

1 COMSR STEVENS

2

3 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

4

5 WEDNESDAY, 13 SEPTEMBER 1995

6

7 RESUMING 12.25 P.M.

8

9 ON SITE AT WITNESS'S HOME AT GERARD

10

11 MISS BASHEER CALLS

12 MARGARET LINDSAY SWORN

13 EXAMINATION BY MS BASHEER

14 Q. First, I would ask you to look at this statement

15 produced. It's a ten page statement. Do you recognise

16 that statement.

17 A. Yes, but the date is wrong here. The date I was born on

18 in Kyancutta on the West Coast was on the 24th of August

19 1927, not April.

20 MS BASHEER: I would ask that that be amended and I'll

21 delete April and insert August.

22 Q. I've deleted April and put in August.

23 A. That's correct, yes.

24 Q. That's right.

25 A. Yes.

26 Q. I'm not asking you about the contents, but is this your

27 statement - don't worry about the words inside, but do

28 you recognise this at your statement.

29 A. Yes.

30 WITNESS READS STATEMENT

31 COMSR

32 Q. Do you remember giving that statement.

33 A. Yes, I remember.

34 XN

35 Q. That's the statement you gave, is it.

36 A. Yes. Just one here's wrong. The Riverland. I met

37 Angas Giles, he was in the Riverland that's the first

38 time. He was my first husband, not second.

## M. LINDSAY XN (MS BASHEER)

1 Q. I will ask you about that in a moment, okay.

2 A. You mean just read it through?

3 Q. I will ask you about the statement in a moment.

4 A. Yes. Okay, yes, that's it.

5 Q. So that statement, does that contain the evidence you  
6 wish to give to the Royal Commission today.

7 A. Yes.

8 EXHIBIT 134 Statement of witness Margaret Lindsay,  
9 tendered by Ms Basheer. Admitted.

10 COMSR

11 Q. We understand you have a heart condition. You will let  
12 us know if you require to take a break at any time. We  
13 don't want to tire you unduly.

14 A. All right.

15 MS BASHEER: Has that medical certificate been  
16 tendered?

17 COMSR: No, it hasn't.

18 Q. Is that a copy of the medical certificate that your  
19 doctor's provided.

20 A. Yes, that's it, yes. That is from my cardiologist; you  
21 know, the heart specialist.

22 MS BASHEER: That should be tendered as an exhibit.

23 COMSR: I don't know, Mrs Lindsay might not wish  
24 to have her medical condition made public. I don't  
25 think it's necessary to tender it.

26 XN

27 Q. I want to ask you some questions, first, about your  
28 family background and the years when you were growing  
29 up. Okay.

30 A. Yes, all right.

31 Q. Where were you actually born.

32 A. At Kyancutta on the West Coast of South Australia.

33 Q. That was on 20 August 1927.

34 A. 24 August.

35 Q. What about your father, what was his name.

36 A. Nathaniel Kropinyeri.

37 Q. Was your father known by some other name.

38 A. Nat. Uncle Nat most people called him.

- 1 Q. Was he a Ngarrindjeri man.  
2 A. Yes.  
3 Q. Do you know where he was born.  
4 A. No. I think he's from down at the Coorong way, down  
5 that way. I don't know. My grandparents, I think,  
6 owned a property at this side of Wellington.  
7 Q. Would it be true to say that he was born somewhere along  
8 the Murray River.  
9 A. Yes.  
10 Q. Where did he end up living.  
11 A. I think he must have, he must have got married quite  
12 early in his life because he married my step-mother  
13 first and then I don't know where they lived. They must  
14 have lived along the river for a while, but eventually  
15 they must have come back to Point Pearce.  
16 Q. Who was your step-mother.  
17 A. Rose Kropinyeri.  
18 Q. What was the name of your natural mother.  
19 A. Iris Jones.  
20 Q. Do you remember your natural mother.  
21 A. No, I don't remember. She died when I was three or four  
22 years of age; nee Sansbury before she got married to  
23 Dad, yes.  
24 Q. Were your father and mother ever married.  
25 A. No.  
26 Q. Did you have sisters and brothers.  
27 A. I had two step-sisters. My dad's children and my  
28 step-brothers, and two step-brothers - I mean two real  
29 brothers and a sister.  
30 Q. A real sister.  
31 A. No, two real brothers, one deceased, and a step-brother.  
32 The elder one, he was a Jones, my mother's son. He is  
33 also deceased and my sister is deceased. So that is one  
34 sister, two brothers and one step-brother.  
35 Q. Starting with your step-sisters, what were their names,  
36 or are their names.  
37 A. Winifred Rachel - her second name was, I think -  
38 Kropinyeri, but then they got married, but I just don't

1 know the names.

2 Q. Yes.

3 A. And the other one was Estelle Maude.

4 Q. Your step-brother.

5 A. Baden Jones, that's my mother's son.

6 Q. You mentioned one natural sister, I think; is that  
7 right.

8 A. Yes. That is my eldest sister. She died two or three  
9 years back, Mertl Power.

10 Q. You mentioned that your mother died when you were very  
11 young. Who were you raised by.

12 A. The only memory I have got is of my step-mother that  
13 took me. Apparently she went back to my dad, you know,  
14 after my mum died. He apparently came back to wherever  
15 he met her again and they got together again and so I  
16 went to live with them then. I don't remember, but that  
17 is only thing I can remember that, who raised me, you  
18 know, like my mother would have.

19 Q. Did you call her 'mother' or what.

20 A. Mum. Yes, I called her mum, yes.

21 Q. For how many years did you live with your father and  
22 step-mother.

23 A. I was about 13, 14 years of age. In those days, we had  
24 to go out to service quite young because of the  
25 financial problems; not much money around those days.

26 Q. Where did the family live from the time when you were  
27 young until 13 or 14.

28 A. Only at Point Pearce that I can remember, yes.

29 Q. At the mission.

30 A. At the mission.

31 Q. Did you ever go to live with any other relatives during  
32 that time.

33 A. Yes. I went - I spent some time with an aunt, my  
34 mother's sister.

35 Q. Your natural mother's sister.

36 A. Yes, at Point Pearce. I don't know just how long. You  
37 know, I was sort of backwards and forwards and went  
38 there and went home again.

## M. LINDSAY XN (MS BASHEER)

- 1 Q. I will come to the time what you left Point Pearce in a  
2 moment. First, I want to ask you when you were growing  
3 up until you were 13 or 14, were you ever taught or did  
4 you learn anything about your culture.
- 5 A. No, nothing. No-one told me anything about that, my  
6 step-mother or anyone else.
- 7 Q. You mentioned that your father was a Ngarrindjeri man.  
8 A. That's right, yes.
- 9 Q. Did you identify yourself during those years as  
10 belonging to the Ngarrindjeri people.
- 11 A. No, not really. See, we were brought up in a civilised  
12 way, if you know what I mean.
- 13 COMSR
- 14 Q. European.
- 15 A. Yes, European-style living. We wasn't taught anything  
16 about our culture or whatever, or anything.
- 17 XN
- 18 Q. Were you taught anything about the traditional ways;  
19 even something, for example, like traditional burial  
20 practices.
- 21 A. No.
- 22 Q. Were you ever told anything about things like  
23 traditional food or food preparation.
- 24 A. No. We used to have cooked - same as Europeans, you  
25 know, that's the meals same as any European would, yes.
- 26 Q. What about traditional legends or myths, Dreamtime  
27 legends or myths.
- 28 A. No, I never heard any Dreamtime stories.
- 29 Q. We are talking about when you were growing up. What's  
30 happened since that time after growing up, have you read  
31 or heard about those stories.
- 32 A. Only when I was down at college doing the Aboriginal  
33 studies from the books.
- 34 Q. When was that.
- 35 A. It was, let me see, about six, seven years ago at the  
36 Gerry Mason centre at Glossop here.
- 37 Q. What types of things did you learn about the  
38 Ngarrindjeri nation there.

1 A. About - I can't even remember. It's all, you know, I  
2 mean, I don't believe - I haven't heard it and I don't  
3 believe this, those sorts of things, the Dreamtime and  
4 the fish going to the river and making the lake, or  
5 whatever.

6 Q. You know about that Ngarrindjeri legend.

7 A. Beg your pardon?

8 Q. You know about that story of the creation of the Lower  
9 Murray.

10 A. Yes - no, not really. Only heard it at there. That's  
11 what I was saying, I didn't take much notice of this, of  
12 it.

13 COMSR

14 Q. You haven't accepted it.

15 A. I did the course, was an Aboriginal study course, but I  
16 didn't like it.

17 XN

18 Q. When you were growing up, did your step-mother discuss  
19 anything about changes in women's bodies or growing up.

20 A. No. She didn't talk about anything personal, anything  
21 about your body, no. No woman did as far as I can  
22 remember. They are the sort of things we have to find  
23 out for ourselves; you know, like the periods and all of  
24 that, you know, what the mothers tells her daughters,  
25 and babies and that.

26 COMSR

27 Q. As far as you know, was that the way in the white, the  
28 European white community, as well as the Aboriginal  
29 community when you were growing up, that those things  
30 were not discussed.

31 A. Yes. As far as I know, nobody discussed it. Not even  
32 my aunties - and I've come in contact with a lot of  
33 Aboriginal elders in my time, women, and along in my  
34 trails. The only way of the traditional life that I  
35 know of is when we used to live at Nildottie on the  
36 island. If a white person lived there, he would have to  
37 do the same as we did to live.

38

1 XN

2 Q. You are talking of fishing and trapping.

3 A. Fishing is all - and all of that. That's the same thing  
4 he'd have to do, the same thing and go and catch fish  
5 and catch rabbits and what have you.

6 Q. Did your step-mother ever talk about delivering babies  
7 or anything along those lines.

8 A. No, nothing, no. Once, when I was quite young, I don't  
9 know how old I was - 12 or, probably, yes, getting into  
10 my teens - the lady, the sister that used to be at Point  
11 Pearce, she took me to try to teach me this thing about  
12 the delivering babies, and I only went once and that was  
13 - I didn't go any more.

14 Q. Did your step-mother ever suggest that there was  
15 anything in Aboriginal tradition that she needed to hand  
16 down to you.

17 A. No, nothing. Nothing at all.

18 Q. Did you have a very close relationship with her.

19 A. Yes. She was pretty - yes, she used to talk to me about  
20 various things. Like I said in my statement, for  
21 instance, she told me that my mother didn't split her  
22 and my dad up and things like that.

23 Q. What did she tell you about your natural mother.

24 A. She spoke about my natural mother to me.

25 Q. Yes. What did she say.

26 A. She said that if anybody tells me when I get older or  
27 sling off and say that my dad, my mother split her and  
28 my father up, that that wasn't true, that my mother  
29 didn't split them up.

30 Q. What other types of things would she talk to you about  
31 between the years you were young until you were 13 or  
32 14.

33 A. She just used to teach us how to cook and that; but, you  
34 know, do the same as what the white person would do. I  
35 must have been quite young. I remember clearly in the  
36 old stone place we had, it had shelves in the verandah  
37 thing in the way of fireplace shelves and I had to stand  
38 on the chair in those days and cut the paper out to make

- 1 those little designs and put them up on the shelves.  
2 And I used to do that quite often and things like that.  
3 That was so - I mean, she was a very clean lady, very -  
4 a very good housekeeper too I would say.
- 5 Q. Did your family attend church on the mission.  
6 A. I can't ever remember my dad going to church, but I  
7 can't remember him speaking against the church either,  
8 because his uncle was the Minister at the time in Point  
9 Pearce, but he always made sure him and my step-mother  
10 we went to Sunday School, my brother and I.
- 11 Q. Were you raised as a Christian.  
12 A. More or less, yes. I thought so, yes.
- 13 Q. Did you follow any other religion or practices apart  
14 from Christian practices.  
15 A. No.
- 16 Q. Did you have to read the Bible, or did you read the  
17 Bible.  
18 A. No. But the stories in - the Bible stories, that's to  
19 tell the Bible, like today they have all the little  
20 books and the Bible books for children. We didn't have  
21 those in those days. But, you know, I can't remember my  
22 dad reading a Bible either. I don't know if they - they  
23 probably had one. You know, most people have them in  
24 their home, you know. The Aboriginal people that I know  
25 at Point Pearce always had a Bible.
- 26 COMSR
- 27 Q. Was the school you attended a religious school at Point  
28 Pearce.  
29 A. No, it was just -  
30 Q. A State school.  
31 A. We didn't have anything in our school like you have  
32 today, what you call the Bible thing. In my days, they  
33 didn't have any of them.
- 34 XN
- 35 Q. How many years of school did you complete.  
36 A. I think I left when I was in grade five. I didn't have  
37 much of an education. Might have been ten years or  
38 something.



## M. LINDSAY XN (MS BASHEER)

- 1 Q. You left Point Pearce when you were about 13 or 14; is  
2 that right.
- 3 A. Yes.
- 4 Q. Where did you go.
- 5 A. Well, the welfare - not welfare. I don't know what they  
6 call the people who used to come and get the young  
7 people jobs in those days. Sister Angas and all of  
8 that, she's old now, they used to take us out and get  
9 jobs for us, find us jobs. From Point Pearce, they took  
10 me to - some of them worked around in the country there,  
11 like around Maitland or Port Victoria and around about  
12 there, but I went straight away to Adelaide and I worked  
13 there. My first job was at the hospital, I think, at  
14 North Adelaide - Memorial Hospital it used to be.
- 15 Q. Where did you live in Adelaide.
- 16 A. I lived there at the hospital. They had, yes, in the  
17 house in the rooms underneath, the big bay windows we'd  
18 have.
- 19 Q. At some stage, did you move to the Salvation Army's  
20 Girls' Home.
- 21 A. Yes, that was before that. I don't know how old I was  
22 then.
- 23 Q. How many years did you work in Adelaide approximately.
- 24 A. Might be - I don't know, two years might have been. I  
25 had jobs then and went and worked in the hotel down at -  
26 I was young then too, because that was when the war  
27 ended and I was there, I remember, because we had to  
28 clean up all the mess and had all the broken glass and  
29 everything.
- 30 Q. How old were you when you first went to Adelaide,  
31 approximately.
- 32 A. I reckon I might have been 15 or 16.
- 33 Q. You returned at a later time to Point Pearce.
- 34 A. Yes. I came back to Point Pearce, yes.
- 35 Q. How old would you have been approximately when you  
36 returned.
- 37 A. About 18 - 17, 18. And I got married there.
- 38 Q. Whom did you get married there to.

- 1 A. William Karpany. He's still around somewhere.  
2 Q. That is your first husband.  
3 A. Yes.  
4 Q. Did that marriage last.  
5 A. I don't know -?  
6 Q. Did you stay with him.  
7 A. Stayed with him probably about a year, might have been,  
8 or six months, I don't know. Might have been a year. I  
9 can't remember.  
10 Q. That's okay. After that time, did you move away from  
11 Point Pearce.  
12 A. Yes. I came up - I finished up at the Riverland.  
13 That's years ago. How old is my daughter? Jenny is 46.  
14 It was before she was born. 50 years ago.  
15 Q. Did you settle in the Riverland from that time on.  
16 A. That's right.  
17 Q. The Riverland is where you met Angas Giles.  
18 A. Yes.  
19 Q. That's your present husband.  
20 A. No, that is my second husband, Jenny's father. I wasn't  
21 married to him either.  
22 Q. So, that is what you meant when you said `He is not my  
23 second husband'.  
24 A. Yes. I wasn't married to him. This is my husband I got  
25 now is what I'm married to him.  
26 COMSR  
27 Q. He is the father of your child Jenny. Angas Giles is  
28 the father of Jenny.  
29 A. Jenny, yes. And all of my children are from Angas, yes.  
30 Nine children we had. Twins, the last two were twins.  
31 They would be 25 this year.  
32 XN  
33 Q. How long did you stay with Angas Giles.  
34 A. I don't know when. 40 years it would be or more, 30  
35 something years.  
36 Q. You now are married to another person.  
37 A. Yes, I married - you might have seen him.  
38 Q. Yes.

1 A. Edward Lindsay.

2 Q. He's your second husband.

3 A. Yes.

4 COMSR

5 Q. How long have you been married to Mr Lindsay.

6 A. Nine years on the 20th of this month.

7 XN

8 Q. Since you left Point Pearce when you were young, did you  
9 go back there regularly to visit your step-mother and  
10 father.

11 A. Yes. Angas and I went back - not very often because,  
12 yes, we were far away and lived at Nildottie. That is a  
13 long way. Say three or four times, or more - three  
14 times probably. And they lived down at the beach then.  
15 My dad, he got the exemption at that time and they had  
16 to move off the mission, you know, the Sandner report,  
17 and they were staying there - and Hollywood they call  
18 it. Reef Point is the right name and they called it  
19 Hollywood there and reckon filmstars were there.

20 Q. Your father died in around 1956 or '57; is that right.

21 A. Yes, that would be right, yes.

22 Q. Your step-mother settled back at Point Pearce.

23 A. Yes, she settled back. She - I wasn't home at the time,  
24 but she must have come back because she would have been  
25 there on her own. She came back because she had all of  
26 her family, her grandparents were living at Point Pearce  
27 at the time, the married ones, so she came and settled  
28 there. And I remember there too because we had been  
29 there back to Point Pearce there when she was living  
30 there on her own.

31 Q. You did visit her after your father died.

32 A. That's right, yes.

33 Q. You, I suppose, had children during that period after  
34 your father died.

35 A. Yes, I had, yes. Just before he died, my son was - two  
36 years after that, I had Roy, that's next to Jenny.

37 There's eight years difference between Jenny and Roy,  
38 eight years in between. I remember he died a couple of

1 years just before Roy was born.

2 Q. Did you ever talk to your step-mother; did she ever talk  
3 to you about childbirth at this time when you were  
4 having children.

5 A. No.

6 Q. Did she ever say anything to you about the topic of  
7 abortion, or anything like that.

8 A. No. Never heard that word `abortion' in those days.  
9 Never.

10 Q. Did you ever hear the words of `Hindmarsh Island' when  
11 you were growing up.

12 A. No. I heard - only heard my old uncle, my father's  
13 uncle - again another one, the one that used to tell me  
14 they used to camp around that. `There's good', that's  
15 all he said. He didn't say there was anything there.  
16 He said `It's good on Hindmarsh Island. Come over and  
17 have a look'. We did go there a couple of times to  
18 Hindmarsh Island.

19 Q. When was that.

20 A. When we used to travel around and used to get in those  
21 waters the pelts and sell them for a living and used to  
22 do that. And travelled from Nildottie right up by a  
23 boat route, by boat right up to Renmark just a row-boat  
24 travelling along and camping along the river.

25 Q. Who did you go to Hindmarsh Island with.

26 A. With my husband. Must have went across in a boat too,  
27 yes.

28 Q. You mentioned it was your uncle you mentioned who went  
29 fishing there.

30 A. Yes.

31 Q. Did he ever say anything about Mundoo Island.

32 A. Mundoo. Yes, he spoke about that too. But just he  
33 never said anything about any - you know just spoke  
34 about it in terms, just saying `It's good there too' and  
35 `Nice on Mundoo Island'.

36 COMSR

37 Q. Did he say what it was good for.

38 A. No, he never.

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- 1 Q. Just it was good at Mundoo Island.
- 2 A. Yes. I don't know if he meant good living, or what.
- 3 Might have meant good for rabbits or something, I don't
- 4 know.
- 5 XN
- 6 Q. Was it ever suggested to you by anyone that Hindmarsh
- 7 Island had special significance for women.
- 8 A. No. I never heard that to tell you the truth.
- 9 Q. Just to be clear about your life, you lived at Nildottie
- 10 with Angas Giles for about 20 years.
- 11 A. Yes, that would be about right. I - let me see, I think
- 12 Jenny was 17 or something, 17 years or so. Jenny, was
- 13 about 17 when we left there. We went to Mannum. We had
- 14 a few more children by then and you can't live like that
- 15 when you've got a big family and they have to go to
- 16 school and they used to go across themselves over the
- 17 river to get to school. A bit hard for that.
- 18 Q. Was it during those Nildottie years that you made a
- 19 living by catching the rats and the fish.
- 20 A. That's right, and the fish, yes. But, I mean, we had to
- 21 do it in those days. There was no welfare, not like you
- 22 get today, the Social Services and all of that.
- 23 Q. Where did you sleep when you were living along the
- 24 river.
- 25 A. In the wurley.
- 26 Q. Who made the wurleys.
- 27 A. Myself or my husband.
- 28 Q. Where did you learn about making wurleys.
- 29 A. Just picked it up naturally, I think. Nobody taught us.
- 30 My husband might have knew a bit about that, because,
- 31 like, he said he used to live that sort of life, you
- 32 know, traditional life I would say on that, but.
- 33 Q. Did he teach you any other traaditions, apart from
- 34 making the wurley.
- 35 A. No. We used to camp along - often my sister-in-law
- 36 would come too with us and have our own boat and travel
- 37 along and she would be frightened and say `Don't camp
- 38 Here, there's the bones' or things, or something, with

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1 it, and I said `Don't matter where you camp, you're  
2 camping on them all the time, they're all along the  
3 river and everywhere. You can't dodge them'. She was  
4 frightened, instincts or something, I don't know.  
5 Maralee bones they call it.

6 COMSR

7 Q. Did you live always within Aboriginal communities or  
8 have you lived in white communities also.

9 A. No, I lived amongst white people too. Yes, in Mannum,  
10 living in the white community, yes. To me, they are the  
11 same as me - I'm the same as them rather. Don't make  
12 any difference to me. I haven't got a problem about my  
13 colourings. You know, black fella's the same and we  
14 all the same. God made us all the same.

15 XN

16 Q. You mentioned having a move to Mannum.

17 A. Yes.

18 Q. Angas started shearing then.

19 A. No. He worked as a shearer. He used to be shearer and  
20 then worked for Horwood Bagshaws. They make implements.

21 Q. How many years did you live in Mannum.

22 A. Well, Angas worked there for ten years straight and then  
23 they put him off because he had - something went down  
24 into his lungs on the work he did that made his lungs -  
25 he had to retire then and was put on a pension for about  
26 ten years. So, would have been 12, 14 years.

27 Q. Your husband became ill and died in 1982.

28 A. Yes, that's right, yes.

29 Q. Did you stay in Mannum after that.

30 A. Might have been a couple of years, that's all.

31 Q. You then moved to another mission near Berri.

32 A. This is the one here, yes.

33 Q. Gerard.

34 A. Gerard.

35 COMSR

36 Q. When you were living on the riverbanks, were there other  
37 Aboriginals also living near to the river bank; was it a  
38 community situation.

1 A. You mean when travelling, or?

2 Q. Yes travelling and catching fishing and rats.

3 A. No, only just my husband and myself and whatever  
4 children we had - Jenny, mainly Jenny is the only one we  
5 used to take on the boat. Jenny knows all about that.

6 She goes back to that. They live it traditionally.

7 Doreen had never known nothing about that. They were

8 brought up with white people. They don't know.

9 XN

10 Q. You mentioned visiting your step-mother over the years.

11 Did she visit you when you were at Mannum.

12 A. They came up when we used to come up here with fruit  
13 picking, and Angas and I, in them years and around, they

14 came to Renmark once, because I remember we went

15 catching shrimps and yabbies in the creek up there with

16 my dad and my - and granny Auntie Rose.

17 Q. Did your step-mother visit you during the Nildottie

18 years as well.

19 A. No, not - she came to Mannum once. I think my brother -

20 she didn't stay with me, she stayed with my brother. He

21 was living there at the time. Yes, Clyde, yes.

22 Q. In terms of what we might call the Ngarrindjeri

23 community, who would you regard as your elders, women in

24 that community.

25 A. You mean here or?

26 Q. Any Ngarrindjeri women that you knew.

27 A. There is only one lady, she is 80. This is Mrs Janet

28 Kropinyeri. I think at the present time she had a heart

29 attack and is in hospital. She's not been too good

30 lately.

31 Q. And your step-mother.

32 A. And my step-mother, yes there, and Auntie Laurie.

33 Q. That is Laura Kartinyeri.

34 A. Yes. But like its - I said I've met a lot of old women

35 in my time, but most of them are gone now, yes.

36 Q. Did you spent much time with Laura Kartinyeri.

37 A. Yes. Seen her quite often. She used to live at Three

38 Mile. Now, in the statement I put that she used to live

- 1 with my uncle. She had her own place and he had his.  
2 You know, I got a couple of cousins, you know. So I  
3 don't know if it's right for me to say they were living  
4 together and that, and they were my first cousins Nita.  
5 Q. Did Laura Kartinyeri ever discuss with you anything  
6 about women's business or secret women's business.  
7 A. Don't think.  
8 Q. Did she say anything about traditional Aboriginal  
9 values.  
10 A. No.  
11 Q. To you.  
12 A. No.  
13 Q. Did any of the women you regard as your elders ever  
14 suggest anything special about Hindmarsh Island or  
15 secret women's business.  
16 A. No, nothing, no.  
17 Q. When was the first time you heard about that.  
18 A. When this come out late about the Hindmarsh Island and I  
19 saw -  
20 Q. Do you mean in the media, on the TV and in the  
21 newspaper.  
22 A. Yes. I was wondering what they were on about.  
23 Q. Are you saying that you have never heard of it.  
24 A. No.  
25 Q. You agree you never heard of it.  
26 A. Yes, I agree I never heard of it before. And `women's  
27 business', the only - I believe there is some, but not  
28 here, not down our way, not down south this end here  
29 south. You know, up there, up north, where there's a  
30 lot of traditional women up there, I believe they've got  
31 women's business.  
32 COMSR  
33 Q. You mean in the northern parts of Australia.  
34 A. Yes, the northern parts.  
35 Q. The North.  
36 A. Auntie Myra, she calls - Watson. Myra, M-Y-R-A, Watson  
37 she calls, comes down this way and she speaks to me  
38 sometimes about women's things up there, but says there



## M. LINDSAY XN (MS BASHEER)

1 are meetings and that. So I believe they might have it  
2 there, but not never heard nothing down this way.

3 XN

4 Q. When did you first become aware of the women's things in  
5 the north.

6 A. While - I don't know, she used to live here, that old  
7 lady that was before I come here. I seen her here a  
8 long time ago. They come down here, all here and living  
9 here on the mission.

10 Q. Did you hear about the northern women's stuff when you  
11 were growing up, or is that something you knew.

12 A. No.

13 Q. More recently.

14 A. Just only recently here, not when I was growing up, no.

15 Q. I suppose I should ask you this: Are you saying that  
16 you don't know about this women's business down in the  
17 Murray.

18 A. No, I don't know. I haven't heard anybody talking about  
19 it down this way, down - you know, I don't know of any  
20 women's business here. I mean, like on this mission, if  
21 you called that - what do you call it - women's  
22 business, now would that be referring to what they do  
23 here when sometimes they have women's, a woman's group  
24 here, you know, like in a community they have a woman's  
25 group and we have the meetings and discussion what goes  
26 on around here? Is that woman's business? I don't  
27 know.

28 Q. Are you saying that it doesn't exist in the Lower  
29 Murray; that is, women's business.

30 A. Yes. That is what I'm saying, yes. I don't think it  
31 should be called that, you know, like woman's business,  
32 if this, this is what it means, woman's business.

33 Q. In your opinion, if there was some sacred or some secret  
34 women's business in Hindmarsh Island, do you believe  
35 that your step-mother would have known about it.

36 A. No, don't think.

37 Q. Why do you say that.

38 A. Because - I don't know, because she never said anything

## M. LINDSAY XN (MS BASHEER)

1 and supposedly told Doreen. Why would you tell one  
2 person if she had? But then, I don't know if she said  
3 anything to her, my step-sister. But my sister, who was  
4 older than me, she had quite a lot to do too with my  
5 step-mother. She sort of - I think she might have spent  
6 more time with her than I did. She got married on Point  
7 Pearce and lived there; and my step-mother was still  
8 there then.

9 COMSR

10 Q. Doreen would have known your step-mother.

11 A. That's her aunt. That's her mother's sister. Doreen's  
12 aunt, yes. But I can't - like I said, I can't even  
13 remember - might have been because I wasn't there all  
14 the time. I can't remember Doreen ever being there.

15 You know, like my step-mother never spoke about Doreen  
16 to me and never said - I knew it was her niece, that  
17 people tell you, but, you know, mum never made any  
18 special treat of her as anyone special, or anything.

19 Q. Can you remember her visiting your home when you lived  
20 at Point Pearce with your step-mother.

21 A. Doreen?

22 Q. Doreen.

23 A. No. That's what I'm taking - I can't remember her ever  
24 being there. I used to wonder where she was sometimes.  
25 That is how she was born and that must have been when I  
26 was out working, because I'm older than Doreen.

27 XN

28 Q. Did your step-mother ever talk to you about Doreen.

29 A. No.

30 Q. Can you think of any or why your step-mother might tell  
31 Doreen something like secret women's business and not  
32 you.

33 A. No. I only - like I put in the statement, that might be  
34 because she was blood, you know, relative blood. I  
35 don't know, and I wasn't - but I don't know whether - I  
36 don't know.

37 COMSR

38 Q. Did Doreen seem close to your step-mother from what you

## M. LINDSAY XN (MS BASHEER)

1 observed of them.

2 A. No. That's what, I'm - I never - I'd never known Doreen  
3 to be at Point Pearce, if you know what I mean. But she  
4 must have been there some time, because she got married  
5 there. She married one of the boys from Point Pearce  
6 that is a relative of mine too. So we have - from my  
7 mother's side, you know, relative. I don't know whether  
8 she - I don't know whether she had much time there. I  
9 can't say that, you know. I wasn't there at that time,  
10 but I remember the boy was there, but he died young.  
11 Oscar, that was my step-mother's. I know the father.  
12 She used to like him a lot and he was funny and  
13 happy-go-lucky and different to Doreen and not boring  
14 and that.

15 XN

16 Q. Apart from what you have said about blood link, can you  
17 think of any other reason why a person in a Ngarrindjeri  
18 tribe would be selected to be the custodian of secret  
19 information.

20 A. No.

21 Q. Did your step-mother ever talk about any sort of old-  
22 time stories relating to Ngarrindjeri tradition.

23 A. No. But I think she liked - like when she was living  
24 down on the beach, down at Hollywood, three miles from  
25 the mission, when we used to go up there from Nildottie  
26 for the holidays, my husband - Angas I mean, Jenny's  
27 dad, and my dad used to go shooting around the dam and  
28 getting wild duck, and I remember that. We eat those  
29 wild ducks. I mean, the European eat them too if they  
30 can get them. So, we used to - she used to clean. And  
31 I remember really clean everything, don't waste nothing.  
32 And cleaned right down to the sort of near to the wing  
33 that you get to the parts that you cut off. Was right  
34 down there. And a very clean old woman and cooked the  
35 duck up, yes. She makes that a little bit of - you  
36 know, we all got that. I liked that and most of these -  
37 he liked that too, if we can get it, yes. It's quite a  
38 treat for us to go out and get a duck or a fish or

1 something and put it to the coals over the river and  
2 make the dinner for something, yes.

