11 COMSR: As I understand it, it is not an
12 application from the witness for suppression of what she
13 has to say. Indeed, as I understand what the witness is
14 saying, the witness is only too prepared to have the
15 matter made public. She has difficulty with the giving
16 of her evidence, but not with the publication of her
17 evidence.

18 MRS SHAW: That is so.

19 COMSR: So that is the situation, as I
20 understand the application, not to suppress anything
21 that she might say that could properly be published, but
22 that she be able to give her evidence in a manner which
23 enables her to do so properly. There is no application
24 for suppression of it, other than for those matters
25 covered by the confidentiality provisions.

26 Although it might be an unusual course to adopt, in
27 some respects, I consider it is not inappropriate on the
28 basis of what has been put to me. I cannot get myself
29 involved in an investigation into those matters, but,
30 accepting that as the basis, it appears to me that it
31 would facilitate the reception of this evidence if I
32 were to take it in private, subject, of course, to the
33 understanding that there is no application to suppress
34 the publication of that evidence, other than those parts
35 of the evidence which are properly to be regarded as
36 confidential for one reason or another.

37 MRS SHAW: That is my position.

1 COMSR: Under those circumstances, I could see
2 some merit in the press, if their presence is not such
3 as to be in any way intimidatory to the witness,
4 remaining. I note they are not in such large numbers so
5 that they could be accommodated in the body of the
6 hearing room. Unless you wish to be heard further on
7 that?

8 MRS SHAW: My immediate application would be, to
9 assist in the flow of Mrs Wilson's evidence, for her to
10 give her evidence on the Section 35 material, that is
11 the events that occurred at the Bunkhouse, in private
12 from beginning to end, because, interspersed amongst
13 that incident, are the Section 35 matters, which is
14 where Mrs Wilson ran into difficulty Friday. My
15 application would be, to enable her to proceed from the
16 Bunkhouse to the shack events, that evidence to be given
17 in private in its totality, and then for the courtroom
18 to be opened at the time when she is going to the shack.

19 COMSR: So you are directing your present
20 application to the Section 35 matters?

21 MRS SHAW: Yes. If Mrs Wilson is to recommence her
22 evidence, my application is that she be permitted now to
23 give all of her evidence as to what occurred at the
24 Bunkhouse in private, so that she knows that she has
25 said everything she has to say on that topic, and we
26 then proceed to the shack evidence.

27 MR TILMOUTH: Can I make it clear, because you have
28 asked us to specify in advance, I don't object to the
29 essence of the current application because, as I
30 understand, what was left out from the Bunkhouse
31 evidence was essentially Section 35 matters. That seems
32 to be clear.

33 But I repeat the objection that nothing surrounding
34 the content of the letter to Minister Tickner can be
35 given, as I put earlier, to just give secondary evidence
36 about something which at the moment there is a
37 suppression order about or a confidentiality order in
38 the Federal Court. I repeat, when it comes back to the

1 Mouth House, there is objection to the legal
2 professional privileged aspects and, more particularly,
3 conversations between the lawyer, Mr Wooley, and George
4 Trevorrow and Victor Wilson.

5 MRS SHAW: I can indicate my client will be giving
6 evidence of what Mr Wooley said to the women, and that
7 the men are present and Mr Wooley is present, but there
8 is no suggestion of any legal professional privilege
9 attaching between my client or the women and Mr Wooley.

10 There was no suggestion, on her account, of any
11 indication that there was any privilege situation at
12 that time. Quite the opposite, by the very presence of
13 the women, and Mr Wooley speaking to the women.

14 MR TILMOUTH: To put it shortly, as I understand the
15 situation, the women came when a meeting which would be
16 subject to legal professional privilege was underway. I
17 can only claim the privilege, of course, insofar as it
18 relates to the clients I act for, the two men I will
19 specify, who are said to be there that day. But it
20 shouldn't be assumed that Mr Wooley was only acting for
21 the men at that stage. I cannot say. As I understand,
22 Mr Wooley was acting for some of the women at the same
23 time.

24 MRS SHAW: There is no conversations, as I
25 understand, between Mr Wooley and the men. It is
26 between the men and the women, and Mr Wooley and the
27 women.

28 COMSR: It is not clear to me that legal
29 professional privilege does apply in this area, but
30 perhaps if you wish to explain in what manner you say -

31 MR TILMOUTH: In two ways. First of all, there was a
32 meeting going on of the Lower Murray Aboriginal Heritage
33 Committee at Mouth House at the time. All my clients
34 were executive members, and at the time Victor Wilson
35 and George Trevorrow are alleged to have been there.
36 They were both executive members of the committee.
37 Victor Wilson was chairman, in fact, of the committee.

- 1 MR SMITH: Is there going to be evidence to this
2 effect to the commission?
3 MR TILMOUTH: It is self-evident, in my submission.
4 MR SMITH: No, it is not self-evident. What is
5 going to happen? We are now hearing evidence from the
6 bar table in support of a claim for legal professional
7 privilege at what is close to being, from all
8 observation, almost a public meeting.
9 CONTINUED
10

1 MR TILMOUTH: It has been known from very early on
2 through the submissions of Mr Stratford that legal
3 professional privilege was always claimed for this
4 occasion and the mere fact that there are conversations
5 going on with Mr Wooley and various people is, prima
6 facie, a situation of legal professional privilege
7 because it's of a conversation between solicitor and
8 client.

9 COMSR: Not every conversation between solicitor
10 and client is protected by legal professional privilege.

11 MR TILMOUTH: Prima facie it is because it's not prima
12 facie a conversation in an ordinary everyday one, free
13 of the legal relationship.

14 The other thing is the Baker & Campbell privilege.
15 Mr Wooley's purpose was also, of course, giving legal
16 advice with respect to the Hindmarsh Island issue and,
17 more particularly, representation to be made to Mr
18 Tickner. Communications for that purpose are similarly
19 privileged.

20 COMSR: I suppose it will be a matter of
21 evidence for me to see if it does go that way.

22 MR TILMOUTH: That should arise from the Dorothy
23 Wilson's evidence. Your Honour asked us to flag this in
24 advance to avoid disruption. I repeat that I object to
25 secondary evidence of the letter to Tickner.

26 MRS SHAW: Can I perhaps, for the record at least,
27 ask you to note my objection to the submissions of Mr
28 Tilmouth, Queen's counsel, on behalf of his clients,
29 when, as I understand it, no statements have been
30 provided by his clients in the course of the practice
31 direction.

32 MR TILMOUTH: Those statements, no statements have
33 been provided to us.

34 MRS SHAW: I am talking about being provided to the
35 Royal Commission. So, my objection is that Mr Tilmouth
36 is making objections without having provided a statement
37 to this Royal Commission in accordance with the practice
38 direction.