3 XN

4 Q. Did she ever mention the stories about spirituality or  
5 anything like that, Aboriginal spirits or spirituality;  
6 did she talk about anything like that.

7 A. No. I think why? I can't make out why the women are  
8 speaking like that because they've lost out on their  
9 culture, you see, because they lost a lot and they were  
10 put away, might have been, and - I don't know, but they  
11 seemed to get a thing about white people and the  
12 Aborigines, I don't know.

13 Q. What about things like land formation. Often, people  
14 would talk about special significance of land in the  
15 area where they lived. Was there anything special told  
16 to you about Point Pearce.

17 A. No, nothing. We used to live on Wardang Island too, not  
18 only Point Pearce. I think my step - yes, my  
19 step-mother and my dad, I remember, went to school there  
20 for a while and my brother and I, and with all of us,  
21 we'd have to come up to Port Victoria by a launch to get  
22 the goods, groceries and that.

23 Q. Would it be fair to say that your upbringing was quite  
24 westernised.

25 A. Yes, westernised, yes. And also Wallaroo. We went to  
26 school at Wallaroo, too, amongst all the white - you  
27 know, the people.

28 Q. After you left the mission, you were in Adelaide.

29 A. Yes, Adelaide.

30 Q. And your westernised life continued.

31 A. Yes. See, we haven't been brought up with that. That's  
32 all died out and that's over all my years, you know.  
33 I'm over 60.

34 COMSR

35 Q. Have you ever known any Ngarrindjeri person living in  
36 what might be called a traditional style.

37 A. No.

38

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1 XN

2 Q. Did your step-mother, can I say, encourage you to be  
3 westernised or Europeanised.

4 A. Well, she - yes. She didn't say it was wrong to mix  
5 with white people. She didn't - you know, she classed  
6 them as thinking the same as me; you know, saying  
7 nothing different. I mean, she wasn't - what they call  
8 it? How can I call it? Some blackfellas, they say  
9 'What you looking at white ....', you know, the swearing  
10 and that. She never used to say that. She got on too  
11 with a lot of white people. When living at the beach,  
12 they used to have white people going from Adelaide,  
13 policemen and all of that, and friends of my dad and  
14 hers and they were fishing there. And when they'd all  
15 go and fish and bring in the catch in the nets and my  
16 dad used to go out with them. They had a lot to do even  
17 there down on Hollywood, and had a lot to do with white  
18 fellows too. And then I think they went to Adelaide  
19 once and stopped there with my auntie, I had an auntie  
20 that lived in Adelaide, and I am named after her. Her  
21 name was Margaret too. Yes, and I think dad and them  
22 went there for a while.

23 Q. You mentioned Laura Kartinyeri. Did she live a  
24 traditional life in any way.

25 A. No.

26 Q. What did she do for a living when you knew her.

27 A. Well, there was, you know, there was no work around  
28 those times. She used to do the same as us, go - we  
29 used to go and catch turtles too and the little turtles  
30 and sell them and all the fishing and that. She used to  
31 do it down on the Three Mile. My uncle, he was a  
32 shearer here, Uncle Rolly, and he used to shear sheep  
33 when there was shearing on, and when there was not  
34 shearing, he would go with the horse and cart and be  
35 travelling right around up to Karoonda with the horse  
36 and cart setting the traps, and did a lot of rabbit  
37 trapping and all of that.

38 Q. Did your Auntie Laurie work in fruit picking.

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- 1 A. Yes, she done a lot of that. We used to go to Bow Hill  
2 and she used to pick there with us too, yes.
- 3 Q. Was that all Aboriginal fruit pickers, or were there  
4 white fruit pickers as well.
- 5 A. No, white, black fellas there as well.
- 6 Q. I probably have asked you this already: Did Laura  
7 Kartinyeri mention anything about Hindmarsh Island or  
8 secret women's business.
- 9 A. No, nothing, no.
- 10 Q. Did you ever talk to her about private matters about  
11 having children.
- 12 A. No.
- 13 Q. Personal matters.
- 14 A. No. She was one of those mid-wives, Auntie Laurie. No,  
15 I never - I suppose at the time when I couldn't be, you  
16 know, I wasn't pregnant or something, no, never. But I  
17 think she done that down there at Tailem Bend and Murray  
18 Bridge, midwifery, going around.
- 19 Q. You saw her after you had had some of your children,  
20 your own children.
- 21 A. Yes. I saw her, yes, only just recently, before she  
22 died you know.
- 23 Q. Before she died, did she ever discuss anything with you  
24 about childbirth, abortion, anything like that.
- 25 A. No, nothing. I went there - that's right, the last time  
26 I went to her, that's right, just before she died, she -  
27 I went and it was in the night. We were coming through  
28 and I said 'We have to call in and see Nanna Laura as I  
29 don't know when we'll see her again', I said to the boy  
30 that was driving. So we pulled up and went in there and  
31 Nita came to the door, her daughter, and said that Nanna  
32 Laura was asleep, you know, wasn't too well and she was  
33 asleep. That was just - I think I never seen her any  
34 more. She died after that. That was sad, yes.
- 35 Q. I haven't got any more questions for you unless there is  
36 something that you want to tell us. Is there anything  
37 that you think we should know.
- 38 A. So, when you have - you just read the statement out in

## M. LINDSAY XN (MS BASHEER)

1 the court, and does it come on the TV?

2 COMSR: No, not necessarily.

3 MS BASHEER: The media seem to have access to some  
4 parts.

5 COMSR: They may report some parts of it.

6 You're our only witness for today in the Commission. Is  
7 there any part of your statement that you think, for any  
8 reason, you wouldn't like to see reported?

9 MS BASHEER: Perhaps that matter about Nanna Laura  
10 and the cousins.

11 WITNESS: Yes, about that.

12 MS BASHEER: About the two cousins. That might be a  
13 little bit sensitive.

14 WITNESS: About living with my uncle, yes. What I  
15 mean, I don't know if she wants - yes, sort of like I  
16 said. But they might not like it, you know, my cousins.

17 MS BASHEER: You don't want the press to mention  
18 that.

19 WITNESS: She had a big family and they all treat  
20 me as a sister, yes.

21 COMSR: Perhaps I can make an order suppressing  
22 from publication the reference to - who are the names of  
23 the persons?

24 MS BASHEER: I suppose the name Nanna Laura  
25 Kartinyeri shouldn't be - the two cousins were mentioned  
26 as of the association between Laura Kartinyeri and, who  
27 else, the brother Rolly, is it?

28 WITNESS: My dad's brother.

29 MS BASHEER: Is that Rolly?

30 WITNESS: Rowland, and they used to call him  
31 Rolly, yes.

32 MS BASHEER: I suppose any reference to Nanna Laura  
33 Kartinyeri's association with Rolly Kropinyeri and any  
34 off-spring cousins. And 'Laura Kartinyeri' should not  
35 be mentioned in that form. Is that the Nanna Laura, is  
36 that the daughter of Pinkie Mack?

37 COMSR: Is Laura Kartinyeri known as the  
38 daughter of Pinkie Mack?

## M. LINDSAY XN (MS BASHEER)

- 1 WITNESS: That's right, yes.
- 2 MS BASHEER: We should put `daughter of Pinkie Mack'.
- 3 WITNESS: She's got a lot of -
- 4 MS BASHEER: In lieu of `Laura Kartinyeri', because
- 5 of the traditional respect.
- 6 WITNESS: That is where she used to live. That is
- 7 Marunga down near the other side of Tailem Bend down in
- 8 the other side of The Pines. You know, down there.
- 9 Yes, that is where my dad - that is where they tell me.
- 10 I don't know, but my dad never told, but someone
- 11 mentioned some time that my grandfather used to live
- 12 there, Matthew Kropinyeri, and his wife Joanna. My
- 13 grandmother, her name is Joanna - I don't remember that
- 14 - but I know her dad, Joanna's dad was a white man. My
- 15 grandmother's dad was a white man and he married a
- 16 tribal lady from up this way, up near Clare somewhere.
- 17 MS BASHEER: Thanks for seeing us today and have you
- 18 any other questions that you want to ask before we go?
- 19 WITNESS: No. Only just that I mean I didn't say
- 20 anything to, you know, really to discredit anyone, have
- 21 I?
- 22 MS BASHEER: No.
- 23 WITNESS: I mean, Doreen - I love Doreen. What I
- 24 know of her, you know, she was brought up in her, like
- 25 my sister what I knew when we were young. I lost a lot
- 26 of touch with her and she's been on the heritage and I
- 27 think it's gone to her head. You know, something
- 28 happened there and she's let things run away, yes. It's
- 29 sad, you know.
- 30 MS BASHEER: You have expressed your opinion.
- 31 COMSR: If that is the conclusion of the
- 32 evidence, we don't want to tire you too much and we have
- 33 had a fairly solid session.
- 34 WITNESS: And she's also discredited the whole of
- 35 the Aboriginal women; you know, made fools of everyone.
- 36 They think we all think we're all like that, I think.
- 37 ADJOURNED 1.30 P.M. TO THURSDAY, 14 SEPTEMBER 1995 AT
- 38 10.15 A.M. IN GRE BUILDING, GRENFELL STREET, ADELAIDE



1 COMSR STEVENS

2

3

4

5 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

6

7

8 THURSDAY, 14 SEPTEMBER 1995

9

10

11 RESUMING 10.30 A.M.

12 WITNESS C.A. JAMES, EXAMINATION BY MR SMITH CONTINUING

13 MR SMITH: At the outset, I tender the transcript  
14 of the taped conversation between Sarah Milera and  
15 Murray Nichol on the radio on the evening of 7 June 1995  
16 and you have already a tape of that conversation.

17 COMSR: Has that been marked for identification?

18 MR SMITH: I think it has been tendered completely.

19 COMSR: Has it?

20 MR SMITH: Yes, it is Exhibit 127.

21 Do you want to make it part of that exhibit, so it  
22 runs with it?

23 COMSR: I think that would be best, otherwise it  
24 could be a bit misleading.

25 MR SMITH: Or make it Exhibit 127A perhaps?

26 COMSR: Yes, it will be included in Exhibit 127  
27 and marked 'A'.

28 MR SMITH: We had reached the stage of the question  
29 of the admissibility of the tape of the conversation  
30 between Sarah Milera and Colin James on 14 August 1995,  
31 which is marked for identification Exhibit 133.

32 I would just ask the witness a couple more questions  
33 about that matter.

34 XN

35 Q. The device you used to tape record this conversation  
36 with Sarah Milera on 14 August, the telephone  
37 conversation on 14 August 1995, I think you have brought  
38 with you, have you.

1 A. I have.

2 Q. Could you produce it to us.

3 **DEVICE PRODUCED BY WITNESS**

4 Q. You have produced a small suction cap attached to a  
5 wire, which plugs into a tape recorder, is that so.

6 **WITNESS DEMONSTRATES**

7 Q. And the suction caps fixes on to the -

8 A. The handset of a telephone, at the ear.

9 Q. So that, although you are not an expert, it is the case  
10 that there is a microphone or some sort of microphone  
11 device in there, to pick up the voice -

12 A. Yes.

13 Q. Coming in on the telephone.

14 A. I believe that is the case.

15 **MR SMITH:** I don't propose to tender that, but it  
16 is available for people to inspect. So I ask now,  
17 subject to any contrary argument, for the admission of  
18 that tape of the conversation, between Sarah Milera and  
19 Colin James on 14 August, and I have a transcript of  
20 that available, subject to your ruling.

21 I intend just to repeat what I said on Tuesday, that  
22 the Commonwealth Act has no application, because there  
23 is, for 1, no interception within the meaning of the  
24 Telecommunications Interception Act (1979) of the  
25 Commonwealth. And, further, there is the additional  
26 argument, if you like - and I contend that we needn't go  
27 to that - of the fact that there is no third party  
28 interception. But I think you need go no further than  
29 to consider whether it is an interception or not.

30 The authorities dealing with that would contend  
31 that, where audible speech is recorded by some device,  
32 there is then no, to use the words of the Act, no  
33 intrusion into the telecommunications system in the  
34 sense of picking up any electrical currents or energy  
35 before that is converted into audible speech.

36 So, to the extent that the South Australian Act  
37 survives for consideration, I contend that, when you  
38 move to that, certainly there is ostensibly no consent

## C.A. JAMES XN (MR SMITH)

1 by Sarah Milera. Therefore, you move to a consideration  
2 of s.7 of the Listening Devices Act (1972) of South  
3 Australia. S.7 permits you to admit such evidence, such  
4 a recording obtained without consent, if, in your  
5 discretion, you consider it is in the lawful interests  
6 of the person wishing to communicate that information,  
7 or it is in the public interest, or both.

8 I contend that it is both. So, that is my  
9 application.

10 COMSR: As no-one wishes to be heard in argument  
11 on this matter: it appears to me that this is not a  
12 situation where the Commonwealth Act applies, as there  
13 is no interception and, in so far as it is necessary for  
14 me to exercise my discretion, under the State Listening  
15 Devices Act, I would do so, to enable the evidence to be  
16 given and I will deliver my reasons later.

17 MR SMITH: In that event, then, I tender the  
18 transcript of the taped conversation between Sarah  
19 Milera and Colin James, on 14 August 1995. And  
20 therefore that completes the admission of Exhibit 133  
21 and I suggest that the transcript be marked Exhibit  
22 133A.

23 COMSR: The transcript of the tape will be  
24 admitted and form part of Exhibit 133 and will be marked  
25 'A'.

26 MR ABBOTT: Could I just mention one matter?  
27 I am not asking that there be any restriction placed  
28 on that and I understand the media will be obtaining a  
29 copy of this transcript, forthwith.

30 MR SMITH: Yes.

31 MR ABBOTT: That being so, I should make one thing  
32 quite clear and, again, I stress I am not asking that  
33 this be suppressed or altered.

34 Sarah Milera, on more than one occasion, makes the  
35 astonishing allegation that my clients, the ladies whom  
36 I have the honor to represent, are somehow in receipt of  
37 money.

38 That is is about the same standard as most of the

## C.A. JAMES XN (MR SMITH)

- 1 allegations that she makes and I tell you it has  
2 absolutely no substance whatsoever and, if anyone wants  
3 to print the relevant parts or publish the relevant  
4 parts of the Sarah Milera transcript which deals with  
5 this claim by her, I ask that they also print what I  
6 have just said. Namely, that the allegation is entirely  
7 unfounded and untrue.
- 8 COMSR: All right.
- 9 MR MEYER: Can I put that we don't play the tape?
- 10 COMSR: I have received the transcript into  
11 evidence.
- 12 MR MEYER: We have had a brief discussion between  
13 at least some of the counsel and suggest that, if your  
14 Honour wishes to listen to the tape -
- 15 MR ABBOTT: I apprehend that you will need to listen  
16 to it, because it is what you will hear that is the  
17 evidence, as I have said before. I am not asking and I  
18 don't think any other counsel are asking that you listen  
19 to it in our presence. So, it can be done at your  
20 leisure.
- 21 COMSR: That sounds a more convenient way, so we  
22 can press ahead.
- 23 MR SMITH: If that is the unanimous view, then I  
24 don't urge that it be played now.
- 25 XN
- 26 Q. I think there are a couple of matters that you want to  
27 draw the Inquiry's attention to. First of all, in your  
28 article, which is attachment 106 of Exhibit 105  
29 concerning Jenny Grace, I think you made an error in  
30 that article that you wouldn't like to remain on the  
31 record, is that the position.
- 32 A. That's correct.
- 33 Q. Have you got a copy of that article, 'River woman joins  
34 secrets rebellion', an article written by you and  
35 published on 8 July 1995.
- 36 A. Yes.
- 37 Q. There is an error in that that you would like to draw  
38 the Inquiry's attention to.

- 1 A. Yes, I would like to correct the name of a woman in that  
2 story by the name of Rocky Kropinyeri. It is actually  
3 Rocky Koolmatric.
- 4 Q. Can you locate that for us.
- 5 A. It was in the - I think, from memory, the third column.
- 6 Q. The second column.
- 7 A. The second column. It quotes her as being Mrs Milera's  
8 - 'One woman, Ms Rocky Kropinyeri'. It should actually  
9 be Ms Rocky Koolmatric.
- 10 Q. I think you were asked, with no preparation for the  
11 question, I think, to identify some people shown in the  
12 protest, the photograph taken of the protest, which I  
13 think is attachment 33 and you told us that Ben Carslake  
14 was one of the people being manhandled in the  
15 photograph, is that right.
- 16 A. That's correct.
- 17 Q. The smaller man, with the bald head.
- 18 A. Yes.
- 19 Q. I think you have searched the records of The Advertiser,  
20 photographs, etc., and you want to change that evidence,  
21 do you.
- 22 A. Yes, that man bears no resemblance to the Ben Carslake  
23 in the pictorial library at the Advertiser. I don't  
24 know who he is.
- 25 MR MEYER: I can verify it doesn't look like Mr  
26 Carslake to me. I know Mr Carslake. I don't know who  
27 it is. I am told it is a Mr O'Malley, if that assists  
28 anyone.
- 29 XN
- 30 Q. Whilst there was some debate here in the Inquiry  
31 concerning the Rocky Marshall incident and the  
32 confrontation between Rocky Marshall and the women in, I  
33 think, May of 1994 -
- 34 A. June.
- 35 Q. June 1994.
- 36 A. 19 June 1994. A Sunday. About lunchtime.
- 37 Q. You told us that Sarah Milera had told you that it was a  
38 pantomime, put on.

- 1 A. That's correct.
- 2 Q. But can you tell us when that conversation took place.
- 3 A. That was in the untaped part of the discussion that I
- 4 had with Mrs Milera in the presence of Mrs Grace and Mrs
- 5 Wilson on 10 July, this year.
- 6 Q. I take you to another topic altogether, that is, you
- 7 were aware of the suggestion that death threats had been
- 8 made against some of the dissident ladies.
- 9 A. Yes, I was.
- 10 Q. Concerning their stance. Did you, as an investigative
- 11 journalist, speak to people about that.
- 12 A. Yes, I did. Some weeks before death threats were
- 13 broadcast on television, yes.
- 14 Q. Who did you speak to.
- 15 A. I received a telephone call from Mr Alan Chirpy Campbell
- 16 outlining the death threats, intimidation and pressure
- 17 that was being brought to bear on dissident women.
- 18 Q. Did you follow that up, by having conversations with
- 19 other people in connection with it.
- 20 A. Yes, I did.
- 21 Q. Can you tell us who you spoke to.
- 22 A. I telephoned Mr Alan Clarke, the son of Sarah Milera,
- 23 who lives at Murray Bridge, which is effectively the
- 24 power base of this issue.
- 25 Q. When was that.
- 26 A. On 21 June 1995.
- 27 Q. Again, did you make notes of that conversation.
- 28 A. I have.
- 29 Q. Could you tell us what was said.
- 30 A. I asked Mr Clarke if there was any truth in the rumours
- 31 then circulating quite widely within the Aboriginal
- 32 community that some of the women involved in promoting
- 33 the women's business had gone to Central Australia and,
- 34 more specifically, the Pitjantjatjara lands to get a
- 35 Kadaicha man or woman to come down and sing some of the
- 36 dissident women to death.
- 37 Q. What was Mr Clarke's response.
- 38 A. He confirmed that some women involved in the women's

1 business had gone to Central Australia.

2 Q. Anything more than that.

3 A. Yes, he actually down-played the allegation of singing  
4 to death and curses. He said that it was nothing along  
5 those lines. That the women who had gone from Adelaide  
6 had only gone up there as a result of a telephone call  
7 made by Mr Campbell to them threatening to sue them if  
8 they came down to Adelaide and joined in the issue here.

9 Q. Anything more said by Mr Clarke about that topic.

10 A. Yes, if I perhaps take you through my notes. I have  
11 here that he said `Nothing along the lines of putting  
12 curses on them. They were a bit worried about getting  
13 sued. There was a bit of talk about someone coming down  
14 here and putting curses on. I have got the impression  
15 from the women down here that there is nothing in it,  
16 but there was a meeting which raised a question of going  
17 up to support them', and that means the Pitjantjatjara  
18 women. `In the early stages with mum', which is Mrs  
19 Sarah Milera, `and Alan Campbell, there were tribal  
20 threats between each other, or the pair of them. The  
21 women and the men from here have met to discuss it, but  
22 there is no way they could come down here, if they  
23 didn't have the permission of the women here.' And I  
24 took this to be a reference to tribal boundaries and  
25 aboriginality. `They were going up to say to a group  
26 of women who were being rung by Campbell that they  
27 weren't going to be sued.' I asked who had gone up and  
28 he gave me the name of Doreen Kartinyeri and Sandra  
29 Saunders and a group of women who travelled up in a  
30 minibus. I said `Well, what about these curses and all  
31 this talk about singing people to death?' And he said  
32 `Well, things were said along those lines, but there is  
33 a lot of different views on a lot of different things.  
34 They all know what I think on the whole issue.' He then  
35 told me that Mr and Mrs Milera were in Adelaide and I  
36 put to him directly the allegation which was then  
37 circulating within the Aboriginal community that a woman  
38 who is now deceased, Nanna Laura, had actually been sung

1 to death. There was some talk that that is what had  
2 occurred. He said `No that's nonsense, it was just  
3 natural causes.' He then repeated the claim that Chirpy  
4 Campbell rang the woman and said he was going to sue  
5 them if they came down here and attempted any sorcery or  
6 curses or anything like that down here in Adelaide.

7 Q. You continued after June of 1995, of course, to write  
8 articles concerning this matter, didn't you.

9 A. Yes, I did.

10 Q. Did you, despite the evidence you have given about the  
11 way you were treated at the ALRM, did you continue to  
12 attempt to get, if you like, information from ALRM to  
13 use in stories concerning the Hindmarsh Island bridge  
14 dispute.

15 A. Not directly. The only time I telephoned ALRM was on a  
16 couple of occasions. I basically left it to other  
17 reporters at the Advertiser to deal with Legal Rights.  
18 They made it quite obvious last year that they didn't  
19 want to deal with me. I continued to try. I have  
20 looked at my phone message records and I do have some  
21 telephone calls from Mr Wooley, up until about February  
22 this year. And then they ceased, as a result of a  
23 couple of legal letters which were exchanged between  
24 myself and Mr Wooley and Legal Rights.

25 CONTINUED



- 1 Q. Katrina Power, is that a name known to you.  
2 A. Yes, it is.  
3 Q. Who is Katrina Power.  
4 A. Katrina Power is an Aboriginal woman who is probably  
5 four to five years younger than I am, who used to work  
6 at the 'Advertiser'.  
7 Q. Does Katrina Power work at ALRM.  
8 A. Not full-time, I doubt.  
9 Q. Do you have contact with her at ALRM.  
10 A. As a - from what I can understand with Katrina Power is  
11 that she left the 'Advertiser' some 4 to 5 years ago.  
12 She has had several children since. She moved into  
13 Aboriginal Affairs as a public relations consultant, and  
14 at a meeting with Mr Wooley in January, I suggested to  
15 him that Legal Rights needed to do something about its  
16 media awareness and its treatment of the media and its  
17 ability to communicate with the media, and I think  
18 subsequent to that Katrina was brought in as an in-house  
19 PR person. I have seen Katrina twice now and asked her  
20 to talk to me to arrange a meeting to resolve whatever  
21 issues there are between us and Legal Rights. I have  
22 also spoken to her on the telephone about this and to no  
23 avail.  
24 Q. In the course of time of meeting with people such as  
25 Richard Owen from the Friends of Kumarangk and people  
26 like that, you have picked up literature relating to the  
27 Hindmarsh Island Bridge dispute, have you not.  
28 A. Yes, I have.  
29 Q. Looking at this document produced to you headed 'The  
30 Ngarrindjeri, trespassers in their own land' do you  
31 recognise that.  
32 A. Yes, I do.  
33 Q. That comes from your papers, doesn't it.  
34 A. Yes, it does. It is from my files.  
35 Q. Where did you collect that.  
36 A. I picked it up at the Womadelaide Music Festival.  
37 Q. That document features, if you like, a pictorial aerial

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1 shot of the Hindmarsh Island, Goolwa, the lakes area,  
2 does it not.

3 A. Yes, it does.

4 Q. It is a document produced, according to its face, by the  
5 CFMEU, the Conservation Council, the Environmentalist  
6 and Aborigines Reconciliations Action Group, the Friends  
7 of Goolwa and Kumarangk, Green Peace, the Lower Murray  
8 Aboriginal Heritage Committee, the South Coast Peace and  
9 Environment Group, and Urban Ecology Australia Inc.

10 A. Yes. It was a pamphlet produced, in some quantity, at  
11 Womad. I hazard a guess, probably thousands of them  
12 were printed to support a petition which was being  
13 gathered within the music festival supporting the  
14 Ngarrindjeri women proposing the women's business.

15 MR SMITH: I seek to tender that.

16 COMSR: What is the purpose of it?

17 MR SMITH: It just features, amongst other things,  
18 an aerial picture, if you like, of the Hindmarsh Island  
19 area. It is relevant to that, albeit, peripheral. It  
20 is fleetingly relevant, but it is a matter which you  
21 should receive because some people at the bar table may  
22 want to make something of that because of the fact, for  
23 instance, that there is now presumably a sensitivity to  
24 publication of that sort of pictorial representation of  
25 the area. Something might be made of that or not be  
26 made of that.

27 MR ABBOTT

28 Q. What is the date of Womadelaide.

29 A. I think it was about February.

30 Q. 1995.

31 A. Yes, this year.

32 EXHIBIT 135 Pamphlet headed 'The Ngarrindjeri,  
33 Trespassers in their own land' tendered  
34 by Mr Smith. Admitted.

35 XN

36 Q. Looking at this document produced to you, do you  
37 recognise that.

38 A. Yes, I do.

- 1 Q. It is a document headed 'The meaning of Meewee'.  
2 A. Yes.  
3 Q. Again, it is some sort of leaflet document.  
4 A. It is - yes, it was a two-sided A4 leaflet.  
5 Q. Where did you collect that from.  
6 A. It was Sellotaped to the cash register of the coffee  
7 shop where I have my morning coffee.  
8 Q. That coffee shop is where.  
9 A. Behind the Adelaide Town Hall, it is called Arnie's.  
10 Q. Called Arnie's.  
11 A. Arnie's.  
12 Q. At that coffee shop, did you from time to time meet with  
13 people who were associated with the Hindmarsh Island  
14 Bridge dispute there.  
15 A. Yes, several times.  
16 Q. Who did you meet with there.  
17 A. My last meeting there was with Mr Richard Owen, Margaret  
18 Bolster, David Thomason and myself.  
19 Q. I think you collected one of these leaflets from the  
20 cash register there at Arnie's. Is that right.  
21 A. Yes, I did, but I have no idea who put it on the cash  
22 register.  
23 Q. Again, have you any idea when you collected that.  
24 A. Only in the past month. It was getting quite old by the  
25 time I peeled it off the cash register.  
26 Q. You see there in the left-hand margin there is a date 22  
27 May 1994 and some handwriting.  
28 A. Yes.  
29 Q. Was that on it when you collected it.  
30 A. Yes, it was.  
31 Q. You don't recognise that writing.  
32 A. No, I don't. I only recognise the name Rankine.  
33 Q. The name Rankine.  
34 A. Yes, here (INDICATES), as a name I became familiar with  
35 down at Hindmarsh Island.  
36 Q. That document talks about some power of life matter,  
37 doesn't it.

RF 30B

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XXN (MR KENNY)

- 1 A. Yes. It talks about the centre of power and the  
2 Ngarrindjeri being behind the diaphragm.  
3 Q. It also features, again, a pictorial map of Goolwa, the  
4 islands and the lakes surrounding it.  
5 A. Yes.  
6 MR SMITH: I tender that and I acknowledge that  
7 that again has peripheral relevance.  
8 COMSR: This is being tendered to show what was  
9 in the public arena at that time?  
10 MR SMITH: Yes, from our point of view it is, but  
11 this is a matter that may interest anthropologists in  
12 that leaflet.  
13 MR ABBOTT: Could my learned friend ask whether the  
14 witness has heard of or knows the person who alleged,  
15 developed and researched this item? It says Caitlin  
16 Houlihan or something like that.  
17 WITNESS: I have never heard of her before, until  
18 I saw that document.  
19 COMSR  
20 Q. You don't know whether this was a one-off, as it were,  
21 pamphlet or whether there was several pamphlets  
22 available then for distribution.  
23 A. No, I don't. All I can say is that the Kumarangk  
24 coalition was producing regular newsletters from their  
25 headquarters at Halifax Street. I assume that's where  
26 it came from. It is only an assumption.  
27 Q. But, in any event, from what you have said, it was  
28 available for inspection by the patrons of the -  
29 A. Anyone could look at it, including the aerial  
30 illustration.  
31 EXHIBIT 136 Pamphlet headed 'The meaning of meewee,  
32 Kumarangk' tendered by Mr Smith.  
33 Admitted.  
34 CROSS-EXAMINATION BY MR KENNY  
35 Q. You were talking to us about Chirpy Campbell. If I  
36 understand you correctly, what you were actually saying  
37 was that it was Chirpy Campbell who was ringing people  
38 up and threatening to sue them if they - and I

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1 understand that you mean the Pitjantjatjara women - came  
2 down here.

3 A. That's correct.

4 COMSR

5 Q. Did you say if they came down here without the  
6 permission of the women.

7 A. Yes, and the men down here. From what I you can  
8 understand, when I talked to anthropologists about this  
9 particular issue, they explained to me that aborigines  
10 aren't allowed to cross into other tribal areas without  
11 the permission of that tribe.

12 XXN

13 Q. But from your conversation with Alan Clarke, you didn't  
14 understand that anyone had actually come down here with  
15 that intent at all, did you.

16 A. No, I didn't.

17 Q. The first mention you had of any death threats in fact  
18 came from Allan Campbell when he telephoned you to tell  
19 you about them, is that correct.

20 A. That's correct, about three weeks previously.

21 Q. Earlier you had given us evidence that Sarah Milera had  
22 spoken to you about Chirpy Campbell causing trouble or  
23 something along those lines, I forget the exact wording  
24 of it, in one of your telephone conversations with her.