- 1 COMSR: That is the case, is it, you haven't
2 provided -
- 3 MR TILMOUTH: That is the case. But, for the moment,
4 as Mr Smith has said, time and again we don't have any
5 statements at all with respect to this issue. The
6 situation is one of legal professional privilege.
- 7 COMSR: I'm taking about the statement to the
8 Commission.
- 9 MR TILMOUTH: We are not aware of any statements given
10 in respect of Dorothy Wilson. They have not been served
11 to us. We haven't given a statement to the Commission.
12 We still don't know what we are going to be required to
13 give statements to the Commission on.
- 14 MR SMITH: That is obviously covered by privilege.
- 15 COMSR: Am I to understand from what you say,
16 that your clients have no knowledge of any of the
17 matters that might be relevant.
- 18 MR TILMOUTH: No, I'm not saying that at all. All I'm
19 saying is that they haven't provided statements to the
20 Commission as yet.
- 21 COMSR: That's not because of any difficulty, as
22 I understand what you are saying, knowing what occurred.
- 23 MR TILMOUTH: I can't answer that either. We don't
24 know what is alleged to have been heard. At this point,
25 I was making from the start -
- 26 COMSR: This is an inquiry.
- 27 MR TILMOUTH: Maybe it is. I repeat that there is a
28 fundamental difficulty in taking instructions in a
29 vacuum. Until we know exactly what is alleged, it is
30 very difficult to get instructions from the conversation
31 when we don't know what is alleged against us.
- 32 COMSR: The process of gathering information
33 from persons who have knowledge.
- 34 MR TILMOUTH: There has been a practical difficulty
35 for the various reasons. It's not just a simple matter
36 of being able to take instructions on the basis of Mr
37 Smith's opening, it is far more significant than that.
- 38 COMSR: Mr Tilmouth -

- 1 MR SMITH: Could I suggest that because I
2 anticipate that this question of privilege is going to
3 be debated in the midst of this lady's evidence, can we
4 argue the question of privilege and dispose of it before
5 Dorothy Wilson commences giving evidence?
6 COMSR: It would certainly be better.
7 MR SMITH: And Mr Tilmouth reserves his - if he
8 objects and persists with the objection, it is noted but
9 not to be made and debated in the midst of the evidence.
10 Mrs Shaw could tell us in broad terms what it is that is
11 going to be said, or perhaps we could - perhaps a better
12 course might be to have the statement distributed, that
13 is the blackened out version of it, so that Mr Tilmouth
14 in particular can see what it is that is said.
15 MR TILMOUTH: I agree with that.
16 MRS SHAW: Perhaps I will call Dorothy Wilson to
17 identify the statement that she has signed. There is a
18 correction on p.14 which belongs to the private session
19 and I flag that at this stage. But, as to the formality
20 of tendering the statement, I call Mrs Wilson for that
21 purpose.
22 COMSR: You are going to then ask her -
23 MRS SHAW: To identify the statement and tender it
24 and return to the body of the courtroom.

D.A. WILSON XN

1 WITNESS D.A. WILSON CONTINUING

2 EXAMINATION BY MRS SHAW

3 Q. Looking at the statement in front of you, have you
4 initialled each page of that statement. You need not go
5 through all of that now, but that is the statement that
6 you have looked at for the purpose of initialling each
7 page.

8 A. Yes.

9 Q. At p.14 I think you made one correction - without
10 reading it out.

11 A. Yes.

12 Q. You have added some additional information.

13 A. Yes.

14 EXHIBIT 34 Statement of Dorothy Wilson tendered by

15 Mrs Shaw. Admitted

16 WITNESS STANDS DOWN

17 WITNESS RETURNS TO BODY OF COURT

1 MR SMITH: I will distribute those statements now
2 to the persons entitled to them. I suggest perhaps if
3 we have a short -

4 COMSR: I am rather anxious of the time that has
5 been taken up with these preliminary matters. I would
6 wish to hear argument when we resume as to the basis on
7 which you're claiming that legal professional privilege
8 attaches in this particular instance.

9 ADJOURNED 11.14 A.M.

10 RESUMING 11.35 A.M.

11 MR TILMOUTH: Madam Commissioner, if I take you to
12 p.23 of the statement just handed to us. You will
13 appreciate that I only have the blacked out version.
14 But Mr Smith has told me a little more which doesn't
15 infringe s.35. I take you to that page, without reading
16 it, to the last line on that page. That is all that has
17 been directly alleged in this case as to Victor Wilson
18 and one might say that if this had been given in
19 advance, this problem wouldn't have arisen. I no longer
20 pursue the point I made.

21 COMSR: Are we ready to proceed with evidence
22 that involves matters that touch on s.35. Is that the
23 situation, Mrs Shaw?

24 MRS SHAW: Yes.

25 MR SMITH: It is more stringent than that. I think
26 it is proposed that you go straight into secret session
27 to deal with the Bunkhouse conversations about secret
28 sacred women's business.

29 COMSR: In that case, I will have to make a
30 ruling. You are asking for a ruling which excludes all
31 males as well?

32 MRS SHAW: That is so.

33 COMSR: In that case, I rule pursuant to s.6 of
34 the Royal Commissions Act. I direct that all persons,
35 other than those permitted by me to be in attendance,
36 leave the inquiry, and the persons permitted are female
37 counsel and legal advisors and female legal advisors,
38 female Commission attendants and transcript reporters

1 and female staff necessarily in attendance at the
2 Commission. And I further direct that no copy of the
3 transcript of this part of the evidence shall be given
4 to or made available for inspection by any male person,
5 and no copy shall be given to or made available for
6 inspection other than the female representatives of the
7 persons at this hearing upon their undertaking not to
8 divulge any of the contents of the transcript to any
9 person. And I direct that the transcript of evidence of
10 this private session will be made on pink paper and that
11 it be made available to female counsel and legal
12 representatives during the course of the hearing, and at
13 the conclusion of the hearing, the transcript, so
14 released, is to be returned to the Commission.

15 MR MEYER: I indicate to the Commission that Miss
16 Bolzon, counsel appearing with me as the female counsel,
17 won't be here but will seek a copy of the transcript in
18 accordance with the order and she will give the
19 undertaking.

20 COMSR: I have made an order in this connection
21 that evidence be taken at private hearing and only the
22 persons that I have named are permitted to be in
23 attendance during this private session of the Commission

24 PUBLIC LEAVE HEARING ROOM

25 COMSR: All members of the public that order
26 applies to.

27 MRS SHAW: They are all my clients, 7 of my 14.

28 COMSR: They are all of your clients, right.
29 Would it be necessary for a record of their names to be
30 made.

31 MRS SHAW: I can give those: Bertha Gollan, Audrey
32 Dix, Dorothy Wilson, Dulcie Wilson, Betty Tatt and Beryl
33 Kropinyeri.

34 COMSR: Are you calling your witness to the
35 stand?

36 MRS SHAW: Yes

37 HEARING CONTINUES IN PRIVATE

D.A. WILSON XN (MS SHAW)
(PRIVATE)
(SUPPRESSION ORDER LIFTED 22.8.95)

1 HEARING CONTINUES IN PRIVATE
2 WITNESS D.A. WILSON, EXAMINATION BY MS SHAW CONTINUING IN
3 PRIVATE

4 MS SHAW: There is one addition to Exhibit 34,
5 which is with you and has been tendered, and it is at
6 the bottom of p.14. It is in addition to a statement.