25 A. That was on the telephone conversation and also in  
26 person.

27 Q. Did she ever say what Chirpy had been doing.

28 A. It was only basically gathering these signatures for a  
29 petition, but Mr Campbell, from my recollection, had  
30 been involved in this issue since about August last  
31 year.

32 Q. But Sarah didn't tell you, apart from the petition, what  
33 Mr Campbell had been doing that was causing her  
34 difficulties, is that correct.

35 A. I think he had been making some public statements.

36 COMSR

37 Q. Did she say that or is that a surmise on your part.

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- 1 A. I would have to refer back to my notes, but I think it  
2 is a surmise at this stage.
- 3 Q. If you wish to refer back to your notes, do so.
- 4 A. On Tuesday I provided a telephone message, which I don't  
5 know if it was tendered, which actually was a telephone  
6 message from Mrs Milera asking me to contact her. This  
7 one here (INDICATES), which says `Sarah Milera rang,  
8 wishes to speak urgently. Allan Campbell getting 100  
9 signatures to present to Armitage'. I will leave it at  
10 that.
- 11 XXN
- 12 Q. Do you know if Mr Campbell ever gathered those 100  
13 signatures.
- 14 A. I never saw the actual petition. He told me it had  
15 already gone to Dr Armitage.
- 16 Q. Where did you first meet Mr Campbell.
- 17 A. In a coffee shop called the Manna Cafe.
- 18 Q. Who invited you there.
- 19 A. Mr and Mrs Chapman.
- 20 Q. Did you make notes of that conversation.
- 21 A. Yes, I did.
- 22 COMSR
- 23 Q. Did you make them at the time.
- 24 A. Yes, I did.
- 25 XXN
- 26 Q. Are they shorthand notes.
- 27 A. Yes, they are. Do you want them?
- 28 Q. Yes, if you have them. You have those notes.
- 29 A. Yes, I do.
- 30 Q. Can you recall the conversation without referring to  
31 those notes.
- 32 A. The thrust of it, yes.
- 33 Q. Can you remember it in detail.
- 34 A. Yes.
- 35 MR MEYER: We have got no objection to reference to  
36 notes.
- 37 XXN
- 38 Q. Tell us what was said at that meeting.

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1 A. Do you want me to take you through it?

2 Q. Certainly.

3 A. Mr and Mrs Chapman contacted me in the afternoon of that  
4 day, it was a Friday. I haven't got a date on these  
5 notes. They told me that Mr Campbell had come from  
6 Sydney, and they believed that he had something  
7 interesting to say which I should listen to. They  
8 wanted - that happened that day and they drove up from  
9 Hindmarsh Island to the 'Advertiser'. Mr Campbell was  
10 in the company of another Aboriginal man, who I believe  
11 was his brother, from memory. They asked if I could buy  
12 them a coffee. I took them to the Manna Cafe, where we  
13 sat at a table, and I let Mr Campbell speak, and asked  
14 him a few questions. He told me he was Allan Campbell,  
15 that he was originally from South Australia. He then  
16 said that the way they went around the process of the  
17 Aboriginal way and dealing with the issue was wrong.  
18 The general thrust of this whole conversation was Mr  
19 Campbell disputed the validity of the people proposing  
20 the women's business, and said he hadn't been consulted  
21 and he was very upset, and that he was one of the last  
22 remaining descendants from Hindmarsh Island. I haven't  
23 looked at these notes since that time last year, so I  
24 will just read what they say, shall I?

25 Q. Certainly.

26 A. 'If they were fair dinkum they would sit back, proper  
27 way they have never done. Did not involve people that  
28 descended from the island. What we are saying is how  
29 come Robert Tickner, throughout 25 years, on what  
30 grounds did he approve the decision? If these people do  
31 not consult - even consult the right custodian then the  
32 report by Professor Saunders is invalid. The procedure  
33 that they went around did not involve the rightful  
34 people. I am the elder of the area. That Val Power put  
35 in a claim. They are a bunch of women running around  
36 like chooks on heat, claim jumping. If that was our  
37 tribal way they would be speared to death for their  
38 actions. We thought it was a bad enough that' - I've

## C.A. JAMES XXN (MR KENNY)

1 got `what may invented our country' no `that white man  
2 invaded our country. They would have to get again the  
3 same thing - now we are putting up with the same thing  
4 from our people, claim jumping. He said it was improper  
5 and indecent and invalid. When you look at the woman  
6 thing, all of that did not match. When you look at  
7 Aboriginal culture and spiritual ways, the Aboriginal  
8 ways and allow the Aboriginal tribal community ways,  
9 nothing matches. If it was a woman thing, that whole  
10 island would be taboo for all tribes and there would be  
11 no tribes living there. If there were a woman thing,  
12 there would be no tribe living there ever. It would be  
13 a place that nobody could live, eat, cook or disturb  
14 sand, because it's a woman's privacy. An old elder  
15 woman had never heard of anything. The elder women are  
16 wild because these people have claim jumped another  
17 tribe. They are saying they can't do that because it is  
18 wrong. It really says a lot about Robert Tickner if he  
19 is going to accept that proposal. People like  
20 Sandra Saunders, Val Power and Sarah Milera will - '  
21 COMSR: I don't want to interrupt, but it seems  
22 to me that, given the nature of the Terms of Reference,  
23 that the inquiry is to be conducted without anything  
24 that prejudices the Federal Court matter and that  
25 directly goes, of course, to how the -  
26 CONTINUED



## C.A. JAMES XXN (MR KENNY)

- 1 MR KENNY: Certainly to a certain degree, I'm  
2 looking at some of the things Mr Campbell said. I would  
3 suggest, or will suggest, that is completely off track  
4 and totally irrelevant. The difficulty we have is that  
5 they are some shorthand - the witness's shorthand. I  
6 don't read shorthand, but I would be happy to read the  
7 notes at some stage and ask questions about it. I have  
8 no idea what the witness is going to say.
- 9 COMSR: It would be inconsistent, I apprehend,  
10 for me to receive any evidence that goes to the manner  
11 in which Mr Tickner dealt with this matter.
- 12 MR KENNY: All I can say is I don't know where this  
13 is leading. That is obviously quite rambling and is  
14 covering a wide area, and I agree that there may be  
15 issues that do come up that cause you some concern.
- 16 MR ABBOTT: Isn't the best way for us to hear it and  
17 you can determine what in fact you don't receive? I  
18 would have thought that Mr Campbell's musings as to how  
19 Mr Tickner might or might not have acted are of little  
20 weight.
- 21 COMSR: They may be of little weight.
- 22 MR ABBOTT: And don't transgress the terms of your  
23 reference.
- 24 COMSR: It is a little difficult for Mr Kenny to  
25 know what may or may not transgress the evidence.
- 26 MR SMITH: You can. It's conceded and was conceded  
27 by Dr Griffith here on the opening day of the Commission  
28 that you are permitted to traverse the same subject  
29 matter, but it's inevitable that this sort of thing will  
30 happen. It's just an acknowledgement; that it doesn't  
31 help you in your Terms of Reference.
- 32 MR KENNY: Perhaps I can solve the matter for you  
33 and simply ask some general questions rather than to ask  
34 for the entire statement to be read.
- 35 XXN  
36 Q. Did Mr Campbell ever say what his relationship to the  
37 Chapmans was.  
38 A. No.

1 Q. Was any reason given for the introduction of Mr Chapman  
2 to you.

3 A. Mr Campbell.

4 Q. Mr Campbell, sorry.

5 A. Not really, no. He said that the Chapmans felt that he  
6 had something very interesting to say which went to the  
7 heart of what they were claiming at the time. That  
8 there had been inadequate consultation by Mr Tickner.

9 Q. Did Mr Campbell talk to you about the development on  
10 Hindmarsh Island. Did Mr Campbell talk to you about the  
11 development.

12 A. The development per se, or the marina in particular?

13 Q. Or either.

14 A. No.

15 Q. The marina in particular.

16 A. No.

17 Q. Whether he had any expectations that any Aboriginal  
18 museum should be built there.

19 A. Not at all.

20 Q. I take it that after inspecting the Advertiser records,  
21 you decided that you wouldn't run any story in relation  
22 to Mr Campbell; is that correct.

23 A. Yes. There was a pending Federal Court judicial review,  
24 and after running a computer search on Mr Campbell's  
25 name and making enquiries from people who were familiar  
26 with Aboriginal affairs inside the paper, I took the  
27 decision that if he was going to make any claim, I would  
28 wait until they were made in court where I would have  
29 the privilege to report them.

30 Q. I take it from that that you had no other evidence to  
31 support some of his more outrageous claims.

32 A. I had no way of checking the genealogy for a start. I  
33 had no way of verifying if he was who he was. And his  
34 claims went into a general collation of material which I  
35 was then gathering.

36 Q. You also spoke about a box of documents that was  
37 received at the Advertiser from Ian McLachlan.

38 A. I don't know if they came from Ian McLachlan.

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- 1 Q. You received a box of documents at the Advertiser  
2 relating to Hindmarsh Island; is that correct.
- 3 A. That's correct.
- 4 Q. Did you ever have a look at that box of documents.
- 5 A. I had a very cursory glance. I put my hand inside the  
6 box. I picked up the bottom document and let my hand  
7 drop so the documents flicked as I was going through the  
8 box. I never took the documents out of the box. I put  
9 the lid back on the box when I realised it was  
10 effectively the entire file of Mr Robert Tickner on the  
11 bridge issue.
- 12 Q. I think you, in one of your articles, said that boxes of  
13 documents had also been sent to other parties as well.
- 14 A. I was on the understanding that there were more boxes.  
15 It turned out to be only two boxes.
- 16 Q. Which two were they.
- 17 A. My box and a box sent to an Adelaide law firm.
- 18 Q. That box of documents appeared to you to be a fairly  
19 complete file of Mr Tickner's documentation.
- 20 A. Having spent a month covering the judicial review, being  
21 fairly familiar with the material which was presented  
22 during that hearing, yes, it did. Seemed to be a fairly  
23 comprehensive file, to me, of Mr Tickner pertaining to  
24 the Hindmarsh Island bridge.
- 25 Q. Did you notice any of the documents in there that may  
26 have been considered restricted documents in terms of -
- 27 OBJECTION Mr Short objects.
- 28 MR SHORT: I object to the line of questioning  
29 being pursued. It appears to go to information which  
30 will not assist you in determining whether or not there  
31 is a fabrication and which may intrude into the matters  
32 which might be raised as issues in other places.
- 33 COMSR: That is my concern, given the Terms of  
34 Reference.
- 35 MR KENNY: I have only one more question and that  
36 is: Did the witness see anything that may have indicated  
37 to him that the documents or the box included documents  
38 that may have been included in the secret envelopes.

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1 Perhaps that is a rambling way of putting it. Was there  
2 anything to indicate that there were secret documents in  
3 that.

4 OBJECTION Mr Short objects.

5 MR SHORT: I raise the same objection. What if he  
6 did see such documents? That will have no assistance to  
7 you at all in determining whether or not you can reach a  
8 conclusion about the matters you are here to inquire  
9 into. So, I pursue that objection.

10 COMSR: It might, of course, if he read them and  
11 was in a position to give the contents of them, that  
12 would go to the heart of what was before me. Perhaps we  
13 can -

14 MR SMITH: That would be wonderful, wouldn't it.

15 MR KENNY: To clarify the point. There are two  
16 points on these documents. It may be safe to make an  
17 assumption they were probably identical, and that may be  
18 the subject of some later evidence. I want to know what  
19 this witness's views were and what was in that box, so  
20 that it may be relevant to the later witnesses.

21 COMSR: I'm wondering, the point has been taken  
22 of what relevance is it to the Terms of Reference before  
23 me.

24 MR KENNY: Perhaps I could simply say it may be  
25 relevant to other witnesses whom I would expect to be  
26 called before you in the examination or  
27 cross-examination of those witnesses. This witness can  
28 tell us whether there was restrictive information in  
29 those boxes.

30 MR MEYER: Why doesn't my friend ask this question:  
31 Have you seen or read the contents of the secret  
32 envelopes. That avoids all of the other issues and  
33 drives right at the point.

34 COMSR: That would be the relevant issue.

35 MR KENNY: Well, the witness said he hasn't read  
36 what was in the box. What I want to know is, perhaps,  
37 did he think that some of the -

38 COMSR: No, Mr Kenny.

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- 1 MR MEYER: I tried to be helpful to suggest what to  
2 ask. What he may or may not have thought is not going  
3 to help anybody.
- 4 XXN
- 5 Q. Did you see anything in the box that appeared to you,  
6 may have been restricted documentation.
- 7 OBJECTION Mr Short objects.
- 8 MR SHORT: That is the very question I objected to  
9 last time. If my friend wants to take up Mr Meyer's  
10 suggestion, that is well and good, otherwise there is no  
11 point -
- 12 MR KENNY: The witness told you that he didn't read  
13 it. What I suggest is that he may have seen a document  
14 headed 'Confidential. Women's Information'.
- 15 COMSR: How will that assist me?
- 16 MR KENNY: It may assist you if other witnesses say  
17 they did or didn't see it or it was or wasn't in the box  
18 of documents. I am trying to anticipate what other  
19 witnesses may say. That seems to be relevant.
- 20 COMSR: If you just anticipate what the people  
21 that you are appearing for might say, that might  
22 restrict the line of cross-examination. Are you putting  
23 a question?
- 24 MR KENNY: I was waiting on a ruling. Perhaps I  
25 can try to rephrase it.
- 26 COMSR: On the face of it I can't see any  
27 relevance to what I have to determine. You have some  
28 instructions from your clients as to some particular  
29 matter. Perhaps you might like to frame the question to  
30 the witness.
- 31 XXN
- 32 Q. Were any - did any of the documents you noticed in that  
33 box marked 'Confidential'.
- 34 OBJECTION Mr Short objects.
- 35 MR SHORT: What if they were? It has absolutely  
36 no relevance. The only matter that you could indicate  
37 that could possibly matter is whether or not he read the  
38 secret envelopes, if they were there, and read the

- 1 envelopes.  
2 COMSR: Perhaps if I ask a question and clear up  
3 this matter.  
4 Q. Did you see the contents of any secret envelopes.  
5 A. No, I didn't. The material inside the box did not  
6 include the secret envelopes. I actually have a list of  
7 the material inside the box here.  
8 XXN  
9 Q. You have a list of the material in there.  
10 A. Yes, I do.  
11 Q. Who was that prepared by.  
12 A. Aboriginal Legal Rights.  
13 Q. They provided you with a copy of it.  
14 A. It's a copy of the letter sent to the Minister.  
15 Q. Could I have a look at that letter please.  
16 A. Certainly.  
17 LETTER PRODUCED TO COUNSEL  
18 Q. Perhaps turning to another topic. The meeting of 10  
19 July 1995 at the flat at Gilberton.  
20 A. Yes.  
21 Q. After you turned the tape recorder off there, did you  
22 continue to take any notes.  
23 A. No.  
24 Q. That was shortly before your telephone conversation on  
25 14 August 1995 with Sarah Milera. During that  
26 conversation at p.32 of the transcript, you said,  
27 amongst other things, that essentially you would say  
28 that Sarah - and if I could read a couple of lines from  
29 the middle of that paragraph: `Stands by the fact that  
30 there is an important sacred area to her and there is  
31 genuine women's business there'. I understand that is  
32 what you said to -  
33 A. I would like to see the transcript.  
34 Q. Looking at Exhibit 133(a) produced, and in particular at  
35 p.32, the middle paragraph, marked `CJ'.  
36 A. Yes, that's correct.  
37 Q. Essentially, there you are summarising what she had said  
38 to you over the last 18 months; and that is consistently

1 that there was genuine women's business in relation to  
2 Hindmarsh Island and the bridge area.

3 A. To a point. She also told me that the fertility and the  
4 link of the island to the mainland was nonsense.

5 Q. That was reported earlier in one one of your articles.

6 A. That's correct. I think the easiest way to say it is  
7 that 90% of it was genuine and 10% of it was nonsense;  
8 and that's particularly the bit about fertility and the  
9 linking of the island to the mainland.

10 Q. They were really the only bits, as understand it, that  
11 she says were nonsense.

12 A. Well, they are, but they are fairly critical bits. If  
13 you read the Saunders' report, that is why Mr Tickner  
14 stopped the bridge.

15 COMSR

16 Q. As distinct from women's business when she said there's  
17 90% of it, did she indicate whether that was secret  
18 women's business or women's business that was generally  
19 known to the Ngarrindjeri women. She didn't make a  
20 definition. She always comes back to the archaeological  
21 significance of the area paramount and foremost.

22 Q. When she was talking about what was the 90%, that is a  
23 reference to the archaeological -

24 A. That is my summation. That there was the archaeological  
25 and also the spiritual events which had occurred to her  
26 personally.

27 Q. That was the 90%.

28 A. That's the 90%, and the indication to her the spiritual  
29 event which occurred to her was evidence of the  
30 spirituality of the area, but that she always said that  
31 the women from Adelaide took it too far by started to  
32 adds bit and pieces, such as the fertility claim.

33 XXN

34 Q. As far as you know, Sarah Milera didn't know what was  
35 was in the secret envelopes.

36 A. She told me she didn't, no.

37 Q. It's quite possible that the information, the secret  
38 envelopes may contain information other than the

1 question of linking the island and the mainland and the  
2 questions of fertility, isn't it.

3 A. Well, I can't even conject what is inside those secret  
4 envelopes.

5 Q. If we can go to the conversation you had on 10 July.  
6 You told us that you had about a 90 minute, I think,  
7 conversation after you turned off the tape.

8 A. That's correct.

9 Q. During that period of time, did Dorothy Wilson ever say  
10 to you specifically what parts she believed were of  
11 fabrication.

12 A. Not to my recollection, no. The discussion was  
13 basically more centred on Sarah throughout that evening.

14 Q. During that discussion, I take it that she essentially  
15 has maintained the position you have earlier described  
16 where she says part of the information was fabricated;  
17 is that correct.

18 MR ABBOTT: `She' being Sarah Milera.

19 XXN

20 Q. Sarah Milera.

21 CONTINUED



C.A. JAMES XXN (MR KENNY)  
(MS PYKE)

- 1 A. She was very upset about the fact that, on the Friday,  
2 when she went to attend the protest march, she was  
3 effectively ostracised by the Aboriginal women. And she  
4 was actually quite upset that night and I don't think I  
5 can say that. I think she was basically saying that, at  
6 that point, that most of it was nonsense.
- 7 Q. Turning to the question of the Rocky Marshall  
8 newsletter.
- 9 A. Yes.
- 10 Q. I think you have told us that that was first published  
11 in an issue of the Lions Club newsletter.
- 12 A. Yes.
- 13 Q. Is that correct.
- 14 A. Yes.
- 15 Q. Was that how it came to your attention.
- 16 A. Yes, in the form that it appeared.
- 17 Q. Someone sent you a copy of it, did they.
- 18 A. Yes, this is it here (INDICATES).
- 19 Q. Could I have a look at that letter.
- 20 A. Certainly. I have also got a telephone message from  
21 Rocky Marshall the day before, in which he rang me  
22 asking me to ring him to discuss the publication of  
23 that.
- 24 Q. I understand that Rocky Marshall thought you might have  
25 been interested in doing an article.
- 26 A. That's correct. Rocky Marshall wanted that letter  
27 published in the Advertiser.
- 28 Q. You suggested to him that it might go in as one of the  
29 letters to the editor, is that correct.
- 30 A. That's correct. He wanted me to expand it into an  
31 article and I felt it was better to print it as a  
32 letter.
- 33 Q. There was no suggestion that he was working with anyone  
34 else in relation to the publication of this information.
- 35 A. No.
- 36 CROSS-EXAMINATION BY MS PYKE
- 37 Q. Looking at Exhibit 132, now before you, that is the  
38 transcript of the conversation with Sarah Milera, of 10

## C.A. JAMES XXN (MS PYKE)

- 1 July. Going to p.3 of that transcript, at the foot of  
2 the page, firstly, do I understand that what is  
3 contained within the inverted commas is what Sarah  
4 Milera has said.
- 5 A. Yes, that's correct. And, at some point without the  
6 inverted commas is my question to her.
- 7 Q. The sentence at the absolute foot of the page 'They',  
8 the envelopes, 'were a silly idea.'
- 9 A. Yes.
- 10 Q. Was that your view.
- 11 A. Yes.
- 12 Q. So, it was your view that you were expressing to Mrs  
13 Milera.
- 14 A. No, sorry, that is a direct quote from her. Yes - no,  
15 that was me. I said 'They were a silly idea.'
- 16 Q. Why did you ask that question.
- 17 A. Because they seemed to have discredited this whole  
18 process.
- 19 Q. I put to you that your question 'They were a silly  
20 idea', hadn't emanated from anything that Sarah Milera  
21 had said to you.
- 22 A. She said to me, she reckoned 'They went up north', as a  
23 reference to Doreen and Sandra and the other women I  
24 have previously mentioned, 'To see the Pitjantjatjara,  
25 because she', Doreen, or Dodo, 'was beginning to now  
26 realise how stupid she was putting it in the envelopes.  
27 That's the truth.' And then I said 'Well, they were a  
28 silly idea', in reference to the fact that, despite the  
29 continual dismissal of their importance in this issue,  
30 they constantly come back as a pivotal part and perhaps,  
31 if they hadn't existed from the outset, it wouldn't have  
32 become the problem that it had become. And she said she  
33 agreed that they were a silly, stupid idea.
- 34 Q. The fact that they had become pivotal in importance  
35 doesn't necessarily mean that they were silly, does it.
- 36 A. No, but, I mean, I think I was saying that it was a  
37 silly idea putting it them inside an envelope and then  
38 telling a male Minister that he couldn't read them.

## C.A. JAMES XXN (MS PYKE)

- 1 Q. That is a view that you had formed yourself.
- 2 A. That is a view I formed after 12 months of trying to get  
3 to the bottom of this matter.
- 4 Q. That is certainly a view that you have expressed at  
5 other times.
- 6 A. How?
- 7 Q. You go on to say that, going over to p.4, Sarah Milera  
8 agrees with you. Virtually it repeats what you said.  
9 `They were a silly, stupid idea. Whoever thought of  
10 that, they need their brains read, because - Well,  
11 Deane Fergie thought of it.' You said that, didn't you.
- 12 A. Yes.
- 13 Q. What was the basis of that assertion.
- 14 A. Because I have discussed our - as the transcript will  
15 show, previous discussions I had with Sarah Milera about  
16 the envelopes, who knew what was inside them and she had  
17 told me that the only people who knew what was inside  
18 them, apart from the four European women authorised as  
19 part of the s.10 process to study their contents were  
20 Deane Fergie and Doreen Kartinyeri.
- 21 Q. I put it to you that the part of your assertion about  
22 the envelopes when Sarah says `Whoever thought of that,'  
23 in essence, the envelopes `need their brains read,  
24 because - ', and you have asserted `Well, Deane Fergie  
25 thought of it, didn't she?'
- 26 A. I am asking her a question.
- 27 Q. There is a statement contained in that question. I  
28 mean, you are really putting to her, aren't you, `Well,  
29 Deane Fergie thought of it, didn't she?'
- 30 A. It is a leading question. I asked `Who thought of the  
31 envelopes, was it Deane Fergie, or was it Doreen  
32 Kartinyeri?'
- 33 Q. You are not suggesting, in that question, that you are  
34 making any assertion that it was Deane Fergie that  
35 thought of the idea of the secret envelopes.
- 36 A. I could well be.
- 37 Q. Are you.
- 38 A. I was trying to find out who thought of them, yes.

## C.A. JAMES XXN (MS PYKE)

- 1 Q. You didn't ask that, did you, 'Who thought of the secret  
2 envelopes?' You said 'Well, Deane Fergie thought  
3 of it', didn't you. That is the same, isn't it.
- 4 A. Then I go on 'You and I have talked about this before.  
5 The only person who knows what is inside those envelopes  
6 is Dodo.' And she replied 'And Fergie.'
- 7 Q. I am not talking about the contents of the envelopes, I  
8 am talking about the consents of the envelopes, not what  
9 is in them.
- 10 A. The contents of the envelopes has been a continual  
11 source of curiosity for me since I started reporting on  
12 this.
- 13 Q. You have never spoken to Deane Fergie.
- 14 A. Only her husband.
- 15 Q. I don't think her husband is Deane Fergie.
- 16 A. No.
- 17 Q. You have not spoken to Deane Fergie.
- 18 A. No, I haven't.
- 19 Q. And you have not asked her about whose idea it was to  
20 have the envelopes -
- 21 A. Deane Fergie was commissioned by the Aboriginal Legal  
22 Rights Movement to provide a report to support their  
23 s.10 application. In July last year, I was told to  
24 'fuck off', by the Aboriginal Legal Rights Movement.  
25 And, as a result of that exchange, I deemed that  
26 probably it was irrelevant or useless for me to contact  
27 Deane Fergie, because she was a servant of that  
28 organisation.
- 29 Q. I merely asked if you have spoken to her or not.
- 30 A. No, but I have spoken to Rod Lucas.
- 31 Q. You are not suggesting he is a substitute for Dr Fergie,  
32 are you.
- 33 A. No, when I met with Dr Lucas, I asked him if his wife  
34 would talk to me to and he said he didn't think there  
35 was much point 'But give it a go. You never know.'
- 36 Q. You said, on p.4, in the same sentence 'You and I have  
37 talked about this before.' What did you mean by that.
- 38 A. The secret envelopes.

## C.A. JAMES XXN (MS PYKE)

1 Q. What had you and Sarah Milera talked about in relation  
2 to the secret envelopes previously.

3 A. It is in the transcript and you will - the transcript  
4 will show my notes show that I asked 'Who knew the  
5 material inside the envelopes? How widely known was  
6 that material? And who was responsible for putting it  
7 in there?'

8 Q. Was there any conversation that you had with Sarah  
9 Milera about the envelopes that is not contained in the  
10 transcript, any of the transcripts that have been  
11 tendered.

12 A. No.

13 Q. That contains the - the transcripts contain the totality  
14 of your conversation with Sarah Milera about the secret  
15 envelopes.

16 A. This transcript?

17 Q. No, or any other transcript.

18 A. Yes, of my shorthand notes.

19 MR SHORT: And notes. The witness has said that.  
20 XXN

21 Q. Is there information in your conversation with Sarah  
22 Milera about the secret envelopes that has not been  
23 committed to transcription.

24 A. No.

25 MR MEYER: That just creates a total  
26 misunderstanding.

27 If Ms Pyke is referring to the transcript of this  
28 Commission, ie has Mr James uttered words about every  
29 conversation that he has had with Sarah Milera so that  
30 they are on this transcript? I think that is what Ms  
31 Pyke is trying to put. And I don't think that is what  
32 Mr James is answering.

33 COMSR: I don't think that is the way Mr James  
34 is answering it.

35 A. As I have said the other day, I have been talking to  
36 Sarah Milera off and on now for 18 months. I have had  
37 many conversations. The ones which were deemed for  
38 publication I took shorthand notes of and I have

C.A. JAMES XXN (MS PYKE)  
(MR MEYER)

1 provided those to the Commission. The ones which are  
2 off the record remain off the record.

3 XXN

4 Q. Do you recall any conversation with her, off the record,  
5 that related to the secret envelopes.

6 A. No, I don't.

7 Q. Was there any conversation, off the record, in relation  
8 to the secret envelopes with Sarah Milera.

9 A. No, there wasn't.

10 CROSS-EXAMINATION BY MR MEYER

11 Q. You were asked some questions, this morning, by Mr  
12 Kenny, about this box of documents that you received.

13 Is this the fact: that, shortly after receiving that box  
14 of documents, you telephoned Mr Wooley at the ALRM and  
15 invited him to come around and have a look at them.

16 A. No.

17 Q. How long after you got them did you do that.

18 A. I actually tried to arrange a luncheon appointment with  
19 Mr Wooley and it took about three or four times before  
20 we were finally able to meet and I had a luncheon with  
21 him.

22 Q. Did you try and arrange that in relation to the box of  
23 documents that you had received.

24 A. Indirectly, yes.

25 Q. I just want to ask you some questions, to tidy up some  
26 matters that arose in the course of your giving  
27 evidence: you describe that you saw Mrs Milera at the  
28 place that she was staying on Hindmarsh Island, in May  
29 1994.

30 A. Yes.

31 Q. Do you remember that.

32 A. April.

33 Q. We have called that, in this Commission, the Mouth  
34 House. Are you familiar with that expression.

35 A. Yes.

36 Q. Did you go inside the Mouth House.

37 A. Yes, I did.

38 Q. Did you observe photographs that were on the walls in

## C.A. JAMES XXN (MR MEYER)

1 the Mouth House.

2 A. I only went into one room and there was one photograph.

3 Q. Did you ask Mrs Milera how she could remain in - living  
4 in the Mouth House with the photograph that you observed  
5 on the wall.

6 A. No.

7 Q. You understand that it has now been described that that  
8 photograph is repugnant to at least Aboriginal women.

9 A. I have read that, yes.

10 MR ABBOTT: Ngarrindjeri women.

11 MR MEYER: Yes.

12 XXN

13 Q. You gave evidence about the occasion when the -

14 COMSR: I don't know that it has been said that  
15 the photograph is repugnant, but that it is  
16 disrespectful to show that photograph in public.

17 MR MEYER: It was a poor choice of words.

18 XXN

19 Q. That to put the photograph on public display where any  
20 person coming in, is something that some Aboriginal  
21 women, apparently including Sarah Milera, would find  
22 objectionable.

23 A. Yes.

24 Q. I wasn't putting any emphasise on the date. I am  
25 referring to the occasion on which you went down and  
26 interviewed Mrs -

27 A. 29 April, last year.

28 Q. You describe being at Goolwa on the occasion when Built  
29 Environs took their site huts, or whatever, down to  
30 Goolwa.

31 A. Yes.

32 Q. You describe that there was some scraping of the soil as  
33 the huts were unloaded from the truck, and it is at p.8  
34 of your statement.