7 COMSR: That is the addition that is in
8 handwriting at the foot of the page?

9 MS SHAW: Yes, I think it reads

12 If that could be noted for those with copies of that
13 page?

14 COMSR: Ms Shaw, we would be ready to proceed,
15 but counsel assisting has left us.

16 MS SHAW: Perhaps I can indicate, at this stage,
17 what I hope to do is lead Mrs Wilson, or ask Mrs Wilson
18 to give her account of what happened at the Bunkhouse,
19 then move into the public session to do with the
20 movement over to the shack. And I will call it 'the
21 shack' rather than the Mouth House, because I think I
22 have been confusing the witness with Mouth House and
23 Bunkhouse. Then you will see, at p.23, there is
24 extensive other material that comes within the same
25 problems. I would then to seek to close the - I will
26 have a private session again so that those matters can
27 be heard in private. So, this part of the hearing will
28 require two separate private sessions coming fairly
29 close one after the other.

30 COMSR: Rather than resume in public session do
31 you intend to deal with those in a continuous way?

32 MS SHAW: I would prefer to deal with it
33 continuously. It is only the mechanics of getting to
34 and fro which is really public and I would seek to do
35 that.

36 MS SIMPSON: I am sorry to interrupt Ms Shaw, but
37 there is a Ngarrindjeri women, Muriel Van Der Byl, who
38 was in the closed session while Mrs Betty Fisher was

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(PRIVATE)
(SUPPRESSION ORDER LIFTED 22.8.95)

1 giving evidence. If Mrs Wilson's evidence is to touch
2 upon secret sacred women's business, she has expressed a
3 wish to me to be present in the court while that is
4 occurring. I have explained to Ms Van Der Byl that, at
5 the moment, she is a member of the public and no
6 different from any other member of the public, but it
7 may be that she wishes either me to make submissions
8 about her being present or she wishes to make some
9 submissions herself to you, Madam Commissioner, before
10 the session is closed to her.

11 MS SHAW: Can I be heard on that?

12 First of all, Muriel Van Der Byl was one of the
13 women who instructed Ms O'Connor to appear and hence was
14 one of the women who sought to be excluded from this
15 Commission, saying that she didn't recognise you.
16 Secondly, she was one of the women who were present on
17 Friday who my client found to be a distraction. So, I
18 specifically ask for her not to be given permission to
19 be present.

20 MS SIMPSON: It is my submission that Ms Van Der Byl
21 at least ought to be heard on that before it is closed
22 to her. She is nevertheless simply a member of the
23 public. She is not part of the Commission, as my friend
24 has said, but -

25 MS SHAW: Perhaps I can add this:

26 If you think that in due course she can establish
27 that she has some entitlement to secret women's
28 business, then the transcript could be made available to
29 her, but my specific objection is to her presence in
30 this Commission during my client's evidence.

31 COMSR: It has been very difficult for us to
32 even get this far.

33 Who is it?

34 MS SIMPSON: Ms Muriel Van Der Byl.

35 COMSR: If we can have her in.

36 MS VAN DER BYL ENTERS HEARING ROOM

37 COMSR: Ms Van Der Byl, I understand that you
38 wish to make an application to remain in this closed

1 hearing?
2 MS VAN DER BYL: Yes, only if it is to do with sacred
3 secret women's business I do, but I said before if it is
4 not to do with sacred secret women's business I am quite
5 happy to stay outside.
6 COMSR: I will try and put this tactfully:
7 The witness feels under pressure by your presence in
8 the hearing, but if -
9 MS VAN DER BYL: I don't know why she should, your
10 Honour.
11 COMSR: I don't know either, but I am anxious to
12 get the hearing to proceed. I understand from Ms Shaw
13 that I think you were saying in so far as there may be
14 secret sacred women's business that we could deal with
15 that matter later and release any of the evidence, if
16 Ms Van Der Byl -
17 MS SHAW: Yes.
18 MS VAN DER BYL: And the other thing, I would be quite
19 happy with that and I don't like to interrupt all the
20 time. To me, I would never do this if it was in the
21 court, but a hearing, as far as I was told, it is to
22 find out the truth, and there were certain leeways.
23 Now, the other thing that the Ngarrindjeri women
24 strongly object to is -
25 MS SHAW: I object to this women speaking on
26 behalf of other Ngarrindjeri women.
27 MS VAN DER BYL: Excuse me, I was asked to come back in.
28 COMSR: Only to explain. This is a closed
29 hearing.
30 MS VAN DER BYL: I respect that, but I just wanted to get
31 it off my chest, so then I don't have to come and
32 interrupt.
33 It is talking about courtesy and where Aboriginal
34 people are, except we go by the English law, white man's
35 law, and all we are asking for is a bit of respect too.
36 The other thing that I just wanted to say is, when
37 secret sacred women's business is being spoken about, I
38 strongly and the other Ngarrindjeri women strongly

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1 object to Mrs Chapman being in here, because she is not
2 a lawyer and she is not a Ngarrindjeri.
3 COMSR: Yes, I understand. She is here, because
4 she is a party to the proceedings.
5 MS VAN DER BYL: Yes, I know, but, if it is going to be
6 secret sacred, then she should not be here.
7 COMSR: She has given a written undertaking.
8 MS VAN DER BYL: I don't trust that.
9 COMSR: I don't wish to discuss this.
10 I notice Mr Abbott has come in. You have come into
11 a session where all males are excluded.
12 Ms Van Der Byl, you understand the situation?
13 MS VAN DER BYL: I am quite able to talk for myself, Ms
14 Shaw.
15 And thank you very much, Commissioner.
16 MR ABBOTT AND MS VAN DER BYL LEAVE HEARING ROOM
17 COMSR: Are we ready to proceed, Ms Shaw?
18 MS SHAW: I hope so.
19 COMSR: I think Ms Bidstrup is present on behalf
20 of Michael Sykes.
21 MS BIDSTRUP: I am sorry, but I think I started
22 attending on Friday, as Mr Sykes's female's counsel.
23 MS SHAW: What I will be asking Mrs Wilson to do
24 is to go back to the beginning of her arrival at the
25 Bunkhouse and tell you her memory of what happened when
26 she arrived, who was there, what was said and simply
27 take herself back to that time and give as much detail
28 as she can.
29 XN
30 Q. So, perhaps I will ask you this: you have given evidence
31 as to who travelled to the Bunkhouse. Can you tell us -
32 tell the Madam Commissioner, what occurred that
33 afternoon at the Bunkhouse when you arrived, from the
34 time that you walked in.
35 A. When I arrived at the Bunkhouse and I walked into the
36 room the first person I saw was Doreen Kartinyeri
37 sitting at the table and she was sitting there with
38 Edith Rigney. And I went up to Doreen, I gave her a

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- 1 kiss, because I hadn't seen Doreen for a while, for
2 about six or seven years, and I was glad to see her, so,
3 I gave her a kiss and asked her how she was. And I
4 asked her what she was doing at the Bunkhouse. And she
5 said to me that she was - Vic Wilson had rang her up and
6 asked her to come down to Goolwa - sorry, to Hindmarsh
7 Island to tell us women about the women's business. And
8 she said she would tell us after we had some lunch. So,
9 we then had lunch and then Doreen called us around the
10 table then -
11 Q. Just pausing there. Before you had lunch, was something
12 mentioned about the family name Rigney.
13 A. Yes, there was. Doreen said to me that my family wasn't
14 connected with Hindmarsh Island, but, because my
15 children had Rigney the name, my children were
16 decendants of Rigneys, that she would tell me about the
17 women's business, because the Rigneys were - the Rigney
18 family was connected to Hindmarsh Island. But, because
19 my kids had Rigney blood in them, that she would tell
20 me, so that I could pass it on to my children.
21 Q. Then you said that you had lunch.
22 A. Yes, we then had lunch.
23 Q. Then tell us what you recall of what happened after
24 lunch.
25 A. Doreen called us all around the table and in the room
26 and she said that she was going to tell us women what
27 she knew about the women's business on Hindmarsh Island.
28 Q. Did she use the word `sacred'.
29 A. Yes, why the island was sacred to us. And that Victor
30 had called her and asked her to come down and tell us
31 women why the island was sacred to us. And she also
32 said that before she told us why it was sacred she said
33 that the men had been down on the island fighting to
34 stop the bridge for months and that they hadn't been
35 able to stop the bridge. So, that's why she was asked
36 to come down and tell us the women's business and that
37 it was up to us women now to stop the bridge.
38 Q. Then just take your time and tell us what you remember

- 1 about what she then said to the women.
2 A. Then she went on to say then that she was told by her
3 Grandmother Sally and Auntie Rose and that they were
4 told - she was told that

Lines 5 - 10 suppressed

- 15 Q. Did you ask her any questions.
16 A. Yes, I did.
17 Q. What did you ask her.
18 A.

Lines 18 - 21 suppressed

- 22 Q. Did she say when it happened.
23 A. No, she didn't say when it happened.
24 Q. Did she say whether or not this was all she knew about
25 the island.
26 A. Yes, she did.
27 Q. What did she say.
28 A. That this was
31 the only thing that she was told by Grandmother Sally
32 and Auntie Rose.
33 Q. Did she mention Nanna Laura's name.
34 A. No, she never.
35 Q. Did she say anything about it being secret.
36 A. No, she said it was sacred.
37 Q. Did she mention Mundoo Island.
38 A. Yes, she did.

- 1 Q. What did she say about Mundoo Island.
2 A.

Lines 2 - 4 suppressed

- 5 Q. Did you yourself, at that time, when she was talking
6 about Hindmarsh Island and Mundoo Island, have any
7 belief as to whether or not they were separate islands
8 or the same.
9 A. No, I thought that Mundoo Island was a part of Hindmarsh
10 Island.
11 Q. Was there any reaction from Edith Rigney and Eileen
12 McHughes.
13 A. Yes, Edith was Doreen's cousin and Edith said to Doreen
14 that Grandmother Sally had never told her and neither
15 had Auntie Rose, but, if that is what they told Doreen,
16 then she would believe her.
17 Q. What was your reaction to what Doreen said.
18 A. I believed Doreen. You know, I said she was older than
19 what I was and I knew that Doreen had worked in the
20 museum for a few years, so I thought, well, you know,
21 that she would have that information anyhow.
22 Q. Did the women come to an agreement about the island
23 after Doreen had told them all these things.
24 A. Yes, because Eileen McHughes, her grandmother was
25 Grandmother Sally's oldest daughter. And Eileen said
26 `Well, then, if the island was sacred to us, well, then
27 we should write this letter to Mr Tickner and state it
28 and tell him that we don't want the bridge to be built,
29 because that island was sacred to us
31 COMSR: Are we going to go into the details of
32 the letter?
33 MS SHAW: I haven't touched on the letter.
34 COMSR: I think the witness is.
35 MS SHAW: I think she is just talking about what
36 was said before any suggestion of a letter ever arises.
37 XN
38 Q. What were you saying. That -

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1 A. That that is what Eileen said. That we should write a
2 letter to Mr Tickner stating that the island was sacred
3 to us,

5 MS PYKE: We have to be careful here after the
6 submission that Mr Tilmouth flagged.

7 COMSR: Yes, I am a bit concerned. I know the
8 witness is not saying what was in the letter. She is
9 saying what the discussion was concerning it.

10 MS SHAW: No, we are not even talking about the
11 letter. We are talking about a letter that we don't
12 even know whether it was written. At the moment, we are
13 just talking about events that occurred. And, if there
14 is concern in due course certainly if it is received de
15 bene esse you can consider it. But, in my submission,
16 at this stage, we are not even talking about a piece of
17 paper, we are just talking about events and what was
18 said, totally unrelated to any document.

19 COMSR: I think perhaps if we don't elaborate
20 too much.

21 MS SHAW: That is it. That is the evidence on
22 that.

23 XN

24 Q. Mrs Wilson, when Doreen was giving this account of why
25 Hindmarsh Island was sacred to the women, did any of the
26 other women present appear to you to know of this story.

27 A. No, they didn't. None of them knew the story.

28 Q. In particular, Eileen McHughes, had you previously been
29 to the island with Eileen.

30 A. Yes, I had.

31 Q. How many years before.

32 A. It was about 25 years ago we went to the island and
33 there was a group of us that went there, about 20 or so,
34 and we went fishing on the island and we drove around
35 the island. We went over to where the Murray Mouth was.

36 Q. Which women were not present when Doreen gave this
37 account of those who had come to the Bunkhouse.

38 A. There was Patti Kropinyeri, Sally Kropinyeri, Dehlia

- 1 Kropinyeri and Raylene Rigney. They weren't there when
2 Doreen told us about the women's business.
- 3 Q. When there was talk of writing a letter to Mr Tickner,
4 was anything said about the purpose of the letter in the
5 context of the bridge.
- 6 A. Yes, it was said that we would write a letter to Mr
7 Tickner and ask him to put a stop to the bridge from
8 being built.
- 9 Q. What happened after that.
- 10 A. That's when we wrote the letter.
- 11 Q. Who actually did the writing.
- 12 A. Eileen McHughes.
- 13 Q. How long did that take.
- 14 A. I guess it would have taken about half an hour,
15 three-quarters of an hour, because we were all
16 suggesting what we should put in the letter to Mr
17 Tickner.
- 18 CONTINUED

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- 1 Q. Once it was finished, who was it given to.
2 A. I believe that it was given to Sarah Milera.
3 COMSR
4 Q. Did you see her receive it.
5 A. No, I didn't.
6 XN
7 Q. What happened after that. Was it signed before it was
8 given to Sarah.
9 A. Yes. I can recall signing the letter at the Bunkhouse.
10 Q. In your presence, did others sign.
11 A. Yes, I believe they did.
12 MRS SHAW: The balance of that topic I will leave
13 subject to the Section 35 application. For the purpose
14 of that, I have been asked to identify it. Ms Simpson
15 has a copy.
16 XN
17 Q. So that we understand what your evidence relates to,
18 looking at this two page document, can you identify what
19 was written at the Bunkhouse, without telling us what's
20 in there, but what part of the document.
21 A. I can recall the first part of this letter that was
22 written at the Bunkhouse, and that our signatures were -
23 some of our signatures were put on it at the Bunkhouse.
24 COMSR: That letter, of course, will not be
25 before me at this stage.
26 MRS SHAW: I appreciate that.
27 COMSR: I am not receiving that.
28 MRS SHAW: What Ms Simpson suggests is that Mrs
29 Wilson signs the letter and gives it back to Ms Simpson
30 so it is then identified in due course.
31 COMSR: If you want another signature on it, but
32 perhaps some marking in a different colour, an initial
33 or something perhaps on the back of it rather than on
34 the front.
35 XN
36 Q. Perhaps just put your initials in red.
37 A. After the first page?
38 Q. Yes.