35 A. Yes.

36 Q. As the huts were unloaded from the trucks, that there  
37 was some scraping of the soil.

38 A. Yes.

## C.A. JAMES XXN (MR MEYER)

- 1 Q. How much scraping of the soil was there. Can I describe  
2 It in this way, was it a shovelful.
- 3 A. One or two shovelsful, at the most, I would say.
- 4 Q. So, it was something minor. Just a skidding on the  
5 surface of the dirt, so to speak.
- 6 A. It appeared to me to be pretty minor, but Mrs Kartinyeri  
7 saw differently.
- 8 Q. Looking at Exhibit 114, now before you, that is a  
9 facsimile which has attached to a letter sent by the  
10 Lower Murray Aboriginal Heritage Committee to the  
11 Premier.
- 12 A. Yes.
- 13 Q. As I understand it, that was all one fax, that is p.4 of  
14 the fax that you got.
- 15 A. Yes.
- 16 Q. The first page of the fax starts off with the words  
17 `Dear Colin', and three or four lines later refers to  
18 `Sarah and Richard'. Are you able to say who the `Sarah  
19 and Richard' are, as far as you understand it.
- 20 A. Sarah Milera and Richard Owen.
- 21 Q. This facsimile is apparently dated 3 June 1994.
- 22 A. Yes.
- 23 Q. Are you able to provide us with any information as to  
24 who may have prepared the letter which is attached,  
25 dated 15 December 1993. And I will put to you what is  
26 in my mind. That it would appear to me that Doug  
27 Milera's letter is, in fact, prepared by the same hand  
28 as the fax of 3 June, ie by Richard Owen.
- 29 CONTINUED



## C.A. JAMES XXN (MR MEYER)

- 1 COMSR: Isn't that more a matter of submission?  
2 MR MEYER: I think it ends up that way. I just  
3 wonder whether the witness could help us. It came from  
4 his possession, whether he has any information that  
5 could assist us.  
6 WITNESS: No, I have to take that letter on face  
7 value. It said it was from Doug Milera, it was signed  
8 by Doug Milera.  
9 XXN  
10 Q. How many times, approximately, have you met with Mr  
11 Richard Owen arising out of these matters.  
12 A. Personally?  
13 Q. I will put it to you in these terms.  
14 A. It is hard to -  
15 Q. Once or twice, half a dozen to a dozen.  
16 A. Half a dozen to a dozen.  
17 Q. Do you know whether he is resident in Adelaide or does  
18 he live down at Hindmarsh Island.  
19 A. He has a property in Adelaide, and he also has a  
20 property on Hindmarsh Island.  
21 Q. Did you generally meet with him in the coffee shop over  
22 the road from the `Advertiser'.  
23 A. Or he would come to the `Advertiser'. We would talk  
24 downstairs in our foyer. Or down at Goolwa, but not  
25 often down at Goolwa.  
26 Q. Did you speak with Richard Owen about this allegation  
27 that Aboriginal bones had been put in a boot of a motor  
28 car and taken to a rubbish dump.  
29 A. Yes.  
30 Q. Did he provide that information to you, or did somebody  
31 else put that allegation to you.  
32 A. No, he didn't provide it. It came from Sarah Milera.  
33 Q. Did you make any inquiries as to whether there was any  
34 foundation for that allegation.  
35 A. Yes, I did. The more specific allegation involved an  
36 earth mover at Goolwa.  
37 Q. Did you find any evidence that might support that  
38 allegation.

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- 1 A. I didn't.
- 2 Q. Have you ever had any conversations with Dr Draper.
- 3 A. Yes, I have.
- 4 Q. Have you asked Dr Draper about any matters relating to
- 5 preservation, any matters in the nature of Aboriginal
- 6 bones, Aboriginal sites, or anything of that nature,
- 7 that may have been allegedly desecrated on the island.
- 8 COMSR
- 9 Q. You are only being asked if you had any conversations at
- 10 this stage, not what was said.
- 11 A. Yes.
- 12 XXN
- 13 Q. Did Dr Draper report to you that in fact the Chapmans
- 14 had been very careful in the manner in which they had
- 15 dealt with any discoveries of Aboriginal significance in
- 16 the course of the development of the marina.
- 17 A. No.
- 18 Q. Did you ask him whether he had investigated any such
- 19 matters.
- 20 A. Yes, there was a discovery of one skeleton at the
- 21 marina.
- 22 Q. What did he say about that to you -
- 23 COMSR: What do you mean `what did he say?' As
- 24 to the manner in which the Chapmans had dealt with it?
- 25 MR MEYER: Yes.
- 26 COMSR: This is a public matter that we are
- 27 talking about?
- 28 MR MEYER: I will reserve the question. If it
- 29 becomes an issue, we might have to deal with how it can
- 30 be answered. It may be we can fix it with Dr Draper. I
- 31 hesitate because of the difference in view that exists
- 32 between my opinion and apparently if I take heed of
- 33 Exhibit 126, the ALRM's opinion, that the section 13
- 34 documents are public, because it is a matter which is
- 35 traversed in the section 13 documents.
- 36 COMSR: It may well be one of the matters where
- 37 I would have to consider the question of whether or not

## C.A. JAMES XXN (MR MEYER)

1 our authorities require, under the Aboriginal Heritage  
2 Act -

3 MR MEYER: It wasn't dealt with by way of an  
4 authority under the Aboriginal Heritage Act in the  
5 Federal Court proceedings.

6 COMSR: That may be so.

7 MR MEYER: I just say that to assist you. That we  
8 had some authorities, that wasn't one of them. I will  
9 reserve the question.

10 QUESTION RESERVED

11 XXN

12 Q. In the context of a discussion some time after 28 June  
13 this year, you made a reference to speaking with the  
14 hotshots. Do you remember that expression.

15 A. Yes.

16 Q. Who are the hotshots.

17 A. I took it to be Doreen Kartinyeri, Val Power, Muriel Van  
18 Der Byl, Sandra Saunders.

19 Q. You gave some evidence about the conversation with  
20 Dorothy Wilson and Jenny Grace and Sarah Milera at  
21 Gilberton. This is the one where partly taped, the rest  
22 not taped, took about two hours.

23 A. Yes.

24 Q. There was a reference in that conference to a letter in  
25 two different handwritings.

26 A. Yes.

27 Q. Are you able to provide us with the date of that letter.

28 A. 13 May 1994, from memory, or it could be May 9. Either  
29 the 9th or 13th.

30 Q. Did you see a copy of the letter.

31 A. I still have a copy of the letter.

32 MR MEYER: Just so that we tie the evidence  
33 together and we can deal with that matter when it  
34 arises, perhaps Mr Smith, as counsel assisting, since he  
35 has got possession of the letter when it was previously  
36 discussed, could verify that we are talking about the  
37 same letter, and I then don't need to look at it and we  
38 can avoid that problem.

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- 1 MR SMITH: Yes, the letter I have possession of is  
2 called the Mouth House letter dated 9 May.
- 3 MR MEYER: That is the same letter that Mr James is  
4 referring to?
- 5 MR SMITH: Yes.  
6 XXN
- 7 Q. You have told us that you haven't had any discussions  
8 with Deane Fergie at any time.
- 9 A. Never.
- 10 Q. Steve Hemming.
- 11 A. Never.
- 12 Q. Do you know a person called Richard or Dickie Ward.
- 13 A. Very well.
- 14 Q. Have you had any discussions with him.
- 15 A. Too many.
- 16 Q. I understand that he works at the museum, is that right,  
17 or has some association with the museum.
- 18 A. Yes, he has an association with the archaeology division  
19 at the South Australian museum. He is a draftsman.
- 20 Q. Who is Mr Ward.
- 21 A. Mr Ward purports to be a consultant planner/architect,  
22 who unfortunately lives in the street behind me.
- 23 Q. Has he got any role to play in these proceedings. Is he  
24 relevant or do I stay away from him.
- 25 A. He actually - to begin with, he was very relevant, but  
26 he's a character who doesn't know when to stop.
- 27 Q. You gave some evidence about speaking with Margaret  
28 Bolster and Professor Shearman re a briefing that they  
29 gave you on matters relating to the Westpac Bank.
- 30 A. Yes.
- 31 Q. What was that about.
- 32 A. That was all about letters which the Conservation  
33 Council were sending to Westpac, asking them to revise  
34 their funding of Binalong, and the apparent threat that  
35 Westpac would sue the State government for compensation  
36 if the bridge wasn't built, and they were trying to  
37 apply some pressure on Westpac to revise its funding and

## C.A. JAMES XXN (MR MEYER)

- 1     revise its attitude of possible litigation against the  
2     government.
- 3     Q. I think you gave some evidence that you met with the  
4     Lower Murray Aboriginal Heritage Committee and an  
5     archaeologist on about 25 March 1994, is that right.
- 6     A. That was a reference to a discussion that Matt Rigney  
7     and I had.
- 8     Q. So you didn't attend a meeting with the Heritage  
9     Committee, as such.
- 10    A. No. No, Matt Rigney told me he had attended that  
11    meeting on Friday, March 25th, with an archaeologist and  
12    members of that committee.
- 13    Q. Do you know who the archaeologist was.
- 14    A. It is an assumption, but it would be Neale Draper.  
15    Until that point he was working fairly well on his own  
16    until James Knight came on the scene.
- 17    Q. I want to ask you a couple of questions about Rocky  
18    Marshall. Is Rocky Marshall of Aboriginal descent, or  
19    not of Aboriginal descent.
- 20    A. He is a white Australian.
- 21    Q. I thought I saw a reference in Exhibit 133, which is the  
22    long telephone conversation, the transcript of which was  
23    tendered this morning. Do you remember that one.
- 24    A. Yes.
- 25    Q. I thought I saw a reference in there that Sarah Milera  
26    said that Rocky Marshall was her cousin.
- 27    A. Yes.
- 28    Q. Do you know whether Rocky Marshall is in fact Sarah  
29    Milera's cousin. Have you got any information that  
30    could assist us.
- 31    A. It seems highly improbable to me.
- 32    Q. That's why I asked if you understand Mr Rocky Marshall  
33    in any way to be of Aboriginal descent.
- 34    A. No. My understanding of Rocky Marshall is that he is a  
35    retired man who moved to Goolwa early last year. He is  
36    a bush ballad, with a keen love of nature and the  
37    environment, and a decorated war veteran, and someone

1 who got involved with the Friends of Goolwa and  
2 Kumarangk Group.

3 Q. You have given evidence in relation to the meeting which  
4 took place when Doreen Kartinyeri and some other people  
5 went to Rocky Marshall's house as a result of the  
6 publication of the letter in the 'Advertiser'.

7 A. That's correct.

8 Q. Reference has been made to the fact that Neale Draper  
9 was present at that meeting.

10 A. Yes.

11 Q. Do you know how he came to be there.

12 A. From what I was told, he was called in to intervene and  
13 to diffuse the situation. He was seen as someone who  
14 was trusted by the Ngarrindjeri women.

15 Q. But do you know how he came to be in the proximity of  
16 the meeting in any event.

17 A. I think he was living on the island at that stage.

18 Q. You made reference to an intermediary acting for Doug  
19 and Sarah on or about 6 June 1995.

20 A. Yes.

21 Q. Who was that intermediary.

22 A. She was the wife of a ferryman. I don't know her name.  
23 It was just a contact number I could use when I needed  
24 to find Sarah.

25 Q. It was just a method of you getting into contact with  
26 her.

27 A. Yes, just leaving a message, and Sarah would ring me  
28 back.

29 Q. At the press conference that you went to at the ALRM on  
30 the occasion when you have given evidence of being the  
31 subject of some abuse from Doreen Kartinyeri,  
32 whereabouts at the ALRM's premises was that press  
33 conference held.

34 A. In a meeting room. You walk past a reception area,  
35 there is a staircase to the right, you go straight ahead  
36 through some double doors into a meeting room, and  
37 there's a large table.

## C.A. JAMES XXN (MR MEYER)

1 Q. Ignoring the names that appear on Exhibit is 103, which  
2 is an exhibit which was prepared by Mr Easdown, he has  
3 drawn a mud map of a room that he went into, which he  
4 described as a conference room or a board room with a  
5 large table. Does the layout of that room accord with  
6 the room that you went to.

7 A. Yes.

8 Q. Mr Easdown has described that there was a large  
9 photograph in the position marked 'map photograph'.

10 A. I have no recollection of that photograph.

11 Q. That photograph was in fact Exhibit 29. Looking at  
12 Exhibit 29, I think he described it as being slightly  
13 smaller than that photograph but that photograph. Do  
14 you have any recollection of that.

15 A. No, I don't.

16 Q. Was that the only occasion that you went to the  
17 conference room at ALRM.

18 A. Yes.

19 Q. I am sure you have told me before, but can you tell me  
20 again, what was the date that you went there.

21 A. I think, from memory, July 12 or 13.

22 Q. 19.

23 A. 94. A couple of days after Mr Tickner stopped the  
24 bridge.

25 COMSR: I don't wish to interrupt your  
26 cross-examination, but I must admit I have been giving  
27 some thought to the provision in the Terms of Reference  
28 that, in conducting the inquiry, and in my report I am  
29 to avoid prejudicing any judicial proceedings relating  
30 to the declaration made by the Minister for Aboriginal  
31 and Torres Strait Island Affairs of the Commonwealth  
32 Government.

33 It seems to me that, pending a decision in the  
34 Federal Court, that I should not receive into evidence  
35 anything which goes to the question of the manner in  
36 which the Federal Minister dealt with the application  
37 for a declaration under the Aboriginal and Torres Strait

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- 1 Islander Protection Act. I think that goes to the very  
2 question which was before the Federal Court.
- 3 MR MEYER: You are referring to the questions I was  
4 asking some time ago and reserved?
- 5 COMSR: Yes. It seems to me that any evidence  
6 which deals with the question of the manner in which the  
7 Federal Minister dealt with the declaration at this  
8 stage, there could well be an argument that it has the  
9 potential prejudice -
- 10 MR MEYER: I would be the very last for there to be  
11 any possible interference with that.
- 12 COMSR: Yes, I think it is evidence of that sort  
13 that I should not receive at this stage.
- 14 MR MEYER: Can I address you later on that, because  
15 there may be a distinction between available material  
16 and the manner in which something was dealt with, i.e.,  
17 there is some factual material such as the Saunders  
18 report which has been the subject of open discussion. I  
19 agree with you entirely that anything which touches upon  
20 how the Minister went about it -
- 21 COMSR: An expression of opinion by someone  
22 might well be something which comes into that category.
- 23 MR MEYER: I can take that up with you at another  
24 time.
- 25 COMSR: Yes.
- 26 CONTINUED



## C.A. JAMES XXN (MR MEYER)

1 Q. Sarah Milera spoke to you about sites underwater. Did  
2 she actually indicate to you what these sites were.

3 A. She said they were pottery things.

4 Q. So, I take it archaeological remnants demonstrating  
5 Aboriginal presence.

6 A. Pottery. In the area where the existing cable for the  
7 ferry is.

8 Q. You have made reference to receiving hate mail.

9 A. Yes.

10 Q. Was that voluminous.

11 A. Yes.

12 Q. Were you able to generally identify whom you received  
13 hate mail from.

14 A. Yes. I've some of it here.

15 Q. Did you receive hate mail from persons who, by public  
16 knowledge, we have come to know as being associated with  
17 a general interest in this matter, or was it sent from  
18 the public at large.

19 A. It was wholly from women and they all seemed to carry  
20 the consistent theme of - I got fed up in the end and  
21 threw some of it out, but I did keep some.

22 Q. It appeared to be of an orchestrated nature.

23 A. Yes, it did. Quite personal attacks and then requests  
24 canvassing the issues.

25 COMSR

26 Q. I take it the letters were not signed.

27 A. Yes, they were. Sister Janet Mead was kind enough to  
28 send one to me.

29 Q. In any case, when you say you know who they are from,  
30 you do that on the basis that they have signed them.

31 A. Yes.

32 XXN

33 Q. Do you have a copy of that letter from Sister Janet  
34 Mead.

35 A. Yes.

36 MR MEYER: May I see it please?

37 COMSR: Is Sister Mead in any way connected with  
38 the issues before me?

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- 1 MR MEYER: I don't know, to be quite frank.
- 2 COMSR: On the face of it, it hasn't been  
3 suggested - is there any reason for wanting to know -  
4 will it assist me in any way to know what mail Mr James  
5 has received expressing disapproval?
- 6 MR MEYER: Only in the context of an orchestrated  
7 campaign which seeks to influence the proper public  
8 discussion, as opposed to sporadic, erratic hate mail  
9 that might arise, and I'm sure which could arise in the  
10 ordinary life of journalists. It sometimes does arise  
11 in the ordinary life of lawyers who get letters from  
12 people who are quite disconnected with what is going on.  
13 My submission is that it's relevant if there is an  
14 orchestrated campaign relevant; for example, if we have  
15 a public demonstration in this Royal Commission in which  
16 it's alleged that various groups have involved  
17 themselves, including people from the church or from the  
18 churches. My friend Mr Abbott adds that its relevant to  
19 Mrs Fisher as well.
- 20 COMSR: I mean, I must admit I can't see how  
21 identifying those groups of persons who are opposed, for  
22 one reason or other to the investigation into the  
23 matters alleged, is going to assist me resolve the  
24 issues. The witness has already said that there  
25 appeared to be something of an orchestrated nature about  
26 the letters that you got from a number of sources, I  
27 understand.
- 28 WITNESS: Yes.
- 29 MR MEYER: If I had a look at the letter, I would  
30 make a decision whether I want to press for the tender  
31 of it, or otherwise.
- 32 LETTER PRODUCED TO MR MEYER
- 33 COMSR: Apart from the fact that the point has  
34 been made that the articles incurred an adverse  
35 reaction, if I can frame it in those terms, from a  
36 number of people who wrote to you and you judged that  
37 there appeared to be a certain sameness about the way in  
38 which they expressed themselves, that led you to believe

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1 there was an orchestrated reaction. Is there anything  
2 further that can be gleaned from that, Mr Meyer? I am  
3 wondering where it is leading me?

4 MR MEYER: There are some matters in there which,  
5 in fact, I do consider to be relevant, and I will ask  
6 the witness another question, and then the way to deal  
7 with it might be to permit you to read the letter and  
8 rule on it as admissible or otherwise, in the ordinary  
9 course of what happens in the court where you may be  
10 called to rule on something that is inadmissible or not.

11 Q. It appears to me that that merely has a date written on  
12 the top and a signature at the bottom. Did you receive  
13 other letters which were identical in form.

14 A. Not, no identical in form as a proforma, no, but  
15 canvassing the same topics, themes, telling me to look  
16 at other areas rather than at the Aboriginal issue.

17 COMSR: How does it assist me?

18 MR MEYER: It assists you by your being able to  
19 consider the material that has been put before you,  
20 especially by Mr James, when allegations are made to him  
21 that improper pressure, if I can use those words - they  
22 are not the words in the letter - has been brought to  
23 bear upon the Wilsons, the Campbells and the Mileras. I  
24 mean, if I read it into the transcript, I defeat the  
25 purpose. If I show it to you, I think that might be the  
26 preferable course.

27 LETTER SHOWN TO COMMISSIONER

28 MR SMITH: Could I add to perhaps help that debate  
29 and get done with the witness that relevance is really  
30 an inappropriate term for an inquiry. There has been  
31 some evidence canvassed - and I just harken back to  
32 Douglas Milera who told the journalist, there will be  
33 some evidence that he told the journalist Chris Kenny  
34 that he had been used, and he named unions and Friends  
35 of Kumarangk and people like that. I think this  
36 material you could receive. Whether or not in the end  
37 it helps you, or whether or not you could put great  
38 weight on it, or you may not find that some unified

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1 front, if you like, that designed to help the proponent  
2 Aboriginal cause as against the dissident Aboriginal  
3 cause, it's a matter that is hard to judge on the run.  
4 You really don't have to make a judgment about these  
5 matters in the midst of this inquiry. You can't let it  
6 run off the rails and let it go off on a frolic of its  
7 own. You have wide powers to receive this sort of  
8 evidence and then decide whether that is useful or not.

9 COMSR: I suppose only the witness can say  
10 whether or not the mail that he received had any effect  
11 upon him. Has it been suggested that I receive the  
12 whole of this mail that the witness has retained?

13 MR ABBOTT: Yes. At this stage, yes.

14 MR MEYER: On the grounds of completeness, that is  
15 the proper thing to do, but I'm happy for just that  
16 letter, because Mr James's has said that letter is  
17 indicative of the range of letters he received and he  
18 had got to the stage where he chucked lots of it out.  
19 It was, I think to use his words 'I threw it out'. So I  
20 understood that letter to be an indicative sample of the  
21 mail that he received generally.

22 Q. Is that correct.

23 A. I have three more here.

24 MR MEYER: Perhaps the letters can be treated as a  
25 bundle. I seek to tender them as a bundle.

26 MR KENNY: Before we comment on it, if we could  
27 have a look at those letters.

28 COMSR: Perhaps if only counsel have a look at  
29 them at this stage.

30 MR MEYER: That is all that has occurred to date.

31 COUNSEL SHOWN THREE FURTHER LETTERS

32 COMSR

33 Q. Are you or are you not suggesting that those three or  
34 four letters have the effect that you believed that  
35 orchestrated pressure being brought to bear.

36 A. No. It was in tandem with a very concerted telephone  
37 campaign as well. The letters kept coming and they all  
38 started after the Murray Nichols' interview, and the

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1 phone calls started as soon as the story went to the  
2 paper. Once Sarah got on the radio, it gathered  
3 momentum and lasted for about a week. And they were all  
4 women.

5 Q. It's a bit difficult to say on the basis of, say, three  
6 or four letters that -

7 A. No, the telephone calls and the letters all went over  
8 the same ground. They said `Look at XYZ. Why are you  
9 looking at A without going to look at XYZ?'. Some were  
10 personal and others were not so personal. The ones that  
11 I have given you aren't that personal; I'm not terribly  
12 offended by them. The ones that I was offended by, I  
13 threw away.

14 Q. I suppose you will understand that a lot of people might  
15 legitimately have a contrary view to your own.

16 A. I certainly wasn't ever trying to express my opinion.  
17 And I think when you read my articles, you will find it  
18 very hard to find my opinion at all, ever. But, as I  
19 said yesterday, some people tended to overreact to the  
20 display of that particular story. Then, that was  
21 compounded by the Murray Nichol interview. And I had  
22 phone calls from one woman who claimed to be Sarah  
23 Milera's psychologist and she told me that I had no idea  
24 how much damage I was causing. There were people  
25 alleging new allegations against the Chapmans, for  
26 instance. So, it certainly prompted quite a large  
27 response. But, in a democracy, I welcome it and any  
28 community debate is good.

29 MR MEYER: I apply to tender the letters as a  
30 bundle. If it's convenient, given that it's 25 past 12,  
31 does your Honour wish to look at those over the lunch  
32 break and make a ruling after the luncheon break?

33 COMSR: Yes, I suppose that would be the easiest  
34 way of doing it.

35 XXN

36 Q. I take it that you didn't consider that you were  
37 expressing any opinions of racism or anything of that  
38 nature in your articles in the paper.

- 1 A. Not at all.
- 2 Q. Would you look at Exhibit 132 produced, in particular at  
3 p.6.5. On that page, you started to make a statement  
4 about the point of the bridge linking the mainland. See  
5 that reference.
- 6 A. Yes. Further down: `But when we get to the point of the  
7 bridge linking the mainland'. Yes.
- 8 Q. Then, that is answered, as I understand it, by Sarah:  
9 `That was a lot of ...', dot, dot, dot.
- 10 A. Yes. She doesn't swear.
- 11 Q. Have you left out words from there.
- 12 A. No. She stopped herself saying what she wanted to say.
- 13 Q. Was that the notion of what was being said. Was that  
14 the statement that you had made she saying was credible  
15 or not credible.
- 16 A. Not credible.
- 17 Q. Was there a silence on - there was just a blank on the  
18 tape at that moment.
- 19 A. Yes. She wanted to say something and stopped herself  
20 from saying it.
- 21 Q. There is a reference to Mrs Milera having some tapes at  
22 p.5.5: `I have got it on tape'.
- 23 A. Yes.
- 24 Q. Have you ever heard of that tape before then.
- 25 A. That was the first time that I had ever heard that she  
26 had a secret tape confirming the removal of the skeletal  
27 remains as suggested previously.
- 28 Q. Have you heard anything about it since.
- 29 A. No.
- 30 Q. Have you ever heard that tape.
- 31 A. No.
- 32 Q. Has Mrs Milera made any reference about taping anything  
33 else at any time.
- 34 A. No.
- 35 Q. I think that Doug Milera made a suggestion to you that  
36 you speak with a lady called Marjorie Tripp.
- 37 A. Marg Tripp. T-R-I-P-P.
- 38 Q. Did you speak with Mrs Tripp.

1 A. No.

2 Q. There has been evidence given here in relation to a  
3 gentleman called Pat Byrt. Have you had any discussions  
4 in relation to this matter with Pat Byrt.

5 A. Never.

6 Q. Frank Tuckwell.

7 A. Not formal. I've met Frank Tuckwell, but we have never  
8 discussed the matter.

9 CONTINUED

C.A. JAMES XXN (MR MEYER)  
(MR ABBOTT)

- 1 Q. He is the director at Signal Point.  
2 A. That is where I have met him.  
3 Q. But not had any discussion with him about any of this  
4 matter.  
5 A. No, but Sarah has often referred to him as a friend.  
6 Q. As a journalist, do you have any interest in or take any  
7 note of what is called the Internet.  
8 A. No, I suffer from technofear.  
9 Q. It is suggested to me that there is now available on the  
10 Internet a substantial amount of material in relation to  
11 this issue and this Royal Commission.  
12 A. That's correct. We published the Email address on  
13 Tuesday for that particular web site.  
14 Q. Have you investigated that material, yourself.  
15 A. No, but I have arranged to do so over the weekend with  
16 someone who doesn't suffer from technofear.  
17 MR MEYER: Since I don't even have a surfboard for  
18 the purpose, perhaps I will leave that subject until  
19 some other time. I haven't got any other questions.  
20 COMSR: I can assure you I haven't been able to  
21 make anything of it so far.  
22 MR MEYER: No, I have merely heard that there is an  
23 amount of material which can be obtained from an Email  
24 address and, if what I have seen as being material from  
25 that source is, in fact, material from that source, it  
26 amounts to, I don't know, 30 or 40 pages of typewritten  
27 material of various types, right up until the last two  
28 or three days in relation to this Commission. And I  
29 thought a journalist might well be somebody who tapped  
30 into such a source.  
31 A. I only found out about it on Tuesday, reading that  
32 story.  
33 CROSS-EXAMINATION BY MR ABBOTT  
34 Q. The name of Dr Neale Draper has been mentioned. Have  
35 you spoken to him about this matter.  
36 A. About the Royal Commission?  
37 Q. About the claims made in relation to Hindmarsh Island,  
38 sacred sites.



- 1 A. Yes, I have.
- 2 Q. Do you have any notes of those discussions.
- 3 A. No, I don't.
- 4 Q. Are you able to say when those discussions occurred and  
5 what the significance of them was.
- 6 A. Shortly after the Commission was announced.
- 7 Q. Is that the only time you have spoken to him.
- 8 A. Yes, it is the only one time I have spoken to Dr Draper  
9 since the Commission was announced.
- 10 Q. What about prior to that.
- 11 A. As I have said before, Neale Draper wasn't authorised to  
12 speak to me on this matter. It had to go through the  
13 Minister's office, but I did make contact with him on  
14 his mobile phone from time to time to see how the survey  
15 was going on Hindmarsh Island.
- 16 Q. Was he prepared to talk to you.
- 17 A. Yes, I developed what I think was a reasonably good  
18 relationship with Dr Draper.
- 19 Q. Did you make any notes of your discussions with him on  
20 the mobile phone.
- 21 A. No, those discussions were always off the record and not  
22 for publication, so notes weren't necessary.
- 23 Q. You are aware, are you not, that Dr Draper was  
24 conducting an examination of the archaeological sites in  
25 the Hindmarsh Island area.
- 26 A. Yes.
- 27 Q. Did he ever discuss with you any aspect of the Hindmarsh  
28 Island/Goolwa area, other than archaeological sites.
- 29 A. Not that I can recall.
- 30 Q. Did he ever make any claims to you, or comments that the  
31 area was significant for any reason other than the  
32 existence of archaeological sites.
- 33 A. Not that I can recall.
- 34 Q. And by 'archaeological sites', I mean burial sites  
35 and/or middens, camping grounds.
- 36 A. Yes, I understand that.
- 37 Q. It is obvious that, from a reading of your articles, you  
38 were very interested in the whole - in the various

1 claims that were being made early on about the Hindmarsh  
2 Island and Goolwa area.

3 A. Yes, I was.

4 Q. And that you took the trouble to listen to both sides.

5 A. Yes.

6 Q. I take it that throughout this, throughout this entire  
7 period from when you commenced writing articles, which I  
8 think date from March 1994 is the first one.

9 A. Yes.

10 Q. You were always of the view and no doubt still are that  
11 the area is of considerable significance, because of  
12 archaeological sites.

13 A. That's correct.

14 Q. Indeed, I think you have never heard anyone espousing a  
15 contrary view, have you.

16 A. No, no-one has ever disputed the archaeological  
17 significance of that area.

18 Q. Indeed, I know Sarah Milera has gone further than that.  
19 She has spoken of other aspects, but would it be fair to  
20 say that at least in the early days she was, the  
21 substance of her conversation as to the significance of  
22 the Hindmarsh Island and Goolwa area was, as far as you  
23 could detect, based on the significance of the  
24 archaeological sites.

25 A. Absolutely.

26 Q. It was only much later that she added other aspects.

27 A. No, when I first began on this issue in March it was on  
28 the basis of archaeological sites. On 29 April, she did  
29 start referring to spirituality, but that was more from  
30 the perspective of what had happened to her personally,  
31 since she had move to that area rather than I think her  
32 people as a whole.

33 Q. She was saying, because she had gone down there and  
34 because she and Doug had made an investigation of the  
35 area, she had developed or she had felt a spiritual  
36 sensation in relation to her being in the area.

37 A. Very much so and related to me specific spiritual  
38 experiences which she had had.

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- 1 Q. I think that led to the article of 3 May 1994.  
2 A. Yes, it did.  
3 Q. Could you turn to that. It is no.24, attachment 24.  
4 A. Yes.  
5 Q. Do you have your notes on which you based that article.  
6 A. Yes.  
7 Q. Are they in shorthand or a mixture.  
8 A. They are in shorthand, but I have a full transcription  
9 of them.  
10 Q. Could I have a look at that.  
11 A. Certainly.  
12 Q. I want to ask you a couple of things about that. You  
13 may need your notes, though. Do you have any objection  
14 to a copy being made of the transcription of your notes.  
15 A. Not at all. It is what I have read into the transcript.  
16 MR ABBOTT: I would apply to tender the typed  
17 transcription of his handwritten notes as part of the  
18 evidence before you.  
19 COMSR: Has that evidence already gone in?  
20 MR ABBOTT: It is, but lest it be challenged I would  
21 like the typed transcript as well.  
22 MR SHORT: I just wonder if we do need that  
23 further. There has been no challenge and Mr Abbott is  
24 last. If it is challenged, I may have something I would  
25 want to say, but, at this stage, I have not heard any  
26 challenge.  
27 MR ABBOTT: All right, I take the point.  
28 XXN  
29 Q. Could I just ask you this: you say in your notes that  
30 you travelled with The Advertiser photographer, Brenton  
31 Edwards. You met Mrs Milera. You accompanied her to  
32 the Mouth House. You had spoken to - you say 'I  
33 remember talking to Mr Edwards about large aerial  
34 photographs of Hindmarsh Island and the surrounding area  
35 which were inside the shack.'  
36 A. Yes.  
37 Q. That is 'aerial photographs', plural.  
38 A. Yes.