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1 WITNESS MARKS LETTER ON BACK OF FIRST PAGE

2 Q. What occurred after the letter had been signed. Just
3 continue with your account.

4 A. I went outside to the toilet, and while I was out there,
5 I met Sarah as I came out, and she asked me to take her
6 over to the shack where her and Doug were staying. She
7 said she wanted to go and get some papers from over
8 there. So I said 'Okay'. So I took Sarah over to the
9 shack.

10 Q. How far was that from the Bunkhouse, in terms of time,
11 just driving.

12 A. I guess it would have been about 15 minutes.

13 Q. At that stage, had there been any agreement or
14 discussion about meeting over there.

15 A. No.

16 Q. What happened then.

17 A. On our way over to the shack, Sarah pointed out a couple
18 of the places where she said there were some burial
19 grounds.

20 Q. Continue on, when you arrived at the shack.

21 A. When we arrived at the shack, Sarah asked me to go in
22 with her. When I walked in the door, that was where I
23 saw Tim Wooley was sitting right in - straight in from
24 the door; George Trevorrow and his wife Shirley were
25 sitting over behind the table, up against the wall; and
26 Victor Wilson was sitting on this side of the table; and
27 Doug was standing up.

28 Q. Had you met Tim Wooley prior to that day.

29 A. Yes, I did. I'd known Tim for a while, for about twelve
30 months or so before then.

31 Q. Then what happened.

32 A. I went into the bedroom with Sarah, because she went in
33 there to get her papers that she was going to get, and
34 she was looking amongst her papers for something and I
35 was standing there with her, and then we heard the women
36 come - well, I heard Doreen's voice, and when I looked
37 into the kitchen - because where I was standing in the
38 door of the bedroom you can see into the kitchen -

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1 Doreen and Patti Kropinyeri came in, and Judith
2 Kropinyeri and Iris Sparks.

3 Q. What happened when they came in.

4 A. Myself and Sarah walked back into the kitchen part.

5 Doreen said to Sarah about the letter - to show Tim

6 Wooley the letter.

7 Q. Did any of the women leave to go to the beach at some
8 stage.

9 A. Eileen McHughes, Isobel Norvill - I don't like to say
10 because she has passed on now. I would

11 prefer to say another name rather than say - repeat her
12 name.

13 Q. Is she the sister of Henry Rankine.

14 A. Yes, she is.

15 Q. So the sister of Henry Rankine.

16 A. Yes, the sister of Henry Rankine and Edith Rigney. They

17 didn't come into the Bunkhouse, they went down - well,

18 they told us after that they had gone down to the beach

19 before they came into the bunkhouse.

20 Q. The bunkhouse.

21 A. The shack.

22 Q. Let us call it the shack.

23 A. The shack, yes, sorry.

24 Q. You were just describing what happened after Doreen
25 arrived and spoke to Sarah about the letter.

26 A. Yes.

27 Q. Can you just tell us what happened at that time.

28 A. Sarah handed the letter to Tim Wooley, and Doreen
29 explained to him that we had written this letter over at
30 the Bunkhouse and this was the letter that we had wanted
31 to send off to Tickner - Mr Tickner, and for him to have
32 a look at it. So Tim had a look at the letter, and he
33 said to us that, in his opinion, he didn't think that
34 there was enough in the letter, we needed to have more
35 information in it. When Tim said that, I thought that
36 Tim meant that we needed to enlarge on what we had
37 written in the letter. But I think the other women

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1 thought that Tim meant that we needed to put other
2 things in the letter as well.

3 Q. What did Doreen say that made you think that.

4 A. Doreen said `Well, what else can we put in the letter?'

5 Then she said to Patti - Patti Kropinyeri had sat down

6 at the table, Victor had got up and let Patti sit down

7 at the table, and when Patti sat down at the table,

8 Doreen passed the paper over to her.

9 COMSR

10 Q. Passed the paper over to whom.

11 A. To Patti Kropinyeri.

12 XN

13 Q. Because of problems with the Federal Court, we will not

14 go into what was said about what was going to be put

15 into the letter and the contents of it.

Lines 16 - 18 suppressed

18 A. Yes, there was.

19 Q. What was said about that.

20 A.

Lines 20 - 24 suppressed

25 Q. Had you ever heard the expression used in relation to

26 Hindmarsh Island.

27 A. No, I hadn't.

28 Q.

31 Q. Just passing over from what was written down. Can you

32 tell us then what occurred in relation to the photograph

33 on the wall. That is, following on from Patti writing

34 something down, then what happened.

35 A. Well, then Victor pointed to the map and asked us to

36 look at the map. Doug Milera went on to explain to us

37 what the map looked like. When we didn't make any

38 comments, he explained to us -

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1 Q. Vic Wilson asked you to look at the map which was where.

2 Where was the map.

3 A. On the wall, across the table.

4 Q. In which room.

5 A. In the kitchen.

6 Q. Did people look at the map on the wall.

7 A. Yes, we did.

8 Q. Once Vic had said that and you looked at the map on the

9 wall, then what happened. I think you mentioned Doug

10 Milera.

11 A. Yes. Because none of us said anything, we were just

12 looking at the area on the map on the wall,

16 A.

18 Q. Can you actually remember the words he used. Give us

19 your best memory of what Doug said in direct speech when

20 he first indicated the map.

21 A. Something to that

24 effect. I just can't remember exactly what it was.

25 Q. Did you see any reaction from the other women. What did

26 they do.

27 A.

The other

30 women didn't say anything.

31 Q. What was Doreen's demeanour when she said she could see

32 it.

33 A. Well, I think she was just saying that she agreed with

34 Doug, and that she could see what the map resembled.

35 Q. Could you see that resemblance.

36 A. No.

37 Q. From what you observed of Doreen, did she appear to you

38 to have any knowledge of the map as being

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1 significant before it was pointed out to the women.

2 A. No, it wasn't, because we - like I said, we were all
3 staring at the map, and we must have been staring at it
4 for a good minute or so, and I think that Doug knew that
5 we didn't know what we were looking at, and that's why
6 he explained it to us.

7 Q. What happened then. Did you stay or did you -

8 A. No, I went to the toilet and then, when I was in the
9 toilet, I was thinking about the map and it just didn't
10 feel right to me that men would tell us about the map,
11 so I walked out onto the beach. I didn't go back in the
12 room.