- 1 Q. What was in a discussion about -  
2 A. The technique more than anything. The actual content of  
3 the photograph from a photographic perspective.  
4 Q. You say that, in your notes, the formal interview lasted  
5 approximately two hours.  
6 A. I also spent time speaking with Mrs Milera and another  
7 woman who was present informally. She was introduced to  
8 me as Lindy.  
9 A. Yes.  
10 Q. Who was that.  
11 A. She was a white Australian by the name of Lindy and she  
12 had a young child with her.  
13 Q. Do you know her other name.  
14 A. I can't remember it now, I'm sorry.  
15 Q. Have you met her since.  
16 A. She used to ring from time to time and, yes, I did bump  
17 into her every now and then when I went down to Goolwa.  
18 Q. Is she associated with any one or more of the  
19 organisations - one of the many organisations involved  
20 in this matter.  
21 A. She may be, but she seemed to me to be more from the  
22 spiritual perspective.  
23 Q. You say 'spiritual perspective', on what do you base  
24 that.  
25 A. Both those women told me while we were down there about  
26 the spirituality of the area and how Sarah was having  
27 these visions and how important it was to her.  
28 Q. Lindy was telling you about the spirituality of the  
29 area.  
30 A. Yes.  
31 Q. What was she saying.  
32 A. She was basically supporting Mrs Milera.  
33 Q. You told us that Mrs Milera referred you to a book, 'A  
34 World That Was', she had that book with her.  
35 A. Yes.  
36 Q. You read from it or you read parts of it to yourself  
37 during the course of the afternoon.  
38 A. Yes, and discussed it with her.

- 1 Q. She also showed you a photograph in the Berndt book of  
2 an Aboriginal man, King Peter Pulami.
- 3 A. Yes.
- 4 Q. And she claimed that he was her great grandfather.
- 5 A. Yes, several times.
- 6 Q. Did she tell you how.
- 7 A. No, she just said that she came from the rupulle line.  
8 She was a descendant.
- 9 Q. She also told you that she was the custodian of Goolwa.
- 10 A. Yes.
- 11 Q. That is a claim that she has made for quite sometime,  
12 isn't it, since May or April of 1994 really to the  
13 present day.
- 14 A. Yes, and her husband has also made a similar claim.
- 15 Q. Has she told you on what basis or ever elaborated on  
16 what basis she claims to be the 'custodian of Goolwa'.
- 17 A. No, on 29 April last year she did spend sometime telling  
18 me that she was grappling with the notion of being made  
19 the custodian, because she didn't feel that she was old  
20 enough for the position and that there were other women  
21 who could be eligible, but essentially someone had to  
22 take the role and she had decided to do so.
- 23 Q. Putting this matter into perspective, it was your  
24 understanding, in April, and I suggest has been ever  
25 since, that really Mr and Mrs Milera were the two  
26 Ngarrindjeri Aboriginal people who went to Hindmarsh  
27 Island and who actually took an active part in the  
28 identification of Aboriginal archaeological sites on the  
29 island.
- 30 A. Absolutely.
- 31 Q. And that they and almost they alone were the persons who  
32 were involved with Dr Draper in the Aboriginal site -  
33 the Aboriginal archaeological site identification.
- 34 A. To the best of my knowledge, yes.
- 35 Q. And did you learn for how long they had been doing this.
- 36 A. I learnt that they had been doing it since about October  
37 1993.
- 38 Q. Obviously it was at some considerable personal sacrifice

1 to them. They went to Hindmarsh Island and they spent  
2 sometime endeavouring to investigate archaeological  
3 sites. That was apparent.

4 A. Yes.

5 Q. Was it in that sense that she was claiming to be the  
6 custodian.

7 A. Yes, that's how I understood it.

8 Q. When she later on complained about, in essence, the  
9 whole thing being hijacked, although that wasn't her  
10 word, by the women from Adelaide -

11 A. Taken over.

12 Q. Taken over, did you detect that she was annoyed that she  
13 had put in many, many months of work at the coalface, in  
14 this case, work at Hindmarsh Island, identifying  
15 archaeological sites, only to have that work taken over.

16 A. Absolutely.

17 Q. Is that the thrust of what she was saying.

18 A. Yes, absolutely, repeatedly.

19 Q. Putting aside the personal spirituality which she felt  
20 about Hindmarsh Island, would it be fair to say that the  
21 only other claim that she really ever made in respect of  
22 Hindmarsh Island and its significance to the  
23 Ngarrindjeri people was the archaeological site aspect.

24 A. Not exactly, no, because that story of mine does  
25 describe the Murray Mouth and the area being a source of  
26 life. So, she actually did convey to me the importance  
27 of the area, in terms of the reproduction of life and  
28 sustaining life.

29 Q. Did she elaborate on that as to how that was so.

30 A. I thought it was more in terms of the ecosystem.

31 Q. In other words, a wonderful and fertile ecosystem had a  
32 spiritual meaning in terms of spiritual life to her.

33 A. Yes, and also she did convey to us in the afternoon  
34 about the significance of the Murray Mouth.

35 Q. This is the interview of 3 May we are talking about.

36 A. On 29 April, which was published on 3 May, yes.

37 Q. Looking at attachment 24, do you have that in front of  
38 you.

1 A. Yes, I have that in front of me.

2 Q. You have said in your article in the first column in the  
3 third paragraph after the reference to her great  
4 grandfather was King Peter Pulami, you then say in the  
5 article 'Mrs Milera's ancestors are buried on Hindmarsh  
6 Island.' On what basis did she make that assertion to  
7 you.

8 A. She told me that.

9 Q. Did she say which ancestors.

10 A. Her grandmother.

11 Q. Perhaps you might look at your notes and tell us in what  
12 context she claimed that her grandmother was actually  
13 buried on Hindmarsh Island.

14 A. I think you will find that is in the latter part of the  
15 discussion. It was when she said that she had 'given  
16 the two whites guardianship of my grandmother's land'.  
17 And later I asked her where was her grandmother and she  
18 said she was buried on the island and that's why I said  
19 'Her grandmother lived on its sandy shores.'

20 Q. The inference in the article is that 'Mrs Milera's  
21 ancestors are buried on Hindmarsh Island', 'ancestors',  
22 plural. One of the ancestors being her grandmother.

23 A. Yes.

24 Q. Just tell us what is in your notes on this aspect.

25 A. Just that she said that that's where her people came  
26 from. Her grandmother lived there.

27 Q. You drew the inference that -

28 A. That's all I have in my notes on that subject.

29 Q. I want you to use your memory as well as your notes and  
30 use what you have written in the article of 3 May and it  
31 is obvious you didn't note everything that she said.

32 A. Yes.

33 Q. Did she tell you that her grandmother - did she make a  
34 claim that to the effect my ancestors, generally, some  
35 or more than one of them are buried on Hindmarsh Island,  
36 or did she say that specifically some of her ancestors,  
37 including her grandmother, were buried on Hindmarsh  
38 Island.

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- 1 A. Her ancestors generally were buried on Hindmarsh Island
- 2 and her grandmother had lived there and died there.
- 3 Q. You drew the inference -
- 4 A. That then she would be buried there as well.
- 5 Q. But it is fair to say that she may not have been -
- 6 A. Buried there at all.
- 7 Q. She intended you to infer that her grandmother had, in
- 8 fact, been buried there.
- 9 A. She did however say that her grandmother had lived on
- 10 its sandy shores.
- 11 Q. That is, the shores of Hindmarsh Island.
- 12 A. Yes, and Goolwa.
- 13 CONTINUED



- 1 Q. Did you learn the name of the grandmother she was  
2 speaking of.
- 3 A. No.
- 4 Q. Or how long the grandmother had lived there.
- 5 A. No.
- 6 Q. At any time did she ever elaborate, either on this  
7 occasion or any other occasion, as to her familial  
8 connection with Hindmarsh Island.
- 9 A. No, we never returned to that topic. I'd established it  
10 at length and we moved on because the debate obviously  
11 moved on to other topics as well.
- 12 Q. You described Hindmarsh Island in your article as being  
13 the ancestral home of Mrs Milera.
- 14 A. Yes.
- 15 Q. Primarily because of what she told you about her  
16 ancestors having been buried there and her grandmother  
17 having lived there.
- 18 A. Yes, and the fact that the Ngarrindjeri nation was based  
19 there at Goolwa, and reading the book that she provided  
20 me with, I thought that was a pretty safe conclusion to  
21 draw.
- 22 Q. Did you ever ask Mrs Milera whether she'd ever been to  
23 Hindmarsh Island before late 1993.
- 24 A. I did ask her where she lived several times, and she  
25 said Murray Bridge. But I didn't ask her that specific  
26 question because it seemed to me that she had been down  
27 there for about six months by that time and had  
28 established a link with the survey that she was helping  
29 Neale Draper conduct.
- 30 Q. Have you ever found out from her whether she had any  
31 physical contact with Hindmarsh Island prior to late  
32 1993.
- 33 A. No, not directly.
- 34 Q. Indirectly.
- 35 A. I've heard that they didn't.
- 36 Q. `They' being Doug and Sarah.
- 37 A. Yes, that the first time they went there was in October  
38 1993.

- 1 Q. You go on to say in your article, attachment 24, that  
2 she said to you that the Ngarrindjeri believed enormous  
3 spirituality surrounded these areas. That comment in  
4 your article was, I suggest, in the context of Mrs  
5 Milera informing you of the spirituality which she  
6 personally had felt.
- 7 A. Yes, and that it had always been a spiritual place.
- 8 Q. That, primarily, you gleaned from the ecological context  
9 of the island.
- 10 A. She talked about birds and trees and fish, and a source  
11 of - you know, a plentiful source of food and a haven.
- 12 Q. Is that spiritual aspect and its connection with the  
13 ecology reflected in the next by-line, being 'Infinite  
14 Power', where you say 'Aboriginal law prevents Mrs  
15 Milera from publicly discussing the full significance of  
16 the beautiful coastal opening where Australia's biggest  
17 river meets the wild southern ocean.'
- 18 A. Yes. I was trying to describe what is now the basis of  
19 the Section 35 material.
- 20 Q. You go on to say 'The shy quietly spoken woman, with the  
21 university education'. I take it it was what she told  
22 you about her education that led you to conclude that  
23 she had had a university education.
- 24 A. Yes, she told me that she had university qualifications.
- 25 Q. I think you made a note of them.
- 26 A. Yes, I did.
- 27 Q. Can you tell us what she did say about her university  
28 education.
- 29 A. She told me she had a Diploma in Psychology, a Diploma  
30 in Computers, and was part way through in doing law. I  
31 asked her where, and she said she was doing it through  
32 the University of South Australia at Murray Bridge.
- 33 Q. Have you ever seen any confirmation of her  
34 qualifications.
- 35 A. No.
- 36 Q. You go on to say in your article that 'Mrs Milera will  
37 only say it' that's presumably Hindmarsh Island 'is a  
38 special woman's place and a life source for her people,

- 1 a place of infinite power'. Those are, we have now  
2 learnt, in essence, direct quotes that she gave you.
- 3 A. Yes.
- 4 Q. When she said it was a special woman's place, did she  
5 tell you why it was a special place for women.
- 6 A. I managed to glean from her about the beautiful coastal  
7 opening where Australian's biggest river meets the wild  
8 southern ocean, that the Murray River, from there, was a  
9 life line, and that the islands, et cetera, resembled  
10 certain parts of the female anatomy.
- 11 Q. When did she make that claim.
- 12 A. After I finished the interview.
- 13 Q. This is at 3 May 1994.
- 14 A. 29 April.
- 15 Q. Sorry, 29 April 1994. It was on that basis that you  
16 regarded yourself as having been given sufficient  
17 information to properly report a claim that this was a  
18 special woman's place.
- 19 A. Yes, because she stressed that it was something which  
20 she couldn't actually tell me in full what it was all  
21 about because I was white and a male. That Aboriginal  
22 law meant that she couldn't tell me, but we managed to  
23 extract, over a period of some time, what it was about.  
24 But I also had heard about it before I went down to see  
25 Mrs Milera.
- 26 Q. Who had you heard that from.
- 27 A. It was circulating amongst the Friends of Goolwa and  
28 Kumarangk Protest Group.
- 29 Q. What, had you heard it from more than one person.
- 30 A. Yes.
- 31 Q. Can you give us the names of the persons who had  
32 mentioned the assertion that the aerial view of the  
33 Murray Mouth, Hindmarsh Island area bore some alleged  
34 reference to women's reproductive organs.
- 35 A. I'd prefer not to.
- 36 Q. On the basis that they are your journalistic sources.
- 37 A. Exactly.
- 38 Q. And it was said in confidence.

- 1 A. Yes, it was.
- 2 Q. However, am I right in my suggestion that that's the  
3 information you heard, or something like it.
- 4 A. Yes, and the whole purpose of going down to see Mrs  
5 Milera was to get that story.
- 6 Q. She, at the end of the formal discussion, confirmed what  
7 had been told to you by several other people.
- 8 A. Yes.
- 9 Q. I don't want to know the names then of those several  
10 other persons, but, first of all, were they men and  
11 women or just women.
- 12 A. Men and women.
- 13 Q. Aboriginal and non-Aboriginal.
- 14 A. Non-Aboriginal only.
- 15 Q. As far as you knew, they were all members of the Friends  
16 of Kumarangk.
- 17 A. Or associated with it, yes.
- 18 Q. By 'associated with it', you mean the environment groups  
19 that are associated with the Friends of Kumarangk.
- 20 A. That's narrowing it down a bit too much.
- 21 Q. It is just that there are six incorporated bodies on the  
22 brochure that you have kindly provided for us, ranging  
23 from Green Peace to -
- 24 A. I would like to help you, but I am not going to say any  
25 more.
- 26 Q. May I suggest to you that Mrs Milera, and indeed all of  
27 the so-called dissident ladies whom you have met and  
28 spoken to, all of them apparently regard reconciliation  
29 as a most important matter.
- 30 A. Absolutely. Very important matter.
- 31 Q. It is not just Mrs Milera who has espoused the  
32 importance of reconciliation. It is the so-called  
33 dissident ladies as well.
- 34 A. Yes, very much so.
- 35 Q. I am jumping forward in time, but I think one of the  
36 reasons why Mrs Milera gave as why she was now telling  
37 the truth - I'm talking in 1995 - was, in essence, that  
38 she regarded the cause of Aboriginal and white

- 1 reconciliation as being set back if the lies were  
2 continued to be perpetrated.
- 3 A. She saw it as undermining the credibility of the  
4 reconciliation process, yes.
- 5 Q. I suggest an identical view was put forward by those  
6 dissident women whom you spoke to.
- 7 A. Absolutely. In fact, one of them said to me - and I  
8 remember it quite well - 'What this has done is that we  
9 need now reconciliation for the blacks'.
- 10 Q. I put to you that the dissident - I use the phrase  
11 dissident because that's the media appellation that has  
12 been given to them - you know who I am talking about,  
13 the ladies who are my clients.
- 14 A. Yes, I do. I have met several of them.
- 15 Q. They are invariably not interested in the bridge being  
16 built or not built. Their interest is reconciliation  
17 and the damage that may be done to it.
- 18 A. Absolutely.
- 19 ADJOURNED 1.00 P.M.  
20 RESUMING 2.19 P.M.
- 21 Q. I was dealing with the article of 3 May 1994. I want to  
22 ask you some questions about what someone else said  
23 about Sarah Milera, and ask you whether you agree or  
24 whether you have heard the same sorts of things from  
25 Sarah Milera. I am reading from the Fergie report  
26 insofar as it mentions Sarah Milera. I will not,  
27 however, go into allegations of secret sacred women's  
28 knowledge, but only some of what Sarah Milera said.  
29 Deane Fergie, at p.10 of her report, said 'Sarah Milera  
30 was also a significant informant in the preparation of  
31 this report, and to Professor Saunders. She did not  
32 learn the women's secret tradition until recently.'  
33 That, I think, accords with what she told you, that  
34 whatever she did learn was only since the end of 1993  
35 and thereafter.
- 36 A. She has conflicting statements on that.
- 37 Q. In the Fergie report apparently she told Dr Fergie she  
38 did not learn the women's secret tradition until

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- 1 recently. What has Sarah Milera told you.
- 2 A. The impression in April last year was that it was  
3 recent, but then if you look at the various subsequent  
4 conversations I have had with her in transcripts I've  
5 provided, she says 'I've always known it. I was born  
6 with it'. But in April last year I had the distinct  
7 impression that she was saying it was something that she  
8 had recently discovered, and she even used the words 'It  
9 is like opening up the pages on your history', and I had  
10 the impression she had discovered it, in some part, from  
11 the Berndt and Berndt book.
- 12 Q. You are aware that the Fergie report is dated 9 July  
13 1994, two months after your article.
- 14 A. Yes. I've never seen the Fergie report.
- 15 Q. The Fergie report goes on to say 'She had, however,  
16 understood herself' this is reference to Sarah Milera  
17 'to have had significant personal experiences which  
18 indicated that she had established a significant  
19 spiritual relationship with her ancestral past, which  
20 provided her with compelling visions of this area's  
21 significance in Ngarrindjeri tradition'. I think Sarah  
22 Milera did say something of that sort to you, that she  
23 had had personal experiences which she construed as  
24 establishing a spiritual relationship between her and  
25 Hindmarsh Island.
- 26 A. Yes.
- 27 COMSR: What is the status of this report from  
28 which -
- 29 MR SMITH: It is currently suppressed. This part  
30 of the examination would need to pick up that  
31 suppression. That is all.
- 32 COMSR: Mr Abbott, it is part of the material  
33 which has been returned. Certainly you are not dealing  
34 with anything secret like that, but at the same time it  
35 is the report itself that causes me a bit of concern at  
36 this stage.
- 37 MR ABBOTT: I am happy just to put my  
38 cross-examination without it being directly referrable

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- 1 to the report, and not quote bits out of it, but I want  
2 to ask some questions about whether this witness has  
3 ever heard of certain topics being uttered by Sarah  
4 Milera. I can put it in that way, but I wouldn't want  
5 it said that I misled anyone because the topics I am  
6 putting -
- 7 COMSR: The report itself hasn't been released,  
8 has it?
- 9 MR SMITH: All that has happened to the report is  
10 that you have suppressed it from publication.
- 11 COMSR: And it has been returned.
- 12 MR ABBOTT: No.
- 13 MR SMITH: No, it is an exhibit.
- 14 MR ABBOTT: We have returned what we have received  
15 from the commission. We haven't returned what we got  
16 from other sources.
- 17 COMSR: But what is the status of the report  
18 itself? Is it a public document?
- 19 MR ABBOTT: I understood the Fergie report was a  
20 publicly released document as an appendix to the  
21 Saunders report.
- 22 WITNESS: No. The Fergie report was never  
23 publicly released.
- 24 COMSR: No, I don't understand it to have been.
- 25 MR ABBOTT: I am happy for you to suppress this  
26 evidence.
- 27 COMSR: The thing is, I don't know that it is a  
28 report that we can have before us at this stage.
- 29 MR SMITH: I think the situation with the Fergie  
30 report is this, that when it was initially tendered by  
31 us you suppressed it from publication, in the sense that  
32 some portions of it arguably touch upon women's secret  
33 sacred business, but really those portions are in the  
34 secret envelopes, which we don't have. There are  
35 portions of it that don't approach that area.
- 36 COMSR: I appreciate that, but I thought it was  
37 put to me that that report was subject to special

1 restrictions concerning its release in the Federal Court  
2 proceedings. That is not the case?

3 MR MEYER: I will see if I can assist. To the best  
4 of my recollection, Mr Smith's distinction is correct,  
5 in that what was considered to be not able to be  
6 released was contained in the secret envelopes, and what  
7 was considered to be available was the general report  
8 which formed part of a representation provided by the  
9 ALRM to Minister Tickner that led to the Saunders  
10 report.

11 The Saunders report made specific reference to the  
12 Fergie report as a source, and made specific reference,  
13 of course, to appendix 2, which is the secret envelopes.  
14 If it assists, there is a letter which is released by  
15 the Aboriginal Legal Rights Movement entitled 'Open  
16 letter to Ngarrindjeri people about consultation for  
17 release of information to Hindmarsh Island Royal  
18 Commission'. It is the letter which apparently is  
19 issued in relation to the current consultation process  
20 for the Section 35 problem.

21 On p.4 of that letter there is a heading 'The  
22 Saunders and Fergie reports'. These reports were  
23 prepared for Minister Tickner as part of his inquiry  
24 leading to a declaration stopping the building of the  
25 bridge in July last year. Those reports were prepared  
26 under Federal legislation and for a Federal inquiry,  
27 thus the State Act and the State Minister's  
28 authorisations do not apply to it. So it is not  
29 suggested by the ALRM that the Fergie report is the  
30 subject of a Section 35 problem.

31 COMSR: No. I wasn't concerned with that. I  
32 was concerned with whether there had been any court  
33 orders made in respect of that.

34 MR MEYER: We have dealt, in part, with these  
35 matters of court orders previously. We have arranged to  
36 produce the transcript by my friend Mr Smith. In  
37 September 1994, there was a temporary order made by Mr



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1 O'Loughlin J at the request of Mr Collett who appeared  
2 for the ALRM -

3 MR ABBOTT: To short-circuit this, I am prepared to  
4 use the almost identical passage out of the Saunders  
5 report rather than take up more time in this debate.

6 XXN

7 Q. The same material is found, I am happy to say, with  
8 acknowledgment in the footnote to the Fergie report, in  
9 the Saunders report at p.26.

10 A. 23 in mine.

11 Q. It depends which version you have got.

12 MR MEYER: The two are identical except for some  
13 headings. They just got renumbered.

14 XXN

15 Q. There is a paragraph beginning `Sarah Milera'.

16 A. Yes, there is.

17 Q. I read it out to you `Sarah Milera told me she is the  
18 descendant of Pulami, the last Rupulle of the  
19 Ngarrindjeri people according to Berndt and Berndt'.  
20 She also told you that.

21 A. Yes.

22 Q. `Her lineage is confirmed by Doreen Kartinyeri'. Was  
23 her lineage confirmed to you by Doreen Kartinyeri, or by  
24 anyone.

25 A. No.

26 Q. `Sarah perceives herself and is accepted by others as a  
27 custodian of the law of the land'. You certainly heard  
28 her say to you that she was custodian of the law.

29 A. Yes.

30 Q. And you weren't sure whether it was L-O-R-E or L-A-W.

31 A. Correct.

32 Q. Professor Saunders goes on to say `She described  
33 personal experiences to me since arriving in Goolwa,  
34 including the behaviour of her Ngatchi (her totemic  
35 bird)'. Are you aware that Ngatchi is in fact the  
36 Murray magpie.

37 A. It was a piping shrike which followed her around the  
38 island.

- 1 Q. What, she told you about her Ngatchi.  
2 A. It was a piping shrike which followed her around the  
3 island wherever she went.  
4 Q. Did she say to you that she was communicating with this  
5 bird.  
6 A. Yes.  
7 Q. How did she put it.  
8 A. That the bird and she were one and that whenever she  
9 walked around the island, the bird was there protecting  
10 her.  
11 Q. Did she tell you that she was communicating with the  
12 bird and the bird was communicating with her.  
13 A. Well, not to the point where they were having  
14 discussions or anything, there was definitely a link  
15 between this bird and her.  
16 Q. Did she ever tell you how she had a totemic bird, how it  
17 was that she had a totemic bird.  
18 A. She'd told me all Aborigines have totemic birds and that  
19 was her totemic bird.  
20 Q. Did she say that more than once.  
21 A. She told me that day on April 29. That was the day.  
22 Q. I take it you record it as a rather sweeping statement  
23 that all Aborigines have a totemic bird.  
24 A. Well, at that stage, I wasn't particularly knowledgeable  
25 about Aboriginality and I accepted it at face value.  
26 Maori people have a similar bird.  
27 Q. Did any other Ngarrindjeri person claim to have a  
28 totemic bird to you.  
29 A. No.  
30 Q. The Professor Saunders' report reads: `She described  
31 personal experienes to me since arriving in Goolwa,  
32 including the behaviour of her Ngatchi, unexpected finds  
33 of cockle shells'. Did she elaborate to you on  
34 `unexpected finds of cockle shells'.  
35 A. No, but she didn't elaborate. She told me that she had  
36 found cockle shells which she deemed to be sacred sites  
37 areas, middens and that sort of thing.  
38 Q. Was that present day cockle shells or ancient ones.

- 1 A. Ancient cockle shells.  
2 Q. So, have you seen some midden areas in Hindmarsh Island.  
3 A. No, I've never gone anywhere near any sacred sites on  
4 Hindmarsh Island.  
5 Q. You're not aware whether cockle shells are usual or  
6 unusual or unprotected in the midden areas.  
7 A. From what I heard from Dr Draper, the middens are  
8 effectively rubbish dumps.  
9 Q. What, with cockle shells.  
10 A. After eating, they discard the shells they eat.  
11 Q. And often they are feet thick.  
12 A. Yes.  
13 Q. She described her personal experience, this is the  
14 Professor Saunders' report, and dealt with her totemic  
15 bird, unexpected finds of cockle shells. And the third  
16 thing described to Professor Saunders as a personal  
17 experience was an ancestral spear. Did she ever tell  
18 you about having found or being given ancestral spear.  
19 A. Yes.  
20 Q. What did she tell you about that.  
21 A. She told me that she had found a spear on the river  
22 which was an ancestral spear and she had entrusted it to  
23 a couple of other people to look after.  
24 Q. Did she tell you the names of those people.  
25 A. I can't recall.  
26 Q. Have you ever seen the ancestral spear.  
27 A. No, I haven't.  
28 Q. Have you asked to see it.  
29 A. No, I didn't. I didn't think it was in my best  
30 interest. It was a sacred object.  
31 Q. Has anyone other than Sarah Milera claimed to you to  
32 have seen this ancestral spear.  
33 A. No.  
34 Q. I want to ask you, because it may be an important matter  
35 as to whether it exists and, if so, in what  
36 circumstances, this is a matter she raised at the  
37 interview with you on 29 April.  
38 A. Yes.

- 1 Q. From what she told you about the spear, was she claiming  
2 that it was an ancestral spear that is somehow related  
3 to her ancestry.
- 4 A. I don't know.
- 5 Q. Or ancestry in general.
- 6 A. To ancestry in general. Like an ancient spear rather  
7 than at ancestral spear.
- 8 Q. Did she give you a clue as to how long it was or what it  
9 was made of.
- 10 A. No. Didn't go into detail. She told me she found a  
11 spear and it was in safe-keeping.
- 12 Q. Have you heard of a story of her being given a spear.
- 13 A. No.
- 14 Q. By other people; that is, a contemporary spear, not an  
15 old one.
- 16 A. No. I've only ever heard about the old ancestral spear.
- 17 Q. Has she told you this story more than once.
- 18 A. It's been raised with me at the most three times only in  
19 passing.
- 20 Q. But it's certainly part of the material that she relied  
21 upon to put forward her claim of being a custodian and  
22 having strong spiritual links with the island.
- 23 A. That played a large part in persuading me that she did  
24 have a link to the island.
- 25 Q. You had no cause to doubt what she was saying.
- 26 A. Not at all. She's put forward as the Aboriginal  
27 spokesperson for that area. She struck me as a very  
28 articulate and genuine person at the time.
- 29 Q. Your views have since changed, I think, to some extent.
- 30 A. No. I think she is still a very genuine person and her  
31 articulateness is sort of questionable now in terms of  
32 her talking in riddles. My opinion of her as a person  
33 hasn't changed.
- 34 Q. I phrased that badly. Your opinion in that regard has  
35 not changed. I suggest that your opinion as to the  
36 veracity to her claims as to what she's found or heard  
37 has changed.
- 38 A. Unfortunately, yes.

- 1 Q. The last personal experience that she apparently  
2 described to Professor Saunders and to Dr Fergie was  
3 visions of a traditional Ngarrindjeri man. Did she ever  
4 mention to you any visions of a Ngarrindjeri man.
- 5 A. It was referred to as a traditional warrior.
- 6 Q. Did she say in what circumstances and -
- 7 A. That this vision came to her when she was on the island.
- 8 Q. It is apparent then that the very same personal  
9 experiences that she mentioned to Professor Saunders and  
10 to Dr Fergie she also recounted to you, or perhaps not  
11 in the same detail from what we see here, but apparently  
12 she has given the same thing to you.
- 13 A. Yes.
- 14 Q. That's so, is it not.
- 15 A. That's correct.
- 16 Q. Have there been any other personal experiences that she  
17 was given to you which she, if one regards the list in  
18 Professor Saunders' report as exhaustive, she has not  
19 given to Professor Saunders.
- 20 A. Only that she suffered from an illness and we never -  
21 this particular illness required regular treatment on a  
22 machine and that whenever she was near the mouth of the  
23 Murray, this machine was not necessary and her health  
24 was much better.
- 25 Q. I think there was also a reference to the ecology. That  
26 is not mentioned.
- 27 A. There is no consistency beyond her confirmed belief in  
28 birds particularly and also the effect of land  
29 clearance, of the removal of native vegetation which had  
30 actually kept Aboriginal people healthy.
- 31 Q. You mentioned that she was put forward as a spokesperson  
32 I think those were your words.
- 33 A. Yes.
- 34 Q. Who put her forward as a spokesperson.
- 35 A. The friends of Goolwa and Kumarangk.
- 36 Q. Could you tell us the context in which she was put  
37 forward by them.
- 38 A. She had been photographed in the Victor Harbor Times

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- 1 with her husband Doug last - in October 1993. She was,  
2 had become known within the South Coast as one of the  
3 two Aboriginal people protesting against the bridge.
- 4 Q. Who was the other.
- 5 A. Doug, her husband. And when I made enquiries about who  
6 do I talk to about the bridge, her name was given to me.
- 7 Q. By whom.
- 8 A. Mr Vic Wilson, I believe.
- 9 Q. That's Vic Wilson of the Lower Murray Aboriginal  
10 Heritage Committee.
- 11 A. Yes.
- 12 Q. And the Nunga's Club.
- 13 A. Yes; and Doug's name was given to me by Mr Tim Wooley.
- 14 Q. Were the names of - up until the article which you  
15 pitched up until 3 May, the article pitched by the  
16 Advertiser that you wrote, had you been given the names  
17 of any other Aboriginal persons who it was claimed could  
18 speak with some knowledge and authority in relation to  
19 Hindmarsh Island and its significance.
- 20 A. Sarah and Doug were the only two people, to my  
21 knowledge, of Aboriginal descent who were interested in  
22 that particular area at that time.
- 23 Q. The answer's: no, you weren't given any other names.
- 24 A. No, I wasn't.
- 25 Q. And, as a result of your interview on 29 April of  
26 several hours, did Sarah volunteer the names of anyone  
27 else, other than her husband Doug, whom you might speak  
28 to or who might confirm or assist in your investigation  
29 of this issue.
- 30 A. No, she didn't.
- 31 Q. Did you ask her whether there was anyone else who  
32 perhaps would have some knowledge.
- 33 A. I don't believe I did, no.
- 34 Q. To go back, I hope, very briefly to attachment 7 - which  
35 is your article of 6 April 1994 - you say the Advertiser  
36 yesterday obtained a Department of State Aboriginal  
37 Affairs document. You said in evidence that was the  
38 first Draper report.