13 Q. Did any of the other women come back in.

14 A. Yes. As I was going out of the building - well, I stood
15 inside the door and waited for Eileen McHughes and
16 Isobel Norvill and Edith Rigney and Henry Rankine's
17 sister to come inside. As they were coming inside, I
18 heard Patti saying to Eileen that now that Eileen was
19 there she could finish writing the things down, and
20 that's when I walked out of the room.

21 Q. Did you sign the letter again.

22 A. No.

23 Q. Without telling us what you know is there now, did you
24 ever actually read the second part of the letter on the
25 first page before you left the shack.

26 A. No, I didn't.

27 Q. How long were you away for.

28 A. I guess I was down there for about 15 minutes - 15 to 20
29 minutes.

30 Q. Then what happened.

31 A. When I came back, two police officers showed up, and
32 Victor Wilson, George Trevorrow and Doug Milera were
33 outside talking to the police officers, and Sarah was
34 there. Then they sent for Tim Wooley to come out of the
35 shack to talk to the police officers, and that's when
36 Sarah came over to me and asked me if I would take her
37 to Signal Point. And I said yes, I would.

38 Q. Then what happened.

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- 1 A. So she went and got her bag - her briefcase that she
2 carries - and I walked to the car.
- 3 COMSR: Mrs Shaw, would it interrupt this
4 witness if I just clarified some issue at this stage?
- 5 MRS SHAW: No. That really completes the essential
6 events that occurred at the shack and the Bunkhouse.
- 7 COMSR
- 8 Q. Did anyone tell you that night that you shouldn't
9 discuss the women's business with other Ngarrindjeri
10 women.
- 11 A. No. No, Doreen said to me at the Bunkhouse that I could
12 tell the other women about the women's business that she
13 was told.
- 14 MRS SHAW: You will see from the statement that
15 there is some material on p.27, we are on p.26 at the
16 moment, and little bit on p.28. I am wondering if I
17 could complete this section to save having to interrupt,
18 although this part is essentially -
- 19 COMSR: Is this in the category of evidence that
20 is only women?
- 21 MRS SHAW: Only women.
- 22 COMSR: Just so I am sure as to the status of
23 this private hearing.
- 24 MRS SHAW: It is a continuation of only women, as I
25 understand it.
- 26 XN
- 27 Q. Perhaps just continue. What happened once you left the
28 shack with Sarah.
- 29 A. We then drove to Signal Point which is in Goolwa.
- 30 Q. And what happened then.
- 31 A. Sarah said that she had to - and I was quite sure that
32 Sarah had said to me that she was going to Signal Point
33 to fax our letter off to Mr Tickner.
- 34 Q. Then what happened.
- 35 A. I waited in Signal Point, in the shop part, while Sarah
36 went into the back part with Frank Tuckwell, I think his
37 name was - went into the back room with him to - I
38 thought it was to send off our letter to Mr Tickner.

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- 1 Q. I think you have learnt since that, according to other
2 evidence, there was not a fax machine at Signal Point.
3 A. Yes, I have found out.
4 Q. In any event, you relate it as you recall what happened.
5 A. Yes. Yes, I do.
6 Q. So you waited for Sarah for quite some time.
7 A. Yes, I did.
8 Q. Then what happened.
9 A. Then I drove back to the Bunkhouse.
10 Q. The Bunkhouse or the shack.
11 A. Back to the Bunkhouse.
12 Q. And what happened at the Bunkhouse.
13 A. Sarah had left her car there earlier in the day when I
14 first took her over to the shack, so she jumped into her
15 car and went in her car, and I stayed to have tea with
16 the women at the Bunkhouse. Then at about 7 o'clock,
17 Raelene Rigney and myself drove back to Murray Bridge.
18 Q. Had Raelene Rigney been at either the Bunkhouse or the
19 shack.
20 A. No, she hadn't.
21 Q. Who is Raelene Rigney.
22 A. Raelene was our receptionist at the Lower Murray Nunga's
23 Club where I worked.
24 Q. Is she related to Doreen.
25 A. Yes, she would be.
26 Q. In any event, you tell us what was said on the way home
27 with Raelene.
28 A. I told Raelene what Doreen had told us at the Bunkhouse.
29 Q.

Lines 29 - 34 suppressed

- 35 Doreen said - sorry, Raelene said that she had
36 never heard any of that before, and I think she was
37 surprised about it, the same as I was.
38 Q. When you returned to Murray Bridge, did you go to the
Nunga's Club the following day.

RF 12FP

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1 A. Yes, I did.

2 Q. Did you speak to other women at the Nunga's Club.

3 A. Yes, I did. I spoke to Jean Rankine, our care worker
4 that worked at the Nunga Centre, and Mary Smith, she was
5 our cleaner that worked at the Nunga Centre. I spoke to
6 them about it, and I asked them if they'd heard anything
7 about it. They said that they hadn't heard anything
8 about Hindmarsh Island or the women's business there.

9 CONTINUED

10

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- 1 Q. Is Mary Wilson a Ngarrindjeri woman.
2 A. Yes, she is.
3 Q. Jean Rankine.
4 A. Yes.
5 Q. She is not the Jean Rankine who is married to Henry
6 Rankine.
7 A. No, she is not, yes.
8 Q. Did you have a subsequent discussion with Mary Wilson in
9 relation to her ancestry.
10 A. Yes. We talked about, you know, whether her granny had
11 ever said anything to her about it, and I think also
12 with Mary's sister Heather and my sister Beryl, I think
13 the four of us discussed it too and said we had never
14 been told by her mother or her grandmother.
15 Q. Was Mary a descendant of Pinkie Mack's.
16 A. Yes. Mary's great grandfather was a brother too, - yes
17 her great grandfather was a brother to Pinkie Mack.
18 Q. Can you tell us what your thoughts were for the days
19 after the 9 May meeting about what Doreen had told you.
20 A. I kept thinking about it all the time and in particular
21 about the map and the men telling us about the map and
22 them telling us that it was secret women's business.
23 And I guess in my mind it just didn't add up, so - and I
24 thought about it a lot and I still do think about it.
25 It just doesn't add up to being secret women's business
26 if the men told us.
27 Q. Did the men actually use the term `secret women's
28 business' or just `women's business'.
29 A. No, I think - I think it was said then that it was
30 secret women's business.
31 Q. When you returned, did you speak to
32 A. Yes, I did.
33 Q. About how long after 9 May.
34 A. It was about a week after that, one of her grand
35 daughters had rang me up and said that she wanted to see
36 me about some money that was taken out of her bank
37 account - because she had a share at her house and she
38 was getting her rent taken out of her bank account.

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- 1 When she had the share and had to move out into private
2 rental, they still took the money out of her bank
3 account, so she wanted me to go and see about it because
4 she had to pay private rental, a rental that was instead
5 of paying the Housing Trust. So, I went up to see her
6 about it and I fixed it up for her. And then that's
7 when I asked her, I told her about what happened at
8 Hindmarsh Island and what Doreen had told us and what
9 the men had told us, and she said that she didn't know
10 anything, nothing was ever told to her about the women's
11 business on Hindmarsh Island and nothing was ever
12 mentioned about a map.
- 13 Q. What was your reaction when Nanna Laura, the daughter of
14 Pinkie Mack, told you that she knew nothing about any of
15 these things.
- 16 A. Well, I started thinking `Well, if she didn't know' -
17 and she was an 81 year old lady - `If she hasn't heard
18 of it, how come Doreen had heard of it and not her?'.
19 So, then I spoke to my auntie, my mum's sister - she's
20 passed on now - that's Amelia Campbell and she was my
21 mum's sister and she passed away in October last year.
22 I spoke to her about it and she said that she was never
23 told anything either and she didn't know anything.
- 24 Q. You also mentioned speaking to Mary Wilson and Mary
25 Smith's sister Heather.
- 26 A. Yes, I spoke to Heather about it.
- 27 Q. Did you speak to Brenda Kartinyeri.
- 28 A. Yes. I also spoke to Brenda Kartinyeri. She is a grand
29 daughter of Pinkie Mack's daughter and she said that she
30 was never told anything by her grandmother. I also
31 spoke to Wendy Rigney and she said she didn't know
32 anything. I spoke to Gladys Wilson and Gladys Wilson's
33 mother and she said that they had never heard anything
34 either.
- 35 Q. Are these all Ngarrindjeri women.
- 36 A. Yes, they are.
- 37 Q. Are they women who were born on Point McLeay.
- 38 A. Yes.

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1 Q. I think you mentioned that you also spoke to your sister
2 who was a couple of years older than you.

3 A. Yes. I did speak to Beryl.

4 Q. Having spoken to all of those people after your return
5 on 9 May, what was your view then about what Doreen had
6 told you.

7 A. Well, by then, I thought it was a lot of nonsense.

8 Q. The map.

9 A. Well, the map in particular I thought it was just, you
10 know, if our old women didn't know about it, well then
11 why did the men tell us about it? I thought it must be
12 a load of nonsense.

13 MRS SHAW: That completes the topic essentially of
14 the women's business, certainly at that stage in any
15 event until the meeting on 19 June.

16 COMSR: What would you propose to do? You want
17 this closed session to continue while you deal with
18 that, or do you wish to go into public session again?

19 MRS SHAW: It seems to me that it might be best if
20 we continue on to deal with the matters that are secret
21 women's business contained in the statement which would
22 recommence at pp.35 and 38 - and we are up to p.31 - so
23 I seek to do that.

24 COMSR: You seek to continue on without - what I
25 was suggesting is that you can perhaps lead the parts
26 that should more properly be dealt with in the public
27 section and if the witness's attention could just be
28 drawn to that fact and then go on to the matter. I know
29 it's an awkward procedure and probably very disruptive
30 of a person in Mrs Wilson's situation but,
31 unfortunately, it's difficult to run this inquiry in
32 perhaps what might be, if there ever is, a normal way.

33 MRS SHAW: If I could take Mrs Wilson forward in
34 time.

35 COMSR: We are leaving a bit out, in other
36 words, Mrs Wilson, and will come back to it later.

37 XN

38 Q. I want to take you to the evening of Sunday, 19 June

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- 1 1994, the Graham's Castle meeting when Doreen spoke to
2 the women at Graham's Castle and told them about the
3 women's business.
4 A. Yes.
5 Q. Can I take you to the Sunday evening - this is at p.37
6 and 38 -
7 COMSR: Is this when men were present?
8 MRS SHAW: No, this is before the arrival of
9 Professor Saunders.
10 Q. On the Sunday evening, 19 June, you were down at Goolwa.
11 A. Yes.
12 Q. Staying at Graham's Castle.
13 A. Yes.
14 Q. I think you had gone over to pick up one of your
15 friends, Bernice Karpany, just before tea.
16 A. Yes, I did.
17 Q. After tea, perhaps if you could relate to us what
18 happened.
19 A. Well, after we had tea, Doreen said that she was, she
20 wanted us all to go in the conference room and that we
21 were going to talk about what we were going to tell
22 Professor Saunders when she came next morning. When we
23 all gathered in the conference room, then, Doreen went
24 on to tell the women that Victor had rang her up and
25 asked her to come down and talk to us women at the
26 Bunkhouse, first about the women's business and how they
27 had been trying to stop the bridge and they couldn't
28 stop the bridge. And Doreen went on to tell them about
29 Wendy Chapman and the marina and how Wendy Chapman was
30 carting away truck loads of bones from the marina area
31 when putting up the development. Also, that a taxi
32 driver had gone into the pub at Goolwa and was talking
33 in the pub and saying that he had a boot load of boong
34 bones in his boot. And then she went on to say about
35 how they were - once they put the bridge in Goolwa to
36 Hindmarsh Island, that they were going to build another
37 bridge from the mouth across to the south-east road.
38 So, by the time she finished telling the women this, the

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1 women were getting pretty upset about this. And Doreen
2 went on to tell them, she said `I'm going to tell you
3 about the women's business that was told to me by
4 Grandma Sally and Auntie Rose', And Doreen also had a map,
7 and the map looked like it was the same map the aerial
8 map that was in the shack where Doreen -
9 Q.

Slow down and see if you
12 can refer -
13 A. She told us the same thing that she told us other women:
14

She also then went on to tell them about the map and pointing to
the map.

Lines 14 - 28 suppressed

29 A. Well, she did point to the map, but because I was
30 sitting right up the other end of the room, I couldn't
31 see which part she pointed to.
32 Q.
34 A. **Lines 32 - 35 suppressed**
35 Q.
36 A. Yes. She said something about the -

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2 Q. Did she say whether or not the status of this
3 information she was giving you, that is whether it was
4 confidential, or so on, or for women only -

5 A. Well, now, yes, she did say that now. She said that it
6 was sacred women's business now because that's why Mr
7 Tickner was sending Professor Saunders, he was sending
8 over a woman. A woman can talk to us because of the
9 secret women's business, and that is why Professor
10 Saunders was coming.

11 Q. Perhaps if I go to this year and specifically ask you
12 about your conversations with Dulcie Wilson. Can you
13 tell us - in particular, you know there was a meeting on
14 1 May 1995. You had a conversation with Dulcie before
15 that meeting of 1 May.

16 A. Yes.

17 Q. At some stage, did she speak to you and tell you what
18 Doreen had told her about what information she had
19 received from Doreen.

20 A. Yes. She said Doreen had rang her up and that she had
21 asked Doreen what was in the secret envelopes, and that
22 Doreen had told her -

23 MS PYKE: At this stage, I suspect we might be
24 getting into a similar sort of problem in that Mr
25 Tickner has suppressed any -

26 COMSR: This is subject to the same order, is
27 it?

28 MS PYKE: I think so. Certainly Mr Tickner has
29 suppressed any evidence about the contents of the
30 envelopes. And, indeed, if I remember correctly, at the
31 beginning of this Commission, you indicated that you
32 wouldn't be concerned about what was in the contents of
33 the envelopes and it would be we weren't to go and look
34 at them.