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- 1 A. Yes, which was circulating widely in the area.  
2 Q. That took the form of a briefing paper sent to the Lower  
3 Murray Aboriginal Heritage Committee.  
4 A. Yes; with a covering letter by Mr David Rathman.  
5 Q. Do you have that with you.  
6 A. Yes.  
7 Q. Can you produce it.  
8 A. When I said, I say I have it with me, it is actually in  
9 the Commission building. Whether I have it with me  
10 here, I don't think so.

11 MR ABBOTT CALLS FOR THE PRODUCTION OF THE WITNESS'S COPY

OR

12 A COPY OF THE DOCUMENT REFERRED TO WHICH WAS CIRCULATING  
13 WIDELY AS AT 6 APRIL 1994.

14 COMSR: I don't know if there is one.

15 MR ABBOTT: I'm not asking that you receive it as  
16 evidence at this stage.

17 Q. I think you don't want to tell us your source for this  
18 document.

19 A. That's correct.

20 Q. You said that it was circulating widely. Are you able  
21 to elaborate on that as to your knowledge who else had  
22 it, without revealing your source or sources.

23 A. There was obviously a large group of people who were  
24 opposing this bridge and that group numbered several  
25 hundred people.

26 Q. It had a wider currency in that group to your knowledge.

27 A. That's correct.

28 MR ABBOTT: Could a number be given as an MFI to  
29 this document and be produced in due course?

30 MR SMITH: I think that might be Exhibit 16  
31 already. Exhibit 16 is, again, a suppressed report of  
32 Neale Draper.

33 COMSR: That is in the Registry at the present  
34 time.

35 MR ABBOTT: This is an earlier one.

36 COMSR

37 Q. What's the nature of the document.

38 A. It's a pretty non-sensitive document which was the first

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- 1 Draper report which dealt with the archaeological sites  
2 on the island, and the preliminary results to the survey  
3 that Dr Draper was conducting in conjunction with the  
4 Mileras and the Lower Murray Aboriginal Heritage.
- 5 Q. When you say it was `circulating widely', do you mean  
6 among Aboriginal persons.
- 7 A. No, among the people opposing the bridge.
- 8 XXN
- 9 Q. That's the friend of Kumarangk, et cetera.
- 10 A. Yes - well, and all the other bodies.
- 11 MR MEYER: The original document which is commonly  
12 called the `briefing paper' wasn't the subject of any  
13 restriction or any matter of that nature in any previous  
14 proceedings.
- 15 MR ABBOTT: The briefing paper is five pages and the  
16 covering letter is one page and it was accompanied by a  
17 letter dated 29 March 1994 from David Rathman, the chief  
18 executive officer of the Department of Aboriginal  
19 Affairs, and the letter was addressed to Victor Wilson,  
20 the chairperson of the Lower Murray Aboriginal Heritage  
21 Committee, and it obtained wide circulation. It's  
22 Exhibit 16.
- 23 COMSR
- 24 Q. How are you aware that it attained widespread  
25 circulation.
- 26 A. Because I obtained three separate copies of it from  
27 three different sources.
- 28 XXN
- 29 Q. All of them non-Aboriginal.
- 30 A. That's correct.
- 31 MR ABBOTT: I rest my case.
- 32 COMSR: You are asking for it to be marked for  
33 identification.
- 34 MR ABBOTT: It's already in.
- 35 MR MEYER: No, it isn't.
- 36 COMSR: Why do we need another?
- 37 MR ABBOTT: We don't. I want to make sure that it  
38 is in.



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- 1 MR SMITH: It's suppressed and taken out.  
2 COMSR: It is admitted as an exhibit, is that  
3 what you tell me?  
4 MR SMITH: We will go and get it and make sure. It  
5 will only take a moment. I think it's the same  
6 document. Might be just misdated 29 April rather than  
7 29 March.  
8 XXN  
9 Q. In any event, I will ask you a question about it: You  
10 remember the document you got. Did that come from a  
11 letter from David Rathman to Victor Wilson and could be  
12 described as a briefing paper for Victor Wilson.  
13 A. Yes.  
14 Q. And the briefing paper has been prepared under the hand  
15 of Dr Neale Draper, the senior archaeologist.  
16 A. Yes.  
17 Q. It's that document which is referred to in your annexure  
18 7, the article 6 April 1994.  
19 A. Yes.  
20 Q. Indeed, you have quoted from it directly.  
21 A. Yes, I do.  
22 Q. I take it that you reported on it and quoted from it in  
23 the belief that this was a document which was  
24 disseminated publicly.  
25 A. Yes.  
26 Q. Did you receive any complaint in relation to the article  
27 that you wrote that it amounted to the divulgence of  
28 material that shouldn't be divulged.  
29 A. No; and I divulged even more on 12 April.  
30 Q. The 12 April one is your article, attachment no.13.  
31 Where you refer in the first column to the briefing  
32 paper, that is the same briefing paper where you  
33 describe the paper as presenting `Formidable case in  
34 favour of the Aborigines'.  
35 A. Yes.  
36 Q. Indeed, that was your view at that stage.  
37 A. There was a genuine case for, if not stopping, then at  
38 least a consideration of stopping the bridge based on

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1 archaeological sites. Not only that, I felt that there  
2 is, was a need for improved consultation with Aboriginal  
3 people and a need to provide the funding to conduct that  
4 survey, make sure it was completed.

5 Q. That has always been your view.

6 A. Exactly.

7 Q. As we know, from what you have said in evidence, you  
8 were speaking to a man whom you regarded as Mr Willy,  
9 and now Mr Wooley.

10 A. Yes.

11 Q. Did he provide a copy of the Draper report to you, or  
12 don't you want to answer that question.

13 A. I don't want to answer that question.

14 MR ABBOTT: I rather thought you wouldn't. The next  
15 thing I go to is does Mr Smith have the document there?

16 MR SMITH: It is a different. The one that you are  
17 referring to is, indeed, different from Exhibit 16 which  
18 is truly a report dated 29 April. This is a document,  
19 the one that Mr Abbott is referring the witness to, in  
20 March and attached to a letter of 29 March.

21 MR ABBOTT: I ask that it be marked for  
22 identification in view of any alleged sensitivity that  
23 it may have.

24 XXN

25 Q. First, could you identify that as being a copy of what  
26 you said.

27 NOT ANSWERED

28 COMSR: I want to differentiate between that and  
29 the subsequent report.

30 MR ABBOTT: We referred to this as the first Draper  
31 report in the form of a briefing paper.

32 CONTINUED

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- 1 COMSR: That will be marked for identification  
2 Exhibit 137.
- 3 MR MEYER: And Exhibit 16, 29 April, is the  
4 suppressed one and the one which requires s.35 and the  
5 one we have got to be careful with.
- 6 MR KENNY: I haven't seen this latest report, but,  
7 if it is similar to the other one, I suggest it may also  
8 need to be suppressed. I would just like to have a look  
9 at a copy of it.
- 10 COMSR: It is only marked for identification.
- 11 MR SMITH: The crucial parts of the report are  
12 reported in The Advertiser.
- 13 MR ABBOTT: I don't know that we should let Mr Kenny  
14 look at it. It is only marked for identification.
- 15 MR KENNY: Everyone else but me has a copy of it.
- 16 COMSR: I am sure there would be no objection to  
17 you having a copy of that.
- 18 XXN
- 19 Q. I go on to your annexure of 4 May, your report of 4 May,  
20 which I think is attachment 29.
- 21 COMSR: What is the date of that report, Mr  
22 Abbott?
- 23 WITNESS: 4 May, attachment 29.
- 24 MR SMITH: It is the article of 4 May.
- 25 XXN
- 26 Q. Attachment 29, the article of 4 May, that was an article  
27 written after Dr Armitage had, as you wrote, used his  
28 special powers under the Aboriginal Heritage Act to  
29 authorise Ms Laidlaw to start construction. In other  
30 words, he had, notwithstanding the existence of the  
31 sites and the problems, he had used his special powers  
32 to, as it were, override the problem.
- 33 A. Yes.
- 34 Q. You had had discussions with Sarah Milera about that.
- 35 A. Yes, I did.
- 36 Q. You didn't, I think, tell us in detail of your  
37 discussions. Do you have any notes of them.
- 38 A. Yes, I do and I thought I had.

- 1 Q. I may be mistaken. Yes, you spoke to her on 3 May.  
2 That is the occasion in which she said 'I have no faith  
3 in the Government any more.'  
4 A. Yes, 'I banish them from my mind for ever.'  
5 Q. I won't ask you any more about that then. I now go on  
6 to attachment 33, your article of 11 May, which deals  
7 with your report of the protestors at the meeting at the  
8 Hindmarsh Island bridge site. I am only interested in  
9 one portion, that is what you report Sarah Milera as  
10 having said. The words in the article are 'An  
11 Aboriginal spokeswoman, Mrs Sarah Milera, said the  
12 confrontation between Aborigines is that they had been  
13 deserted by the State Government and only Mr Tickner  
14 could be relied on to help stop the bridge', that is the  
15 effect of what she said to you.  
16 A. Yes.  
17 Q. Did you keep any notes of that.  
18 A. Yes.  
19 Q. Where are they.  
20 A. In my shorthand notebook beside me.  
21 Q. When you gave evidence, you mentioned that Mr Rocky  
22 Marshall was down there making 'Quite a big show of  
23 holding a sign.'  
24 A. Yes, I have a photograph of him with that sign.  
25 Q. Could you produce that.  
26 A. It would take me time, but, yes.  
27 Q. I would like you to produce it and it can be tendered in  
28 due course. You didn't tell us just what it was that  
29 Mrs Milera said. Your evidence is at p.2062, where you  
30 said, at line 17 'Mrs Milera and others, by this stage,  
31 were getting quite aggravated and she said "I just want  
32 people to stop this. You know, I thank them for  
33 standing with us."' Your article seems to imply that  
34 she said a bit more than that.  
35 A. Yes.  
36 Q. If you could just elaborate.  
37 A. I am just trying to find my notes on that. I obviously  
38 had several discussions during the course of the

- 1 morning.
- 2 Q. Of course, yes.
- 3 A. Yes, there is four different -
- 4 Q. Could you tell us what your recollection is of the  
5 effect of what Sarah Milera said to you, during the  
6 course of the demonstration of 10 May.
- 7 A. That it was a heritage site. They had been betrayed by  
8 Michael Armitage who had deserted them. That, by  
9 authorising the work, they felt that they had lived on  
10 an empty promise and no-one was listening any more and  
11 no-one was listening to the Aboriginal people.
- 12 Q. You told us that Mrs Milera and Neale Draper had a  
13 private discussion.
- 14 A. Yes.
- 15 Q. Did you overhear it.
- 16 A. No, they went off to one side (INDICATES) and had a  
17 chat.
- 18 Q. Did either Mrs Milera or Mr Draper tell you what it was  
19 about.
- 20 A. They were just discussing the order that had been served  
21 and, you know, what was going to happen next.
- 22 Q. You mentioned that Doreen Kartinyeri became very  
23 abusive. I don't ask you that repeat every word that  
24 she said, but it was clear, from the tenor of what you  
25 were saying, that she was swearing and using what some  
26 might regard as profane and filthy language to the  
27 people who could hear her.
- 28 A. That's correct.
- 29 Q. How long did that outburst go on for.
- 30 A. Quite some time.
- 31 Q. What are we talking about. Five minutes, ten minutes.
- 32 A. Ten to fifteen. It started stopped, started stopped,  
33 started stopped.
- 34 Q. Who was she abusive to.
- 35 A. Mainly Trevor Treadwell from Built Environs.
- 36 Q. Did she describe him in racist apart from sexist terms.
- 37 A. Not that I can recall. I don't recall her using similar  
38 descriptions as she described me, no.

1 Q. But it was in the same sort of vein. The same sort of  
2 language.

3 A. Definitely.

4 Q. I think it is fair to say from your evidence that you  
5 were quite astonished by what you regarded as her  
6 overreaction.

7 A. Yes, I didn't - yes, I was astonished. I thought it was  
8 a bit of an overreaction. Not as to the damage to the  
9 site, but the way that she was conducting herself.

10 Q. You didn't report on it.

11 A. No.

12 Q. Are we to deduce anything from that.

13 A. At that stage, I actually didn't know really who she was  
14 or what role she played. The people that I regarded as  
15 the Aboriginal people to quote in the paper were, as I  
16 have said, Mr and Mrs Milera. This woman who I now  
17 know -

18 Q. As Dodo.

19 A. Who it is came in and basically started taking over and  
20 ranting and raving, so to speak, about the soil and got  
21 very abusive. And there were other things to worry  
22 about with the arrests of the people and, you know, the  
23 delivery of the Atco huts.

24 Q. How did Mrs Milera take all this, what Mrs Kartinyeri  
25 was doing.

26 COMSR: How can this -  
27 XXN

28 Q. Did she say anything, I meant.

29 A. No, she didn't say anything to me about it, but, you  
30 know, I think people took a step back and let her go.

31 Q. The next aspect was the Federal Government's temporary  
32 ban and you wrote stories on that, on the first 30 day  
33 ban.

34 A. Yes.

35 Q. And you interviewed for that article and for other  
36 articles Victor Wilson and Matt Rigney.

37 A. Yes, Victor Wilson provided a quote, which is at the end  
38 of that story. I only ever spoke to Victor Wilson in

1 detail once and that was the first time.

2 Q. You have spoken to Matt Rigney a number of times.

3 A. Several times.

4 Q. Indeed, he provided for you a response to some  
5 statements made by the Chapmans. And I am referring to  
6 his fax to you of 3 June 1994.

7 A. Yes, a handwritten fax?

8 Q. Yes, I think that is an exhibit. Would you turn to  
9 that, Exhibit 111. Do you have that in front of you.

10 A. Yes, I do.

11 Q. Did you speak to Mr Rigney about this fax and ask him to  
12 enlarge on it and any aspects of it.

13 A. No, I actually don't deal terribly greatly in rhetoric.

14 Q. What, you regarded this as a bit of rhetoric.

15 A. No, my method of operation is to work from documents,  
16 have background discussions with people and then, if I  
17 want to quote them, I ask them to provide it to me, so,  
18 what goes in the paper is exactly what they want.

19 Q. The penultimate paragraph reads 'It is difficult for  
20 some people to imagine the suffering of my people  
21 (Aborigines) as we were forced to watch our "garden of  
22 Eden" being destroyed. The building of this bridge will  
23 pierce our sites and bring in urban sprawl to the very  
24 centre of our lives to which we are strongly opposed.'

25 A. Yes.

26 Q. Did you ever take up that comment with him.

27 A. That was basically a fact that they saw the Hindmarsh  
28 Island becoming another suburb of Goolwa.

29 Q. In much the same vein, you received a fax, Exhibit 114,  
30 which Mr Meyer asked you about, signed by Sarah Milera  
31 and stated to be from Sarah and Richard whom you told us  
32 was Sarah Milera and Richard Owen.

33 A. Correct.

34 Q. This fax, Exhibit 114, refers to the Jacob's report.  
35 Have you ever seen a copy of that.

36 A. No, I have never seen a copy of it. I asked for it  
37 under the Freedom of Information Act and my request was  
38 refused.

1 Q. Have you seen part of it.

2 A. An excerpt of it, yes.

3 Q. It also refers in the last paragraph to the  
4 environmental impact statements of November 1989 and  
5 February 1990. Have you seen those.

6 A. There was a draft EIS done by Binalong in October 1991  
7 or 1990. Then there was an assessment of that by the  
8 Department of Environment and Planning, which I have  
9 seen.

10 Q. Have you seen the report by a Mr or Dr Lucas.

11 A. Yes, I have.

12 Q. And the report by Vanessa Edmonds.

13 A. No, I don't think I have.

14 Q. The Lucas report is a report dated 1990, is it not.

15 A. Yes.

16 Q. It is Exhibit 15 and I imagine it is part of our  
17 suppressed -

18 MR SMITH: Yes, it is Exhibit 15.

19 MR SHORT: Before my friend asks any questions  
20 about that, I understand, although I am not familiar  
21 with the document, that that document presumably was  
22 suppressed for s.35 reasons.

23 I ask my friend to be sensitive about it.

24 MR ABBOTT: I am going to be very sensitive about  
25 it.

26 XXN

27 Q. I just wanted to know how you came to have a copy of it,  
28 if you can tell us.

29 MR SHORT: If it raises a s.35 issue, I raise an  
30 objection. Obviously that should not be pursued.

31 COMSR: I understand this doesn't go to the  
32 contents of it.

33 MR ABBOTT: Not at all.

34 COMSR: But the manner in which the witness came  
35 into possession of it.

36 MR ABBOTT: I am only asking questions to assist  
37 you, should it ever be necessary to determine - for you  
38 to have to determine the s.35 issue about the



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- 1 availability and the dissemination of these reports in  
2 the community. We know that, if an authorisation is  
3 received, you will not need, depending on the terms of  
4 the authorisation, you may not need to determine that  
5 issue. If an authorisation is, however, not  
6 forthcoming, then you may need to determine that issue.  
7 And it is only that issue that I want to explore.
- 8 COMSR: Yes, I take it that the question is not  
9 as to its contents?
- 10 MR ABBOTT: No.
- 11 COMSR: But as to the manner of the witness  
12 coming into possession of it?
- 13 MR ABBOTT: That is all. And what he knows about  
14 its dissemination.
- 15 A. That report was commissioned and paid for by Binalong.  
16 To my knowledge, it remains the property of Binalong and  
17 it was given to me by someone who wasn't part of  
18 Binalong.
- 19 XXN
- 20 Q. It is said to be a report to Binalong, the Aboriginal  
21 Heritage Branch, Department of Environment and Planning,  
22 Adelaide.
- 23 A. Yes, as part of the planning process of the bridge.
- 24 Q. Are you able to tell us whether there are many copies of  
25 this not in captivity.
- 26 A. I don't know. It is a report which contains absolutely  
27 nothing of a sensitive nature. In fact, what the report  
28 does is say go out there and -
- 29 COMSR: That's just what we don't want to know:  
30 What it says.
- 31 A. It says talk to more Aboriginal people, basically.
- 32 XXN
- 33 Q. There are two earlier reports. The Vanessa Edmonds  
34 report, of September 1988, Exhibit 13, and the Vanessa  
35 Edmonds report of 1990, Exhibit 14. You haven't  
36 received those.
- 37 A. No.
- 38 Q. The second Draper report, our Exhibit 16, that is the

1 one that was after the briefing paper of Dr Draper's, is  
2 our Exhibit 16 and is dated 29 April 1994. Did you  
3 obtain a copy of that report.

4 A. No, I approached the Minister and asked him to provide a  
5 copy of it. I was told that he was happy for it to be  
6 released to me, but that he would have to obtain the  
7 approval and permission of the Aboriginal committee  
8 concerned. That permission was not forthcoming. The  
9 negotiations went on for some six to eight weeks.

10 Eventually I was given a very small excerpt and, as a  
11 result of publication of that excerpt, I was notified  
12 that I could be prosecuted under s.35.

13 Q. The reason I mention that is that you weren't able to  
14 obtain a copy of it, but, in the fax of 3 June, certain  
15 portions of it are reproduced.

16 A. Yes, that's as a result of negotiations which took place  
17 between myself and Sarah Milera and Richard Owen.

18 Q. I am just coming to that. Looking at Exhibit 114.

19 A. Yes.

20 Q. I tell you that, on p.3, the reference to 'The final  
21 report by the senior archaeologist', etc., is a  
22 reference to our Exhibit 16, the Draper report, and that  
23 what is then set out in this fax to you is, in fact,  
24 accurate quotations from the report.

25 A. That's what I understand.

26 Q. I take it you didn't seek that Mrs Milera include these  
27 sections in this fax. The fax arrived, as it were,  
28 unsolicited by you.

29 A. No, I had, in response to Mr Chapman's statement,  
30 obviously been seeking a reaction from people.

31 CONTINUED

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- 1 As I have already said, Richard Owen and Sarah Milera  
2 wanted to provide a detailed response in which they  
3 could argue at some length the points that were being  
4 made by Mrs Chapman in her press releases. I said 'By  
5 all means, go ahead and do it'. This arrived  
6 subsequently to that invitation to provide a written  
7 statement to them.
- 8 Q. What I am getting at is you didn't seek from them that  
9 they include sections of Dr Draper's report in their  
10 response.
- 11 A. No, but they were aware that I had been making very  
12 strong efforts to obtain that report to get it in the  
13 paper, to enlighten people about the seriousness of the  
14 sites at Hindmarsh Island.
- 15 Q. It is obvious from this fax that Richard Owen and Sarah  
16 Milera have a copy of or had access to a copy of it.
- 17 A. One can assume that.
- 18 Q. The fax starts off in the second sentence 'Sarah is  
19 comfortable for you to use whatever you wish'.
- 20 A. Yes.
- 21 Q. Did you speak to Sarah Milera about the fact that she  
22 had had access to Draper's report.
- 23 A. Well, I would have thought that was quite logical  
24 because she was working with Draper. So, no, I didn't  
25 ask her. I just assumed that, because she was actually  
26 helping Draper do the survey, that she helped him write  
27 the report.
- 28 Q. What about Richard Owen, did you ever ask him about  
29 getting a copy of Draper's report.
- 30 A. He was also involved very closely with Neale Draper and  
31 the survey.
- 32 Q. You assumed that he appropriately had a copy of the  
33 report.
- 34 A. Yes.
- 35 Q. Did you ask either of them whether they would provide it  
36 for you.
- 37 A. That's all they were authorised to provide to me.
- 38 Q. Authorised by whom.

- 1 A. The Aboriginal Heritage Committee, from what I  
2 understood.
- 3 Q. That's what I'm getting at. This was provided in this  
4 fax because you were informed that Sarah Milera and  
5 Richard Owen had liaised with the Lower Murray  
6 Aboriginal Heritage Committee about the release to you  
7 about certain portions of Dr Draper's report as a result  
8 of which these sections had been provided to you.
- 9 A. Yes.
- 10 Q. And because you had the permission, not only of Sarah  
11 Milera and Richard Owen, but also as you understood the  
12 permission of the Lower Murray Aboriginal Heritage  
13 Committee, to publish these sections in the  
14 `Advertiser'.
- 15 A. Yes, and the balance of the report was sensitive and  
16 they didn't want it released.
- 17 Q. What I am trying to obtain is that some comment was  
18 made, I think, that this appeared in the `Advertiser'.  
19 In actual fact, it appeared in the `Advertiser' because  
20 you had done all you could to obtain permission and  
21 approval, other than the government, who weren't  
22 prepared to give you permission and approval.
- 23 A. No, they were.
- 24 Q. They were.
- 25 A. Yes. The Minister approved it, and then this came to  
26 me, this got published. There was no complaint from the  
27 Aboriginal quarter, but the minister's office was on the  
28 phone.
- 29 Q. In any event, you published those sections of the Draper  
30 report that you obtained in the fax, Exhibit 114,  
31 because you believed that permission to publish those  
32 sections had been given by the Lower Murray Aboriginal  
33 Heritage Committee.
- 34 A. Via Sarah Milera, yes.
- 35 COMSR: You seem to be traversing a rather wide  
36 range of ground that doesn't necessarily appear to  
37 represent your clients' interests entirely.

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- 1 MR ABBOTT: It does, because it goes to the eventual  
2 issue as to whether or not what eventually became the  
3 alleged secret sacred women's business, as distinct from  
4 the women's business, was fabricated. My instructions  
5 are that certainly there are sites and middens, and many  
6 sites that are appropriate to be protected. I am only  
7 endeavouring to set the scene for what led up to what we  
8 would submit would be the embellishment or the  
9 embroidery of a valid claim, but which was obviously, as  
10 you will hear, not enough at the time to call in Mr  
11 Tickner's assistance, and which resulted in, as this  
12 witness has said -
- 13 COMSR: A lot of this ground has been traversed  
14 by counsel assisting.
- 15 MR ABBOTT: Yes. I am dealing with it as quickly as  
16 I can, but the way in which this section of the Draper  
17 report came into public arena I think is an important  
18 matter. I will endeavour to be as brief as I can.
- 19 XXN
- 20 Q. Richard Owen - is that Richard Owens or Owen.  
21 A. Owen, singular.  
22 Q. Who is he.  
23 A. He is President of the Friends of Goolwa and Kumarangk,  
24 and also a full-time librarian employed by TAFE, and a  
25 Hindmarsh Island shack owner.  
26 Q. Is he, to your knowledge, of Aboriginal descent.  
27 A. No.  
28 Q. You said that he was assisting Dr Draper. How did you  
29 know that.  
30 A. How did I know that?  
31 Q. Yes.  
32 A. I was told that.  
33 Q. You have told us of the claim that was made and perhaps  
34 is still being made, that an aerial photograph of the  
35 Hindmarsh Island Murray Mouth will reveal to the  
36 informed onlooker a reference to female reproductive  
37 organs. You know what I am talking about.  
38 A. Yes.

- 1 Q. Have you heard of such a claim being made of any other  
2 area.
- 3 A. No.
- 4 Q. So this is the first and only time you have heard of any  
5 such claim.
- 6 A. Yes.
- 7 Q. That is, in the Hindmarsh Island Murray Mouth setting.
- 8 A. Yes.
- 9 Q. I move on past the time that you were sent, by Robert  
10 Tickner, a copy of Professor Saunder's report with the  
11 annexures, the 97 pages, and you then published an  
12 article, attachment 55, entitled 'Secrets of the bridge  
13 to nowhere.'
- 14 A. Yes.
- 15 Q. Under a by-line entitled 'Something we'll never know',  
16 you said 'South Australians will never know the full  
17 reasons why the Hindmarsh Island Bridge was stopped.  
18 While the location of two sacred sites is approximately  
19 known, the Aboriginal spiritual beliefs behind the  
20 Federal Government's controversial decision will remain  
21 known to only a handful of women'. Were you aware of  
22 whom the handful of women were who claimed to have that  
23 information.
- 24 A. 39 women in total.
- 25 Q. They were the handful.
- 26 A. They would have been the 35 women who met with Saunders,  
27 plus the four European women authorised to know  
28 material.
- 29 Q. The four European being Sue Keen.
- 30 A. Susan Keen, Ann Mullins, Cheryl Saunders and Dr Deane  
31 Fergie.
- 32 Q. I now pass onto attachment 63, which is a feature  
33 article you wrote on 14 July. Do you have that in front  
34 of you.
- 35 A. Yes.
- 36 Q. Again, this was an article based, in part, on what Mrs  
37 Milera had told you. I refer you to paragraph 3 which  
38 says 'For Mrs Milera and other Ngarrindjeri women, the

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- 1 Hindmarsh Island bridge dispute has opened the door to  
2 their past. The women regard Connie Roberts as the most  
3 tribal and traditional among them for her knowledge of  
4 traditional ritual performances, dances, songs and  
5 languages, as well as stories from the Ngarrindjeri oral  
6 tradition'. Who gave you that information.
- 7 A. It comes from the Saunders report.
- 8 Q. And apparently so does the rest of the material in that  
9 column.
- 10 A. Yes.
- 11 Q. Go to attachment 79, your article of 10 November 1994.  
12 This I think was the first time that anyone had publicly  
13 said that the story that was given by the Aboriginal  
14 women to stop the bridge, in part, was made up.
- 15 A. Yes, that's correct.
- 16 Q. You are aware that Mr McLachlan named Mrs Dorothy Wilson  
17 in parliament.
- 18 A. That story is reading from hansard.
- 19 Q. I think you have investigated this subsequently and you  
20 have learnt that Mr McLachlan got the information from  
21 Allan Campbell.
- 22 A. That's correct.
- 23 Q. And that Mrs Wilson was very upset about the fact that  
24 her name was used by Allan Campbell to Ian McLachlan.
- 25 A. She was very angry that her name was mentioned in  
26 parliament, yes.
- 27 Q. Did you understand from your investigations that Dorothy  
28 Wilson had told her relative, Allan Campbell, in  
29 confidence, and that he had then divulged the material  
30 to Ian McLachlan.
- 31 A. That is what I understand is exactly the case, yes.
- 32 Q. Then I pass over the next few articles that you wrote.  
33 I turn now to the reports that you wrote of the Federal  
34 Court hearing, attachments 81, 82 and 83. You were  
35 present in the Federal Court.
- 36 A. Yes, for almost its entirety, apart from a period where  
37 we went on strike at the 'Advertiser' and I couldn't  
38 attend.

- 1 Q. Is the article of 15 December 1994, attachment 81,  
2 written from what you heard in the Federal Court.
- 3 A. Sorry, which one was that?
- 4 Q. Attachment 81.
- 5 A. Yes. Yes, directly from Professor Saunder's evidence.
- 6 Q. Attachment 82, the article of 7 December 1994.
- 7 A. If you give me the heading.
- 8 Q. 'Island clan not consulted' is the by-line, the heading  
9 is 'Bridge impact report slammed'.
- 10 A. That was Chirpy Campbell.
- 11 Q. In the course of giving evidence.
- 12 A. Yes. That was Campbell saying he wasn't consulted by  
13 Professor Saunders.
- 14 Q. The next article is your attachment 83, headline 'Bridge  
15 claims "not invented".' You cite Mr Andrew Collett.  
16 Was that in court or out of court.
- 17 A. No, that was in court. Mr Collett adamantly denied that  
18 the claims had been invented.
- 19 Q. You quote Professor Saunders in these terms 'Professor  
20 Saunders last week told the court she met 35 Aboriginal  
21 women on June 20 to discuss the bridge and their  
22 spiritual beliefs about Hindmarsh Island and surrounding  
23 waters. However, she also admitted only 4 of the women  
24 knew about the spiritual significance of the area the  
25 day before she met them at a Goolwa convention centre.'
- 26 A. Yes.
- 27 Q. That's information you got from her evidence and her  
28 report.
- 29 A. Yes.
- 30 Q. You then quote Mr Collett as saying 'Mr Collett  
31 yesterday said there was "compelling evidence" why the  
32 women had been reluctant to divulge details of the  
33 women's business, including a belief it would destroy  
34 their ability to reproduce'. Is that a submission Mr  
35 Collett made to O'Loughlin J.
- 36 A. Yes, it is.
- 37 Q. Did he say anything more than that as to why, why they  
38 had that belief.



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- 1 A. You are testing my memory now. Without referring to a  
2 transcript which I have, but not here beside me, I don't  
3 think he went into any specific detail, no.
- 4 Q. I now ask you to turn to attachment 92, which is an  
5 article of 8 March. Do you have that article.
- 6 A. Just give me the heading, if you can.
- 7 Q. It is 'Women will die it secrets read.'
- 8 A. Yes.
- 9 Q. This article of 8 March was a result of discussions you  
10 had had with Sarah Milera and Doreen Kartinyeri.
- 11 A. No. It was a result of a letter that Mrs Kartinyeri had  
12 sent Mr McLachlan, saying that her beliefs had been  
13 raped by him.
- 14 Q. Was it based on an interview with Mrs Kartinyeri.
- 15 A. No, it came almost directly from the letter. Mrs  
16 Kartinyeri wasn't talking to me.
- 17 Q. You had had your dust-up with her before this, and she  
18 wasn't talking with you at all.
- 19 A. Yes, it hadn't been resolved.
- 20 Q. You had sent a reporter to a feminist women's meeting.
- 21 A. I wasn't personally responsible for dispatching the  
22 reporter, but, yes, a colleague went to that luncheon.
- 23 Q. That was presided over by Betty Fisher with Doreen  
24 Kartinyeri, the guest speaker.
- 25 A. From what I've been told by my female colleague, yes.
- 26 Q. Was that 8 March.
- 27 A. Yes, it was.
- 28 Q. Had you personally had any contact with Betty Fisher up  
29 to that time.
- 30 A. I never heard of her before.
- 31 Q. Since then have you heard of her.
- 32 A. Yes, I have.
- 33 Q. Have you had any personal contact with her.
- 34 A. No, I haven't.
- 35 Q. Has she written to you.
- 36 A. No, she hasn't.
- 37 Q. You have conducted some investigations as to Mrs Betty  
38 Fisher's activities.

1 A. Yes, I have.

2 Q. I think you have a substantial body of information on  
3 her.

4 A. Yes, I have.

5 Q. Do you have that with you.

6 A. No, I don't.

7 Q. Mrs Fisher has been prominent to feminist activities now  
8 for many years.

9 A. Since about the 50s.

10 Q. Have you learned of the role that she arrogates to  
11 herself in the matters that involve this commission,  
12 that is, as being the recipient of information from  
13 Auntie Koomi.

14 A. Yes.

15 Q. Do you have any information that touches upon that  
16 issue.

17 A. Yes, I do.

18 Q. What is it.

19 A. I've spoken to someone whose house at which that  
20 material was allegedly examined and someone who has  
21 allegedly looked at that material and listened to the  
22 tapes and disputes the claims that were made to this  
23 commission.

24 Q. Are you able to reveal the name of that person.

25 A. I've passed it to the commission.

26 Q. Are you able to reveal the name of that person publicly.

27 A. No, I'd rather not. I've left it to the commission to  
28 follow up.

29 CONTINUED

1 Q. Are we talking about the occasion of the 7.30 Report.

2 A. We are.

3 Q. You're aware, are you not, that the ALRM and Betty  
4 Fisher and others have had considerable contact with the  
5 ABC, Channel 2, 7.30 Report.

6 A. That's my belief, yes.

7 Q. Have you ever asked them or their representatives why  
8 they can speak to the 7.30 Report and not to you.

9 A. No.

10 Q. I pass on then to attachment 92, the article of 8 March  
11 1995. That is not based on direct information from  
12 Doreen Kartinyeri to you.

13 A. No. By this stage, she was making it clear she was not  
14 talking to me.

15 Q. Similarly, attachment 94 is not based on information  
16 directly from Doreen Kartinyeri to you, but it does have  
17 information that Sarah Milera provided directly to you.

18 A. Yes. The first half of the article I wrote, and from  
19 the paragraph beginning 'Mrs Kartinyeri yesterday  
20 addressed the Annual International Women's Day Committee  
21 luncheon in Adelaide'. From there to the conclusion of  
22 that article was written by Nadine Williams.

23 Q. The first half, which details information given to you  
24 by Sarah Milera, was based on what she actually told  
25 you.

26 A. Yes.

27 Q. I think you gave evidence of a telephone call with Mrs  
28 Milera.

29 A. Yes.

30 Q. All you can recall of that conversation, it's at p.2125  
31 of the transcript, I take it that you were reading from  
32 notes.

33 A. Yes, I was.

34 Q. You told us that you asked Sarah Milera what was in the  
35 envelopes 'She told me she had not yet viewed the  
36 material inside the envelopes. She said the only  
37 person who had viewed the material inside was Mrs Doreen  
38 Kartinyeri, whom she called Dodo. She said "She is the

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- 1 only person". Mrs Milera told me Mrs Kartinyeri was  
2 only coming from one angle and did not take an holistic  
3 approach. There was a reference to the Aboriginal  
4 protest against the bridge'. Do I discern from that,  
5 that is really the start of the very, what grew to be,  
6 serious divergence between Sarah Milera and Doreen  
7 Kartinyeri.
- 8 A. I think it had been going for some time before that.
- 9 Q. This is really the first time.
- 10 A. The first time I managed to get it on the record, yes.
- 11 Q. I think you have made clear Sarah Milera's basic concern  
12 was that she had been down there working on the  
13 archaeological aspects and she had given that  
14 information. She was upset that her role had been  
15 overtaken by the women from Adelaide - primarily Doreen  
16 Kartinyeri - who had given information in envelopes that  
17 no-one else knew about.
- 18 A. That's correct.
- 19 COMSR: We have covered this ground in detail.
- 20 MR ABBOTT: Yes, I have. I wanted to relate that to  
21 that particular time, because it's important for your  
22 inquiry.
- 23 Q. I go on now to the article, attachment 99: 'The great  
24 lie of Hindmarsh Island'. Do you have your notes of  
25 that interview with you.
- 26 A. Yes.
- 27 Q. Some of the quotes that are in that article, I don't  
28 think you have actually read on to the transcript from  
29 the notes when you gave evidence. I take it, however,  
30 that -
- 31 COMSR: This is an exhibit, is it not?
- 32 MR ABBOTT: Yes. The article is attachment 99,  
33 dated 7 June 1995, and I don't think the notes are an  
34 exhibit. This is 6 June 1995.
- 35 Q. That hadn't been put in evidence.
- 36 A. A photocopy is available, yes.
- 37 MR SHORT: No exhibit was read on the transcript.
- 38 MR ABBOTT: The notes were read on to the

1 transcript.

2 Q. Could you look at the article, your article. In the  
3 second paragraph, it says: `Mrs Sarah Milera of Goolwa  
4 says Aboriginal activists concocted a claim the bridge  
5 would destroy the fertility of Aboriginal women by  
6 linking Hindmarsh Island to the Goolwa foreshaw.' That,  
7 I think, is your summation of actually what she's told  
8 you.

9 A. Yes. That is a paraphrase.

10 Q. But you stand by that article and that is an appropriate  
11 summary of the effect of what she was telling you.

12 A. Yes.

13 Q. You go on to say: `Mrs Milera told the Advertiser  
14 yesterday the women's business was fabricated after it  
15 became obvious a legitimate claim based the two  
16 archaeological sites, including a burial ground, was not  
17 enough to convince the Federal Government to stop the  
18 bridge'.

19 A. Yes.

20 Q. That is a paraphrase.

21 A. Yes.

22 Q. You stand by that as a reliable and accurate summary of  
23 the effect of what she was saying.

24 A. Absolutely.

25 Q. You go on to say in the second column, after saying that  
26 her decision to join with the other dissident Aboriginal  
27 women is significant: `Mrs Milera, who describes herself  
28 as a custodian of traditional Aboriginal knowledge from  
29 her "royal" lineage, said the "women's business" had its  
30 origins in genuine beliefs held by female Ngarrindjeri  
31 elders, but these had been exaggerated by "women from  
32 Adelaide".' The expression `by women from Adelaide',  
33 that is in quotes.

34 A. Yes.

35 Q. That is a direct quote of what she was saying.

36 A. Yes. It refers to a group of women in Adelaide, yes.

37 Q. Primarily, Doreen Kartinyeri, Maureen Van Der Byl, Val  
38 Power and Mrs Jacobs - Mrs Roberts, rather.

1 A. No. I have always taken that to mean Mrs Kartinyeri,  
2 Val Power, Sandra Saunders and Doreen Kartinyeri, yes.

3 Q. Again, that is, in part, a paraphrase of what she said  
4 to you.

5 A. Yes. It is in answer to questions I was putting to her.

6 Q. It's on this occasion that, if you go down a few lines:

7 `Mrs Milera denounced widely circulated claims that  
8 Ngarrindjeri women believe the Murray Mouth, Hindmarsh  
9 Island, Mundoo Island and the nearby Lakes Alexandrina  
10 and Albert were sacred because they resembled female  
11 genitalia'. That again is a paraphrase of what she had  
12 told you.

13 A. Yes.

14 Q. Again, you stand by that as being an accurate summary of  
15 the effect of what she was saying.

16 A. Yes, when I asked her that question.

17 Q. Over on the second part of this article, that is in the  
18 inside page, in column one, the bottom of column one,  
19 you say: `Mrs Milera told the Advertiser it was "time  
20 the truth came out" and "those people who have done  
21 things which were wrong" were brought to account so that  
22 "the reconciliation process can start again".' They are  
23 direct quotes of what she actually said to you.

24 A. Yes.

25 Q. Further on, you say in the 4th column: `Mrs Milera who  
26 worked closely with the State Government archaeologist  
27 who identified the sites, Dr Neale Draper, said "nothing  
28 would have gone wrong if everybody had stuck with the  
29 original plot" - and you interpret that plot `to save  
30 the archaeological sites'.

31 A. Yes.

32 Q. Again, that is exactly what she said, her own words.

33 A. Yes. And she said it again on July 10.

34 Q. You then have her saying to you: `I was going in one  
35 direction and they"' - and again you interpret to mean  
36 the women from Adelaide - `started going in another  
37 direction. They lost the plot, but I didn't"' . That  
38 is again exactly what she said.

1 A. Yes, it is.

2 Q. You conclude by saying that she told you "Now it is  
3 time for the truth to come out and I have the evidence  
4 to show that what I'm saying is the truth." That is an  
5 exact account of what she said.

6 A. Yes, it is.

7 Q. You then, I think, saw Jenny Grace.

8 A. Yes, I did.

9 Q. She was, indeed, referred to you by Sarah Milera.

10 A. Yes.

11 Q. You have interviewed her or spoken to her on a number of  
12 occasions.

13 A. Mrs Grace?

14 Q. Yes.

15 A. No, only once formally. I've seen her casually a couple  
16 of times since in town. That is about it.

17 Q. You say in that article, which is attachment 105, in the  
18 second column - this is your article of 8 July 1995  
19 where you deal with Mrs Jeanie Grace, in the second  
20 column about four paragraphs down: "Mrs Kartinyeri told  
21 Mr Tickner the women's business had been "passed onto me  
22 from my grandmother Sally Kartinyeri, my Great Aunt  
23 Laura Kartinyeri and my Auntie Rose Kropinyeri. All  
24 three women have since died". Where did that  
25 information come from in quotes.

26 A. That's correct, they have all passed on.

27 Q. No, you may not need to look at the article to see what  
28 is in quotes and what is not.

29 A. Yes. The fact that the information came from the three  
30 of them?

31 Q. The fact that the women's business "had been passed on  
32 to me from my grandmother Sally Kartinyeri, my great  
33 Aunt Laura Kartinyeri and my Auntie Rose Kropinyeri."

34 A. A letter that Doreen Kartinyeri wrote to Robert Tickner.

35 Q. Mrs Grace made it clear to you, in the course of her  
36 interview with you - as you have mentioned - that all  
37 Ngarrindjeri people agreed the sacred archaeological  
38 sites identified by Dr Draper - middens, burial grounds

1 and artefacts - needed to be protected.

2 A. Yes. No dispute.

3 Q. She told you she had spent six years working with the  
4 Aboriginal Heritage Committee to protect sites in the  
5 Mannum region.

6 A. Yes.

7 Q. Have you verified her claims to be so involved in the  
8 protection of Aboriginal heritage.

9 A. No. Once she produced the book for me, I had no  
10 question about her credibility.

11 Q. That is the book which has gone in as part of her  
12 evidence, a chapter on Jeanie Grace and upbringing on  
13 the Murray.

14 A. Exactly.

15 MR ABBOTT: I don't have the exhibit number that is  
16 a part of her statement, Exhibit 54.

17 A. This chapter here. (INDICATES).

18 Q. Yes. That is the one that is our Exhibit 54. There is  
19 one aspect that I've overlooked. It's the Matt Rigney  
20 fax to you, which is our Exhibit P111. Looking at the  
21 fax produced and dated 3 June 1994. I asked you about  
22 the destruction of the environment that the bridge would  
23 bring urban sprawl to the very centre of our lives. I  
24 suggested that Mr Rigney was referring to Goolwa being  
25 part of the suburban sprawl from Adelaide.

26 A. No, I think what he was talking about was Goolwa  
27 expanding.

28 Q. Onto Hindmarsh Island.

29 A. Onto Hindmarsh Island.

30 Q. There was intended to be a press conference on 23 June  
31 1995 at the ALRM. Indeed, you remember the event I'm  
32 talking about.

33 A. Yes, I do.

34 Q. Did anyone ever tell you that it was at that press  
35 conference that reference was going to be made to the  
36 Betty Fisher material.

37 A. They did.

38 Q. Who told you that.



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1 A. I can't say, but it's a very good source I don't want to  
2 lose. I was led to belief that the notebook and the  
3 tape was going to be released that day, and at the last  
4 minute a decision was made not to release it and instead  
5 a strategic decision was made to let the Commission go  
6 on for some time and then produce it to the Commission.

7 Q. For that reason, the press conference of 23 June 1995  
8 was cancelled almost on the doorstep.

9 A. With no explanation.

10 CROSS-EXAMINATION BY MR SHORT

11 Q. To your knowledge, has Dr Fergie ever made any attempt  
12 to contact you.

13 A. No, she hasn't.

14 NO FURTHER QUESTIONS

15 COMSR

16 Q. There is something that I would like to clarify with  
17 you. You will appreciate in the absence of all the  
18 letters that you received, that is other than the four  
19 letters that have been produced to me, it's difficult  
20 for me to gauge whether the letters in toto amounted to  
21 - I think what you described them as was a concerted  
22 approach to voicing your opposition or descent to your  
23 articles that appear in the paper and I would like to  
24 inquire a little, I suppose, to gauge just how sensitive  
25 you might be to criticism, if I can put it that way.  
26 For that reason, I've already asked you whether you  
27 would agree that other persons are entitled to voice  
28 their disagreement with anything that you might write.  
29 But have you ever been in a situation previously where  
30 you have experienced what, in your opinion, is concerted  
31 opposition to something you have written.

32 A. No.

33 Q. Of the total number of letters you received, what do the  
34 four represent; what proportion do the four of them that  
35 you produced represent.

36 A. Probably four out of about 20.

37 Q. Do you say that there was a common thread, as it were,  
38 that you perceived in the letters that suggested to you

2333

CJ 30M

C.A. JAMES XXN

- 1 that it was a concerted approach rather than a number of
- 2 persons writing letters of criticism to you
- 3 individually.
- 4 A. Yes. Do you want me to take you over those themes?
- 5 CONTINUED

1 Q. I have only got the four letters in front of me.

2 A. My summary of what the four themes were was why weren't  
3 we concentrating more on the Chapmans? Why weren't we  
4 looking at why the Government hadn't consulted properly  
5 in the planning of the bridge? Why didn't we look at  
6 the Federal Government's role in the matter more  
7 closely? And that there were right wing forces,  
8 including prominent politicians, at work, to try and  
9 undermine the credibility of the Mabo process.

10 Q. You don't say that necessarily all of those things are  
11 reflected in the four letters that you have retained.

12 A. No, but there were also phone calls on those themes.

13 Q. So, it was the totality of the response that suggested  
14 it to you.

15 A. Yes, to the single article, only one single article.

16 COMSR: These letters that have been marked for  
17 identification, I think, at this stage, I think you, Mr  
18 Meyer, have asked that they be received as an exhibit?

19 MR MEYER: Yes, I have asked that they be tendered,  
20 as a bundle.

21 MR KENNY: Could I just say something on that?

22 COMSR: Yes.

23 MR KENNY: I have read those letters. If Mr Meyer  
24 is suggesting there is some orchestrated campaign behind  
25 this and he is tendering them for those purposes and  
26 this is what it seems to be suggesting, all I can say is  
27 I have read those letters. They appear to be a reaction  
28 particularly to what even the witness has suggested is a  
29 fairly extreme headline as 'The great lie of Hindmarsh  
30 Island'. It is not surprising that that is the article  
31 that provoked the response, because, of all the articles  
32 that have been written, it is that one that seems to  
33 have been, if I can say so, the most inflammatory of the  
34 various articles written in the Advertiser. There is no  
35 common thread, other than what would appear to be a  
36 reasonable reaction to people who objected to such a -

37 COMSR: I put a series of questions to the  
38 witness and Mr James doesn't claim that these four

- 1 letters reflect all of the common themes or that  
2 together they reflect them.
- 3 MR KENNY: Essentially I say they are essentially  
4 irrelevant to our purposes and there is no need for them  
5 to be tendered before this Commission.
- 6 COMSR: To some extent, I must say that, having  
7 heard - I have got the evidence of the witness. He is  
8 not purporting to rely on the four letters as  
9 demonstrating the fact that there was a concerted  
10 effort, but I don't think he claimed that these four  
11 letters are capable of doing that in themselves.
- 12 WITNESS: There were other events.
- 13 COMSR: I am inclined to think, Mr Meyer, that  
14 we might just be adding to the weight of the exhibits  
15 and it is really the evidence of the witness that I must  
16 look to for evidence of a concerted response, rather  
17 than what is released in the letters.
- 18 MR MEYER: Perhaps we can leave them as an MFI? As  
19 we get to it, if it changes, so be it. If it doesn't,  
20 so be it.
- 21 MR SHORT: Could I perhaps have those letters, for  
22 A moment? There may be something, in light of what has  
23 just been said, that I might wish to follow up with Mr  
24 James.
- 25 COMSR: Yes.
- 26 LETTERS HANDED TO MR SHORT
- 27 MR SHORT: If I could just follow something up?
- 28 FURTHER CROSS-EXAMINATION BY MR SHORT
- 29 Q. These letters that you received, as best you can recall,  
30 were they all from women.
- 31 A. Yes.
- 32 Q. And the phone calls that you received, as best you can  
33 recall, were they also all from women.
- 34 A. Totally.
- 35 Q. The letters themselves are are put forward as part of  
36 that total picture of what you perceived to be a  
37 concerted campaign against you.
- 38 A. Yes.

- 1 COMSR: Yes, I still have the same problem,  
2 though. That, in themselves, they don't reveal that. I  
3 have to look to the evidence of the witness, to get the  
4 picture.  
5 Look, I am prepared to have them and mark them for  
6 identification, at this stage.
- 7 MR SHORT: I wonder if they might perhaps be copied  
8 by counsel assisting and the originals returned to the  
9 witness?
- 10 MR MEYER: I have got no objection to that.
- 11 MR KENNY: I would like to raise a separate point.  
12 I seek to re-examination this witness on one  
13 particular topic and that is a topic that didn't come  
14 Out -
- 15 COMSR: I will deal with marking these letters  
16 for identification.
- 17 MFI 138 Four letters marked 138 for  
18 identification.
- 19 COMSR: You propose to substitute copies for the  
20 originals?
- 21 MR SMITH: Yes.
- 22 COMSR: Mr Kenny, you are seeking to  
23 re-examination on a particular topic?
- 24 MR KENNY: Yes, this is a topic that didn't come  
25 out in examination-in-chief and I wasn't - it was  
26 information I wasn't aware of, until Mr Abbott asked  
27 questions.  
28 It concerns the meeting of 29 April 1994. And, in  
29 particular, the rumour that was circulating within The  
30 Friends of Kumarangk and Goolwa and the rumours of the  
31 shape of the land in that area in reference to the  
32 female form, if we can put it in that manner.
- 33 COMSR: We have put it in all sorts of ways, Mr  
34 Kenny. So, if you want to put it in that way -
- 35 MR KENNY: I think the witness understands and you  
36 understand what I am talking about.
- 37 COMSR: Yes.
- 38 MR KENNY: This appears to be a matter that wasn't

## C.A. JAMES XXN (MR KENNY)

1 raised in examination-in-chief. It has come out. It  
2 has particular significance to my clients, because, of  
3 course, it predates the Mouth House meeting, where it is  
4 alleged that there was a reference to a map and the  
5 shape. So, I say, it is a critical piece of  
6 information.

7 COMSR: Yes, I can see that it would have  
8 significance, as far as your clients are concerned.

9 FURTHER CROSS-EXAMINATION BY MR KENNY

10 Q. You have obviously just heard that discussion. The  
11 question I would like to ask is, when did you first hear  
12 of those rumours.

13 A. Mid March - sorry, mid April.

14 Q. That was in mid -

15 A. About early to mid April, about two to three weeks  
16 before we finally got to talk to Sarah. It took us  
17 quite a while to locate her, arrange an interview,  
18 convince her that, you know, that everything would be  
19 handled sensitively.

20 Q. You first heard those rumours two or three weeks before  
21 29 April 1994.

22 A. Yes, and the purpose of the exercise was to go down and  
23 get a photograph of her by the Mouth of the Murray  
24 River.

25 Q. I take it also to enquire further about those rumours of  
26 the form of the land.

27 A. That's correct, yes. Particularly the Murray River.

28 Q. I don't wish to ask you who you heard those rumours  
29 from, but was it more than one person.

30 A. Yes.

31 Q. Can you tell us from how many different people you heard  
32 that rumour, in the days prior to 29 April 1994.

33 A. Several.

34 Q. Is that three or four.

35 A. Three or four, max.

36 Q. I don't wish to look at these notes, but did you make  
37 any notes of your discussions with those people when  
38 they referred to the rumours.

1 A. No.

2 Q. Did you keep any diary notes of the dates on which you  
3 spoke to those people.

4 A. No.

5 Q. Would you have any way of identifying clearly exactly  
6 what the date was, when you first heard that rumour.

7 A. No, I'm sorry.

8 COMSR

9 Q. Are you able to assist us to this extent: do you know  
10 whether you heard the rumours from males or females, or  
11 what is the position.

12 A. All from white males.

13 XXN

14 Q. Have you told anyone else about these rumours, since  
15 that time.

16 A. Sorry, I don't understand that question.

17 Q. Have you said to anyone that 'Prior to 29 April 1994, I  
18 heard rumours concerning the shape of the land in that  
19 area.'

20 A. I may have discussed it with some people, yes.

21 Q. Can you tell us who you discussed that with.

22 A. A politician.

23 Q. Can you tell us who that politician was.

24 A. No, I can't.

25 OBJECTION Mr Short objects.

26 MR SHORT: I object. It is obvious the witness is  
27 being pressed for information of a confidential  
28 discussion relating to confidential and off-the-record  
29 discussions. He is obviously uncomfortable answering  
30 these questions because it would be contrary to his code  
31 of ethics to do so.

32 COMSR: I am sure this witness will be able to  
33 tell me that, if he finds himself in that position, as  
34 he has frequently previously when that situation has  
35 arisen. I am sure Mr James will be able to tell me if  
36 it is a confidence he wishes respected.

37 OBJECTION Mr Meyer objects.

38 MR MEYER: My objection is that it is irrelevant as

## C.A. JAMES XXN (MR KENNY)

- 1 to what politician he has been talking to. And that is  
2 the basis I would object to the question.
- 3 A. And my approach has been, when I have talked to people,  
4 I have said 'The Commission is underway. It is up to  
5 You, if you want to talk to me or not.' I have actually  
6 had a discussion with this particular politician, about  
7 our discussion. And, if you hear from him, then you  
8 will hear from him. And that's all I am prepared to  
9 offer.
- 10 XXN
- 11 Q. What you are saying is, you are not prepared to say who  
12 that particular politician was.
- 13 A. No, I am not.
- 14 Q. Can you tell us when that was, when you had that  
15 discussion.
- 16 A. He has a diary date of 5 April.
- 17 Q. 199 -
- 18 A. 4.
- 19 COMSR: Mr Kenny, you appreciate that this is by  
20 way of re-examination. I don't know how much further  
21 you want to go.
- 22 MR ABBOTT: We would like to hear more of this.
- 23 COMSR: You would like to hear more?
- 24 MR ABBOTT: Yes, this is the secret business that  
25 is only disseminated by white man or European males.
- 26 COMSR: Yes, but, nevertheless -
- 27 XXN
- 28 Q. So, what you are saying to us is that certainly 5 April  
29 1994 was at least one date on which you were discussing  
30 the shape of the land with reference to a female form.
- 31 A. Correct.
- 32 Q. Was it prior to that date that you had heard the  
33 rumours.
- 34 A. I believe it was.
- 35 Q. Do you recall whether it was days or weeks before that  
36 date you first heard rumours concerning the form of the  
37 land.
- 38 A. Days.



## C.A. JAMES XXN (MR KENNY)

1 Q. On those same rumours, have you recently spoken to  
2 anyone concerning those rumours. That is, if you are  
3 not sure, I will explain again: the rumours relating to  
4 the shape of the land.

5 A. I think they have gone beyond being rumours, haven't  
6 they? I am sorry, I am not being flippant, but -

7 COMSR

8 Q. No, I think the question being put to you is this:

9 That, as at the time you heard them, they were rumours.

10 A. Yes.

11 Q. And then you went about investigating them.

12 Q. Have you, since that time, discussed with anyone that  
13 you heard rumours to that effect.

14 A. Yes.

15 Q. At that time.

16 A. I tried to go back to the people that I spoke to  
17 ascertain the dates of which I first started talking  
18 about it to them, because two of them remembered vividly  
19 discussions I had with them pertaining to those rumours.  
20 One of them thankfully had a diary entry. The other one  
21 didn't. And neither of them were terribly keen to get  
22 involved with this Inquiry.

23 CONTINUED

C.A. JAMES XXN (MR KENNY)  
REXN (MR SMITH)

1 XXN

2 Q. Have you discussed again those same rumours with anyone  
3 who is involved with this inquiry. If you don't  
4 understand, when I say `the rumours' I mean the fact  
5 that in early April 1994 you were aware of rumours  
6 circulating, linking the shape of the land to a female  
7 form.

8 A. No. Do you mean counsel assisting or witnesses?

9 Q. Either.

10 A. No.

11 COMSR: You are asking this witness about  
12 evidence that he has previously given, I understand.

13 That is what you are re-examining him on, is it not?

14 MR KENNY: I am re-examining him in relation to the  
15 evidence of this witness hearing rumours prior to 29  
16 April 1994.

17 COMSR: He has told the hearing that in the  
18 course of giving that evidence.

19 XXN

20 Q. In relation to the people you spoke to early April 1994,  
21 did any of those people tell you when they first heard  
22 the rumours concerning the linking of the shape of the  
23 land with a female form.

24 A. No.

25 Q. Did they give you any indication of when they first  
26 heard it.

27 A. No.

28 COMSR

29 Q. Did they give you any indication as to whether or not  
30 they had in fact heard it previously.

31 A. I got the impression that they'd only just heard about  
32 it.

33 RE-EXAMINATION BY MR SMITH

34 Q. Looking at your statement, Exhibit 104, p.4, in the  
35 second last paragraph, you there draw our attention to  
36 all the people you were having, as you term it, numerous  
37 discussions with.

38 A. Yes.

## C.A. JAMES REXN (MR SMITH)

1 Q. You name them all there.

2 A. Yes.

3 Q. David Shearman; Margaret Bolster; Tim Wooley; Richard  
4 Owen; less frequently, David Thomason; informal  
5 discussions with Dr Neale Draper. Subject to your wish  
6 to keep anything confidential, would you add any more  
7 people to that list, in the light of what has passed.

8 COMSR: It is scarcely keeping it confidential.

9 MR SMITH: If the witness doesn't want to add any  
10 more names on the basis that they are confidential, I am  
11 not asking him to.

12 MR SHORT: With respect, the addition of names, if  
13 Those names are to be given, is not going to keep it  
14 terribly confidential either.

15 MR SMITH: I am not asking the witness to divulge  
16 confidential sources, that is, naming people that he  
17 doesn't want to name, but are there any other people,  
18 apart from those that he doesn't want to name, that he  
19 would add to that paragraph.

20 REXN

21 Q. Do I make myself clear.

22 A. You do, but whatever I say the insinuation, implication  
23 is that they have provided me with information, so I  
24 decline to answer that question, I'm sorry.

25 COMSR

26 Q. In other words, you don't wish to add to that.

27 A. In light of what has been discussed, I can see what is  
28 going to happen so, no, I don't want to answer that  
29 question, I'm sorry.

30 MR SMITH: I don't press that question. Mr Abbott  
31 left a couple of matters incomplete. Could he remind us  
32 what they are before this witness is released? There  
33 was a couple of things that the witness was going to  
34 produce.