35 MRS SHAW: We are not asking about the actual
36 contents. We are asked about what my client was told by
37 Dulcie - not referring to the envelopes or the letter as
38 such - simply what my client was told by Dulcie. I

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1 refer to p.17. I ask you to receive it in any event.
2 It's the kind of matter that we can debate a bit later,
3 if needs be. It seems to me that it doesn't infringe
4 anything, because a letter might have been part of the
5 Federal Court proceedings. This is simply a
6 conversation from Doreen. As I understand it, she
7 wasn't the author of whatever went into the envelopes,
8 someone else was.
9 MS PYKE: That represents one of the reasons why -
10 I know you have talked about evidence of hearsay and
11 this is one of the dangers.
12 MRS SHAW: We are calling Mrs Wilson to say what
13 Doreen Kartinyeri told her.
14 MS PYKE: Can't we do that then?
15 MRS SHAW: We are in the private session and it's
16 part of her account and part of the reason that she
17 spoke publicly. So, it's relevant as to her state of
18 mind and it is relevant to the claim of fabrication or
19 the belief that there is fabrication based upon
20 statements by Doreen Kartinyeri, which are quite
21 crucial.
22 MS SIMPSON: If I might say, in respect of the
23 submission put by my learned friend Miss Pyke, Mr
24 Tickner has not suppressed from publication the secret
25 envelopes. Those secret envelopes were labelled 'for
26 women only'. This is a closed session in which there
27 are only women present. The inquiry that the
28 Commissioner is conducting must relate to the same
29 subject matter; in fact, the Terms of Reference
30 specifically relate to the secret women's business as
31 described in the secret envelopes. When Mr Griffith
32 attended on the first day of the Commission hearing, he
33 specifically said that there would be no conflict in the
34 Commission dealing with the subject matter. Certainly,
35 if the Commission strayed into the propriety or the
36 appropriateness of the inquiry conducted by Professor
37 Saunders, that is another matter.

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1 But Mrs Wilson is entitled, in my submission, to say
2 what other people have told her in the context of her
3 evidence overall and there can be no breach of any
4 confidentiality other than the fact that it should be
5 heard by women only and you have addressed that
6 restriction.

7 COMSR: I have understood that the contents of
8 the secret envelopes were more secret than that, if I
9 can put it that way. That they could only be revealed
10 to certain women, but you say that the restriction
11 doesn't go that far?

12 MS SIMPSON: We haven't got the envelopes, but
13 certainly what has appeared in the press is that they
14 are confidential, to be read by women only and that has
15 received a lot of press coverage. In addition, we know
16 from Professor Saunders's report and Dr Fergie's report
17 that the information has been seen in those envelopes by
18 other women, in particular, Dr Fergie herself. We know
19 also from the reports in the press about the Federal
20 Court proceedings that Ms Susan Keen gave evidence in
21 those proceedings and that she had read the contents of
22 the secret women's envelopes and passed on the
23 substance. That, in a sense, she told the Minister what
24 was or was not in these envelopes. There is no added
25 information that the Commission is able to determine, at
26 this point, as to the contents of those secret
27 envelopes.

28 COMSR: I don't want to determine, at some other
29 point, that -

30 MS PYKE: I would make the submission, at this
31 stage, that indeed if you look at Dr Fergie's report
32 there is much reference to the sensitive nature. I'm
33 not sure what is marked on the outside of the envelope.

34 MS SHAW: It is marked 'For Women Only'.

35 MS PYKE: If that is on there, I haven't seen it,
36 but if that is on there that is not necessarily the
37 answer to the matter. It certainly has not been
38 released by anyone into the general arena of these sorts

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1 of proceedings or for women only. Our argument would be
2 that they are much more restricted than that and it is
3 simply no answer to say that they have been provided to
4 particular people for particular reasons. A reading of
5 Dr Fergie's report would indicate the highly sensitive
6 and restrictive nature of the information that she
7 received and the limited disclosure by the women for a
8 particular purpose.

9 MS SHAW: I take great exception to that kind of
10 submission where Dr Fergie is a party and she is making
11 submissions about a topic which relates to a
12 conversation when she wasn't even there and we will be
13 leading evidence from Dulcie Wilson that Doreen
14 Kartinyeri told her something. This is evidence of what
15 Dulcie Wilson told my client, which relates to why she
16 came forward and spoke out. And the evidence of
17 Doreen's conversation with Dulcie Wilson has got nothing
18 to do with Dr Fergie whatsoever.

19 MS SIMPSON: In any event, if I may just interrupt,
20 the evidence that is to be led has already been led in
21 the sense that the statement of Ms Wilson is now in
22 evidence, Exhibit 34. If Ms Wilson is going to say
23 more than is already in that statement, it is my
24 submission there is nothing further in the nature of
25 secret women's business that is going to be aired by the
26 answer to her question.

27 Perhaps Ms Shaw can help in that regard.

28 COMSR: The only additional information that is
29 here that hadn't been discussed in front of other women
30 according to the witness's evidence is that it was
31 contained in the envelope.

32 MS SHAW: Yes.

33 COMSR: I mean, the information itself, as I
34 understand it, had been discussed at the meeting.

35 MS SHAW: Yes, but perhaps I can put it to you
36 this way:

37 The envelope was marked 'For Women Only', according
38 to the public record. At that stage, there was no

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- 1 suggestion that it was restricted to only certain women.
2 And what transpired was that Doreen Kartinyeri contacted
3 Dulcie Wilson and, during the course of that
4 conversation, divulged to Dulcie Wilson what she claimed
5 was in the secret envelopes. And that is the evidence
6 that Dulcie Wilson can give as a Ngarrindjeri elder,
7 certainly someone who is a lot older than Doreen and is
8 a relative of Doreen's with the same ancestry.
- 9 COMSR: Yes, I think that most of it, in one way
10 or another, has been pretty well aired.
- 11 MS SHAW: That is so. And that is what my client
12 has said -
- 13 COMSR: I propose to allow the witness to give
14 the evidence. It is not proof, of course, of what is in
15 the envelope.
- 16 MS SHAW: No.
- 17 COMSR: But it is only proof of what she was
18 told was in the envelope.
- 19 MS SHAW: That is so. And it is relevant to her
20 conduct after.
- 21 COMSR: Yes.
- 22 XN
- 23 Q. I am not certain whether you - you have already given
24 the answer, in any event, but perhaps just tell us what
25 Dulcie said to you was in the - what she had been told
26 by Doreen.
- 27 A. Yes, when I spoke to Dulcie I said to Dulcie 'I hope
28 that Doreen didn't put into the secret envelopes about
29 the map, because if she put it in the secret envelopes
30 about the map, well then I would dispute it, because
31 that was told to us by men, so it wasn't secret women's
32 business.' So, Dulcie's answer to me was that 'I have
33 to tell you that she told me that she did put into the
34 secret envelopes about the map.' And that was the
35 reason why I came out and said 'Well, I dispute that,
36 because it can't be secret women's business, because the
37 men told us that.' And that was that.
- 38 MS SHAW: That is all I wish to ask in the private

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1 session.
2 COMSR: I note that it is 10 to 1. It doesn't
3 seem really that we would get a public session open by 1
4 o'clock and be able to take any evidence by that time.
5 I propose to adjourn, at this stage, until 2.15.
6 And we will be resuming in public session?
7 MS SHAW: Yes.
8 ADJOURNED 12.52 P.M.