35 MR SHORT: The only matter I think was the  
36 photograph of Rocky Marshall holding the sign.

37 WITNESS: The photograph is in the possession of  
38 the commission.

## C.A. JAMES REXN (MR SMITH)

- 1 MR MEYER: The Draper report is fixed.  
2 WITNESS: The Draper report is now in the  
3 possession of the commission because they have  
4 subpoenaed all of my documents.  
5 MR SHORT: There is the transcript.  
6 WITNESS: That is here.  
7 MR KENNY: There is one more thing, I only raise  
8 this because I only had a brief look at the letters  
9 before, but I now have a copy of those letters. One of  
10 them was signed `Janet Mead'. There has been some  
11 suggestion it is Sister Janet Mead.  
12 COMSR: This is only marked for identification.  
13 MR KENNY: There has been some evidence given that  
14 it is Sister Janet Mead.  
15 WITNESS: I assumed it was Sister Janet Mead.  
16 MR KENNY: The name on the letter simply says  
17 `Janet Mead'. I don't want to have a suggestion that it  
18 may have been Sister Janet Mead unless this witness  
19 knows it is. I don't have a brief for Janet Mead, but I  
20 don't think there is evidence that it was Sister Janet  
21 Mead.  
22 WITNESS: I don't know how many Janet Meads there  
23 are. I just assumed it was the Sister Janet Mead.  
24 COMSR: All we know is that it bears that  
25 signature. It may not be the most unusual name there is.  
26 MR KENNY: I think, for the record, it should  
27 record, I think the witness has said it is Sister Janet  
28 Mead -  
29 COMSR  
30 Q. That is an assumption on your part.  
31 A. It is, only because her son and daughter are very active  
32 in the anti-bridge movement.  
33 Q. We don't need to know why.  
34 NO FURTHER QUESTIONS  
35 WITNESS RELEASED

1 MR SMITH: There are no further witnesses for this  
2 afternoon. The program for tomorrow is there will be  
3 two witnesses only. It will be a short day because they  
4 are two short witnesses, Mr John Dunnery from the  
5 Australian Workers Union, and Sergeant Peter Morrison  
6 from the Christies Beach Police Station. I will hand  
7 out statements to counsel before they leave.  
8 ADJOURNED 4.12 P.M. TO FRIDAY, 15 SEPTEMBER 1995 AT 10.15 A.M.

1 COMSR STEVENS

2

3 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

4

5 FRIDAY, 15 SEPTEMBER 1995

6

7 RESUMING 10.17 A.M.

8 MR SMITH CALLS

9 JOHN DUNNERY SWORN

10 EXAMINATION BY MR SMITH

11 Q. I think in 1975 you became a full-time officer in the  
12 Australian Workers Union.

13 A. That's correct.

14 Q. And for some time you held the position of organiser.

15 A. That's correct.

16 Q. And then in 1988 you became State branch secretary.

17 A. Yes.

18 Q. Was that your position until retirement in Christmas of  
19 1994.

20 A. Yes, December 1994.

21 Q. I think in that capacity as State branch secretary, you  
22 had, shall I say, a fleeting involvement with the  
23 Hindmarsh Island bridge dispute.

24 A. Yes, I had some involvement.

25 Q. In connection with this inquiry, you have provided a  
26 statement to the commission concerning that involvement,  
27 is that right.

28 A. Yes, I have.

29 Q. Looking at this statement produced to you and signed  
30 today, do you recognise that as the statement that you  
31 have provided the commission.

32 A. Yes, I did.

33 EXHIBIT 139 Statement of John Dunnery tendered  
34 by Mr Smith. Admitted.

35 Q. For your use, I leave you with a copy, because I want to  
36 ask you some questions about it. I think it was in  
37 Christmas 1994 that you, in effect, retired.

38 A. I made a decision to leave, yes.

## J. DUNNERY XN (MR SMITH)

- 1 Q. The AWU was the union which normally would have provided  
2 the labour for the building of the Hindmarsh Island  
3 bridge had it proceeded.
- 4 A. Yes.
- 5 Q. However, there was, I think, some disagreement as to  
6 that between the AWU and the CFMEU.
- 7 A. That's right.
- 8 Q. The CFMEU being the Construction, Forestry, Mining and  
9 Energy Union.
- 10 A. That's the one.
- 11 Q. In that sense, your involvement with the Hindmarsh  
12 Island Bridge dispute arose, is that right.
- 13 A. That's right.
- 14 Q. As your statement discloses, at approximately the end of  
15 1993, there was a meeting held at the United Trades and  
16 Labor Council offices at South Terrace concerning this.
- 17 A. Yes, that's correct.
- 18 Q. You were in attendance at that meeting.
- 19 A. Yes, I was.
- 20 Q. I think a number of issues were discussed, but, in  
21 particular, an issue concerning the picket lines and the  
22 protest at the Hindmarsh Island Bridge.
- 23 A. That was the central part, yes.
- 24 Q. Can you recall, throwing your memory back, who was  
25 present at that meeting.
- 26 A. I'm not sure I can pick them all out, but certainly  
27 there was John Lesses, the Secretary of the United  
28 Trades and Labor Council. There was somebody there from  
29 the PSA, I can't recollect the name.
- 30 Q. You can have a look at your statement there in that  
31 connection.
- 32 A. Yes, there was myself of course; George Karzis, who was  
33 an industrial officer with the Australian Workers  
34 Union;  
35 Geoff Burt, who was an organiser with the Australian  
36 Workers Union; John Lesses with the United Trades and  
37 Labor Council; Owen McAleer, who was the then President  
38 of the Liquor Trades Union; Ben Carslake, the Secretary

## J. DUNNERY XN (MR SMITH)

- 1 of the CFMEU, and Thomason who was an organiser of the  
2 CFMEU; Bob Heffernan from the Transport Workers Union  
3 was there; and someone from the PSA. There may have  
4 been other trade unions. I can't recollect for certain.  
5 There was certainly someone there from the Hindmarsh  
6 Island group - the residents group I think. There was a  
7 couple of Aboriginal representatives, and they were Doug  
8 and Sarah Milera. There was a ferry operator there,  
9 John Chivell, I think his name is. I'm not sure how you  
10 spell it.
- 11 Q. Is it unusual at meetings of the United Trades and Labor  
12 Council to have non-delegates, if you like.
- 13 A. It is rather unusual, yes.
- 14 Q. It is the case then at this meeting that there were  
15 some, shall I say, outsiders - that is, non-delegates -  
16 at the meeting.
- 17 A. Yes.
- 18 Q. Doug and Sarah Milera being two.
- 19 A. Yes.
- 20 Q. Did you also say that there were some representatives of  
21 the Hindmarsh Island Residents Group.
- 22 A. I think it was the residents group.
- 23 Q. Was there anybody from, for instance, the Conservation  
24 Council there.
- 25 A. I don't think so.
- 26 Q. What brought these people to the meeting.
- 27 A. I understand the CFMEU, David Thomason and Ben Carlake.
- 28 Q. The item on the agenda that concerned them was what  
29 exactly.
- 30 A. It was a question of whether the trade union movement  
31 would respect the picket lines that were being placed on  
32 the bridge.
- 33 Q. I think at that stage at least, the UTLC had, if you  
34 like, a policy about that sort of picket line.
- 35 A. I'm not sure that they actually had a policy. I think  
36 the ACTU actually has a national policy based on that,  
37 that was certainly what I supported, and the matter went  
38 from there at the meeting.



## J. DUNNERY XN (MR SMITH)

- 1 Q. So if there is not a policy, is there however an  
2 attitude often held in respect of such an item that  
3 picket lines have to relate to industrial issues rather  
4 than other issues.
- 5 A. That was certainly my attitude and the AWU's attitude.  
6 Obviously it wasn't the attitude of the CFMEU.
- 7 Q. So a discussion took place then about what view the UTLC  
8 should take about the picket line down at the bridge.  
9 Is that the position.
- 10 A. Yes, that's correct, yes.
- 11 Q. Was it necessary then for people such as Doug and Sarah  
12 Milera to be given permission really to attend at the  
13 meeting first.
- 14 A. If they were going to attend the meeting they had to get  
15 permission at the meeting.
- 16 Q. That was forthcoming.
- 17 A. Yes, that was given.
- 18 Q. Did you or did you not oppose that.
- 19 A. No, I didn't.
- 20 Q. So they were given a right to speak then, I take it.
- 21 A. Yes.
- 22 Q. I think in your statement you do allude to the fact that  
23 Douglas Milera spoke to the meeting.
- 24 A. Yes.
- 25 Q. If you need to, have a look at your statement, but can  
26 you tell us what he said.
- 27 A. In general terms, the thrust was that there would be a  
28 disturbance of sites on Hindmarsh Island.
- 29 Q. I think the meeting questioned him about identifying and  
30 attempting to avoid the sites in the construction of a  
31 bridge.
- 32 A. Yes, particularly George Karzis pursued that.
- 33 Q. What was his response to that.
- 34 A. In the end it was difficult to identify the  
35 archeological sites, and also he made the comment near  
36 the end of the conversation, that `It really doesn't  
37 matter anyway because when you come across the river you  
38 have to put those big pylons into the river bed and

1 that's ours as well'.

2 Q. Was there any mention of women's business at the meeting  
3 by them -

4 A. No.

5 Q. By the Mileras.

6 A. No.

7 Q. Sarah was present, wasn't she.

8 A. Yes.

9 Q. You met her at that meeting.

10 A. Well, she was present at the meeting, yes.

11 Q. Did she speak at all at the meeting.

12 A. Yes, she did, but not very - not at any great length.

13 Q. When was the first time you heard about women's business  
14 in association with the bridge at Hindmarsh Island.

15 A. When it was publicized in the media after Tickner had  
16 stopped the bridge.

17 Q. When the meeting was convened in the first place, was  
18 that because of the conflict between your union the AWU  
19 and the CFMEU.

20 A. I believe so, yes.

21 Q. Thomason and Carslake were representing the CFMEU. Did  
22 they or did they not argue for the right of the Mileras  
23 and the other protest group people to be at the meeting  
24 and to be heard.

25 A. Yes.

26 Q. So they brought these people along to the meeting, did  
27 they.

28 A. Yes.

29 Q. Was that for the purpose of encouraging the United  
30 Trades and Labor Council to support the picket for  
31 reasons other than industrial reasons.

32 A. I would assume that was the reason.

33 Q. What was resolved at the end of that meeting.

34 A. There was a resolution that came out of the meeting. I  
35 can't remember the words exactly, but basically it was  
36 that while the Trades and Labor Council would recognise  
37 and respect the rights of various groups to protest and  
38 place pickets on various - on whatever, that it was not

## J. DUNNERY XN (MR SMITH)

1 the policy of the Trades and Labor Council, as a body,  
2 to respect those picket lines, and, in effect, it was up  
3 to each individual organisation whether they did or  
4 whether they didn't.

5 Q. Did Milera address the meeting for any length of time.

6 A. Not really, no.

7 Q. It was a matter of minutes, was it.

8 A. Yes.

9 Q. Did he present his case well. I suppose I am asking you  
10 for an evaluation there, but was he sober at the time.

11 A. Yes, I'm sure he was.

12 Q. And articulate.

13 A. Yes, reasonably articulate.

14 Q. In his address to the meeting, although it only took a  
15 minute or so, he talked about archeological sites.

16 A. They were the only type of sites he mentioned.

17 Q. Looking at Exhibit 108, minutes of a meeting, do you  
18 recognise the form of that document at least.

19 A. I recognise the form, yes.

20 Q. You will see that's a minute, or purports to be a minute  
21 of a meeting the UTLC held on 12 April 1994, doesn't it.

22 A. Yes.

23 Q. And it is in a form that you are familiar with.

24 A. Yes.

25 Q. From its form, you would say that looks like a usual  
26 meeting minute that would issue from a UTLC meeting.

27 A. Yes, yes.

28 Q. From the indication of those present, that doesn't  
29 include you.

30 A. No.

31 Q. From that, can we assume therefore that you weren't at  
32 the meeting on 12 April 1994.

33 A. Yes, you can assume that.

34 Q. You will see there the minute reports a previous  
35 recommendation of the special executive committee held  
36 on Wednesday, 29 November 1993.

37 A. Yes.

38 Q. And sets out the recommendation.

1 A. Yes, it does.

2 Q. Would you look at that recommendation and tell us  
3 whether that refers to the recommendation or resolution  
4 that you have just given evidence about in connection  
5 with the meeting that the Mileras were at.

6 A. Yes. That's the resolution that was put to the meeting.

7 Q. Would you be happy then to say that the meeting of the  
8 UTLC at which the Mileras were present, and which you  
9 have just given evidence about, was held on Wednesday,  
10 29 November 1993.

11 A. Yes, I would confirm that.

12 Q. That minute indicates at least a variation on that  
13 resolution of 29 November 1993, doesn't it.

14 A. It does, yes.

15 Q. Does that minute indicate then that the UTLC decided to  
16 support, at least in principle - well, you tell us, what  
17 did the UTLC decide then on 12 April 1994.

18 A. I guess bearing in mind that I wasn't at that particular  
19 meeting -

20 COMSR

21 Q. Assuming that that is a minute of the meeting, how would  
22 you interpret that.

23 A. I am sure it is a minute of the meeting, but I would  
24 interpret it as being on the basis that there was a  
25 number of delegates who were concerned about the use of  
26 the section 45D.

27 Q. What is the section 45D.

28 A. That is a damages action under the Federal Act,  
29 particularly against the CFMEU and others, which  
30 precipitated the calling of this meeting, and there was  
31 an attempt to try and put pressure on those people who  
32 had placed the s.45D on those groups, to try and get  
33 them to raise it. That's the way I would interpret it.

34 Q. The resolution is calling for the section 45D action to  
35 be withdrawn.

36 A. Yes.

37 Q. And then make -

38 A. Then talks about adequate consultation and so on.

J. DUNNERY XN (MR SMITH)  
XXN (MR PALYGA)

1 Q. Do you remember if there was, for instance, a ferry  
2 operator at that meeting that we now know was on 29  
3 November 1993.

4 A. Yes, there was.

5 Q. Did he or she speak at the meeting.

6 A. I don't recollect; I don't think so.

7 Q. I presume it was a male.

8 A. Yes, a male.

## 9 CROSS-EXAMINATION BY MR PALYGA

10 Q. Do you recall how many people were at this meeting.

11 A. No, I don't.

12 Q. I take it there were something like 20 or so, were  
13 there; maybe less.

14 A. Maybe a little less. I'm not sure.

15 Q. I think you said the ferry operator's name was, I think,  
16 Shattel.

17 A. I think it was John Chivell. I may be wrong.

18 Q. Could that be Shattel.

19 A. I don't know.

20 Q. You said that there were, I think, two people from The  
21 Friends of Hindmarsh Island.

22 A. I don't know whether there was two. There was certainly  
23 some people there.

24 Q. You can't remember their names.

25 A. No, I can't.

26 Q. Did they speak.

27 A. I think they made some brief comments, I'm not sure.  
28 It's naturally a long time ago. I'm not sure.

29 Q. You can't recall what they said.

30 A. No.

31 Q. I think you said that Sarah Milera spoke for a short  
32 time; is that correct.

33 A. Yes, very briefly.

34 Q. Can you recall what she said.

35 A. I - just generally parts of it when speaking, there was  
36 the interest in the sites on the island.

37 Q. I take it there would be minutes of this meeting on 29  
38 November.

- 1 A. Well, I haven't seen them. I expect there would have  
2 been, especially as there's a resolution there, that was  
3 there that came out of the meeting.
- 4 Q. Would the UTLC have those.
- 5 A. I'm not sure. You would have to ask them. I would  
6 imagine they would.
- 7 Q. You spoke of a Mr Thomason being at that meeting. Have  
8 you met Mr Thomason previous to that.
- 9 A. I think I have, yes.
- 10 Q. Was he a recent arrival to South Australia shortly prior  
11 to this meeting.
- 12 A. I don't think. I think he had been here, I'm not sure  
13 how long. I think he had been here for some time.
- 14 Q. Do you know whether or not he was working for the CFMEU  
15 on specific projects that came up from time to time.
- 16 A. I understood that he was a full-time organiser from the  
17 CFMEU.
- 18 Q. You say in your statement that the AWU was the union  
19 which would have supplied the labour for building the  
20 bridge. There was some tension between the AWU and the  
21 CFMEU. It's true to say that the CFMEU had a large  
22 interest in the bridge issue because they wanted to gain  
23 membership from it; is that correct.
- 24 A. That would have been my understanding.
- 25 Q. In fact, is it correct that the ferry drivers were  
26 previously members of the AWU.
- 27 A. Yes.
- 28 Q. But at about this time, changed to the CFMEU.
- 29 A. They had joined the CFMEU, a number of them had, yes.
- 30 Q. You say you retired at Christmas 1994.
- 31 A. Yes. Beginning of December, the first week in December  
32 I think it was.
- 33 Q. Subsequent to the November 1993 meeting of which you  
34 have told us about, did you have any further  
35 conversations with Mr Thomason relating to the bridge.
- 36 A. No.
- 37 Q. Mr Carslake.
- 38 A. No.

J. DUNNERY XXN (MR PALYGA)  
(MR KENNY)

## REXN

1 Q. You say in your statement that Doug Milera said, words  
2 to the effect of, 'The riverbed was ours'. Was that  
3 so.

4 A. Yes.

5 Q. Can you recall now whether or not that was a reference  
6 to the Aboriginals owning the river.

7 A. I'm sure that is what he meant.

## 8 CROSS-EXAMINATION BY MR KENNY

9 Q. On that last point, Doug Milera's comment concerning the  
10 riverbed, is it also possible what he really meant that  
11 he had some claim over the riverbed.

12 A. Well, that is the way I understood it.

13 Q. In terms of what could have been in terms of an  
14 Aboriginal site. Did he say that or did he say it had  
15 some spiritual significance.

16 A. He didn't say 'spiritual significance', he said 'That is  
17 ours as well'.

18 Q. He clearly indicated that he had - he indicated to you  
19 that the Aboriginals had a special interest in the  
20 riverbed at least.

21 A. Well, I would have assumed. He simply said 'They have  
22 to put piles into the riverbed and that's ours as well'.  
23 What interpretation you put on that is up to each  
24 person.

## 25 RE-EXAMINATION BY MR SMITH

26 Q. Would you recognise - you made the point that there were  
27 relatives or representatives of The Friends of Hindmarsh  
28 Island at the meeting.

29 A. Yes.

30 Q. Do you remember if there were one or more than one.

31 A. I think there was two, but I'm not sure.

32 Q. Were they male or female.

33 A. I think it was male.

34 Q. Would you recognise him again if you saw him again.

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

36 Q. The extra people at the meeting brought along by the  
37 CFMEU people - Thomason and Carslake - were Doug and

- 1 Sarah Milera.  
2 A. Yes.  
3 Q. One, if not two, people from The Friends of Goolwa.  
4 A. Yes.  
5 Q. The ferry operators.  
6 A. Yes.  
7 Q. How many of them.  
8 A. Only the one.  
9 Q. Anyone else that you remember.  
10 A. Not that I can recall.  
11 Q. Was that an unusual roll-up of extra people.  
12 A. Yes, it was. As you can see on the minutes of the  
13 meeting, it was a special meeting of the executive and  
14 so there isn't anybody else who would have to attend.  
15 So that if it wasn't a member of the executive, who was  
16 the executive, it wasn't a common occurrence.  
17 Q. In the submission made by Douglas Milera to the meeting,  
18 you have quoted the section concerning the riverbed.  
19 A. Yes.  
20 Q. Can you remember anything more of what Douglas Milera  
21 said. He alluded to archaeological sites.  
22 A. Yes.  
23 Q. And then the riverbed.  
24 A. Yes.  
25 Q. Did he make a plea of some sort to the meeting.  
26 A. Just for support generally, I think.  
27 Q. To stop the bridge.  
28 A. Yes  
29 NO FURTHER QUESTIONS  
30 WITNESS RELEASED  
31 ADJOURNED 10.43 A.M.



- 1 RESUMING 10.55 A.M.  
2 MR SMITH CALLS  
3 PETER RONALD MORRISON SWORN  
4 EXAMINATION BY MR SMITH  
5 Q. I think you are at the moment senior sergeant of police  
6 stationed at Christies Beach.  
7 A. That's correct.  
8 Q. In the past, I think you have worked in a number of  
9 areas involving, amongst other peoples, Aboriginal  
10 people.  
11 A. That's correct.  
12 Q. I think you were involved with the Hindmarsh Island  
13 Bridge dispute in the sense that you attended there in  
14 the course of your duties in May 1994, in part because  
15 of the Aboriginal involvement; is that right.  
16 A. It's - my role was to provide liaison between the  
17 Aboriginal people and the Police Department.  
18 Q. I think in connection with this inquiry, you have kindly  
19 provided a statement to the Commission concerning your  
20 involvement with the Aboriginal community at Hindmarsh  
21 Island and the Hindmarsh Island Bridge dispute.  
22 A. Yes, I have.  
23 Q. Looking at this statement produced, do you recognise  
24 that as the statement prepared by yourself for this  
25 inquiry.  
26 A. Yes, that's the statement.  
27 EXHIBIT 140 Statement of Peter Ronald Morrison  
28 tendered by Mr Smith. Admitted.  
29 Q. I think the introductory portion of the statement sets  
30 out your long experience and, in effect, qualifications  
31 to deal with Aboriginal people.  
32 A. Yes.  
33 Q. For instance, you served as officer-in-charge of the  
34 Marla Police Station for some four years.  
35 A. Yes, I did.  
36 Q. In that connection, you were very close to the  
37 Pitjantjatjara Aboriginal lands.  
38 A. Yes. I worked daily with the Pitjantjatjara people for

1 four years.

2 Q. I think you have also made the point in your statement  
3 that you were seconded to the Department of Premier and  
4 Cabinet in the National Police Research Unit to  
5 undertake research projects involving the Aboriginal  
6 people.

7 A. Yes. That was while in charge of the Aboriginal liaison  
8 units, the job which I held for four, five years, and I  
9 worked in Aboriginal communities throughout the State  
10 during those years.

11 Q. I think you have some formal qualifications in this  
12 area, do you not.

13 A. I have an associate diploma in Aboriginal studies.

14 Q. I think one of our tutors or lecturers is Dr Neale  
15 Draper.

16 A. He was a lecturer of mine, yes.

17 Q. Your involvement with the Hindmarsh Island matter arose  
18 in May 1994, did it - no, sorry, it was earlier than  
19 that.

20 A. Yes. I did some work with Chief Inspector Tony Ryan.  
21 That was when I was relieving in charge of the Christies  
22 Beach Division, and I attended some meetings with him  
23 with the proposed builders and I assisted him with  
24 research. And as part of that research, I assisted with  
25 the preparation of a briefing paper for the Commissioner  
26 of Police.

27 Q. Looking at this document produced which is dated 14  
28 April 1994, is that the briefing paper for the  
29 Commissioner prepared by yourself.

30 A. Yes. I prepared the document in principle and Inspector  
31 Ryan edited it and presented it to the Commissioner of  
32 Police.

33 EXHIBIT 141 Briefing paper prepared by witness  
34 tendered by Mr Smith. Admitted.

35 Q. As is obvious from the paper itself, to at least prepare  
36 the briefing paper, you needed to comprehensively  
37 research what had taken place down at Hindmarsh Island,  
38 at least up until April 1994.

- 1 A. Yes. It took some time to research the material.
- 2 Q. I think you then advised Chief Inspector Ryan about  
3 handling the problem that was evolving down at Hindmarsh  
4 Island; did you not.
- 5 A. Yes. It was my view that if it ended up as a police/  
6 Aboriginal conflict, that would be inappropriate; that  
7 the real issues would be lost. And that was my advice  
8 to Inspector Ryan that if we were to present some  
9 liaison to the Aboriginal people, we may prevent  
10 conflict occurring.
- 11 Q. You have a copy of your statement.
- 12 A. Yes, I do.
- 13 Q. I think you accompanied Chief Inspector Ryan to Goolwa,  
14 on Monday, 9 May 1994; is that so.
- 15 A. That's correct.
- 16 Q. The purpose of that visit was initially what.
- 17 A. It was to assist with negotiations. I had already  
18 spoken to the Aboriginal Legal Rights Movement to make  
19 some contact with the people involved, and I was advised  
20 that Sandra Saunders, who was the director of the Legal  
21 Rights Movement, was in Canberra and that Mr Tim Wooley  
22 was the lawyer representing the Aboriginal people.
- 23 Q. You were then in possession of knowledge that there was  
24 going to be some sort of protest on the following day;  
25 is that right.
- 26 A. No. There had been previous protests a year or so  
27 before when attempts were made to start the construction  
28 of the bridge. So that our work was in preparation to  
29 develop some liaison in anticipation of a protest.
- 30 Q. You went down to Goolwa then with Chief Inspector Ryan  
31 and I think at about 11.30 a.m., as your statement makes  
32 clear, you went to Amelia Park and you there had a  
33 meeting; is that correct.
- 34 A. Yes.
- 35 Q. That was a meeting with a number of people you have  
36 specified there in your statement. Tim Wooley.
- 37 A. Yes.
- 38 Q. Alan Wanganeen.

1 A. Yes.

2 Q. Who was a senior field officer.

3 A. Yes.

4 Q. With what organisation.

5 A. The Aboriginal Legal Rights Movement.

6 Q. Mr George McHughes, the same.

7 A. Yes. He was a field officer with the Aboriginal Legal  
8 Rights Movement.

9 Q. You spoke to these people. What was the topic of the  
10 conversation, broadly.

11 A. I think at that particular time, it was just to get to  
12 know each other. There was some discussion about a road  
13 that went through that area that had previously been the  
14 subject of discussion, and that Amelia Park was a  
15 significant Aboriginal area; and, from memory, the  
16 representatives of the Aboriginal Legal Rights Movement  
17 were going to make contact with other people and then  
18 get back to us.

19 Q. Later in that day or soon thereafter, those people - Tim  
20 Wooley, Wanganeen and McHughes - went to the Goolwa  
21 Police Station.

22 A. They did.

23 Q. What was the purpose of their visit to the police  
24 station; what took place.

25 A. Inspector Ryan outlined the police role, you know, the  
26 protest - that he would allow people to lawfully protest  
27 - and he then outlined the various steps that would  
28 occur if breach of the peace occurred, if offences are  
29 committed and how they would be managed. And he  
30 outlined his concerns again if anything developing into  
31 a Aboriginal/police conflict, he wanted to rule out that  
32 occurring to allow the protestors to protest and the  
33 people to get on with their work.

34 Q. I think later in that day, as your statement makes  
35 clear, you sought out the Aboriginal protest group.

36 A. Yes, I did.

37 Q. You did that by driving around Goolwa and Hindmarsh  
38 Island; is that right.

1 A. Yes. I was given directions to a place I know as The  
2 Pines. It has another name. That is the university  
3 camp site. There was nobody there.

4 Q. Is that otherwise known as the Bunkhouse, or some name  
5 like that.

6 A. I believe it's referred to as Ngarrindjeri, or something  
7 like that. I don't know.

8 Q. I think you didn't locate anyone at that site.

9 A. No. I drove around Hindmarsh Island to sites that I  
10 knew and I went to the mouth, to a place that I know as  
11 Sugars Beach, and I saw vehicles parked at the last what  
12 I would call as a shack at that location.

13 Q. Who was there; what observations did you make when you  
14 were there.

15 A. There was a number of vehicles there. I saw three or  
16 four Aboriginal men standing outside the building. I  
17 parked and approached them. As I approached, a woman  
18 was walking into - an Aboriginal woman was going into  
19 the premises. She spoke to me in general terms about  
20 the site and the weather and those sorts of things.

21 Q. Do you know now who this woman was.

22 A. No, I don't.

23 Q. Yes, go on.

24 A. I spoke to a group of men and I know that Victor Wilson  
25 and George Trevorrow were there. I explained to them my  
26 role. I hadn't known these men previously. I explained  
27 to them my previous work with Aboriginal people and the  
28 intention to provide liaison with the group, if it was  
29 appropriate, and they indicated they welcomed that  
30 approach, but also indicated that they were busy and  
31 Victor Wilson gave me the impression he really didn't  
32 want to talking to me or wasn't exhibiting much  
33 friendship towards me.

34 Q. Were you in uniform.

35 A. From memory, no, I wasn't. I have always tried to  
36 conduct liaison work out of uniform, so I don't think I  
37 was.

38 Q. Were these men, they were outside the Mouth House or the

1 cottage the holiday shack.

2 A. Yes.

3 Q. Did they have mobile telephones.

4 A. Yes. I remember one of the things that occurred to me

5 on that date, and on other days, was that a number of

6 the people involved in, from the Aboriginal side had

7 mobile telephones - as did quite a lot of people. But I

8 remember that Victor Wilson had a mobile telephone.

9 Q. Was he using it.

10 A. No. I can't say that I was aware of that, but of him

11 having one from time to time.

12 Q. As your statement makes clear, you explained to these

13 men, two of whom were Victor Wilson and George

14 Trevorrow, your purpose there; and that is the position,

15 isn't it.

16 A. Yes.

17 Q. You were given the impression that they were busy and

18 they didn't want to be held up talking to you; is that

19 right.

20 A. Somebody in the group made a statement that they were

21 wanting to go, or they were working on a message. There

22 was other people in the house that were coming out and

23 looking at us, which indicated that they wanted me to

24 go. That was the way I got the message. A person in

25 the group said to me that they were working on a message

26 or a fax, or something of that note, but the comment

27 which I didn't take much notice of at the time made me

28 think there must have been a facsimile machine at that

29 location.

30 COMSR

31 Q. When you talk about a group of people, were they all

32 Aboriginals.

33 CONTINUED

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- 1 A. From memory, all of the people that I saw would have  
2 been Aboriginal, both the men and the women that I saw.  
3 I can't think of any nonAboriginal people that I saw, at  
4 that time.  
5 XN  
6 Q. You had met Time Wooley before this, hadn't you.  
7 A. Yes.  
8 Q. Was he there, on this occasion.  
9 A. I honestly can't recall whether he was or not.  
10 Q. You have mentioned specifically two Aboriginal men  
11 outside the shack.  
12 A. Yes.  
13 Q. Were there other men outside the shack, besides the two.  
14 A. I believe that Doug Milera was there, but, again, that  
15 is a belief that I have from looking back on that  
16 occasion.  
17 Q. You have mentioned one woman who engaged you in some  
18 conversation about the beauty of the area. Any other  
19 women that you noticed.  
20 A. There were other women there, but I don't know who they  
21 were.  
22 COMSR  
23 Q. Just for the sake of completeness, did you see who was  
24 inside the cottage, on that occasion, or did you only  
25 see the persons who were outside.  
26 A. I did not see who was inside and I did not approach the  
27 cottage.  
28 XN  
29 Q. You got the impression, from things said to you, that  
30 they were getting some message or a fax organised, that  
31 is the case, isn't it.  
32 A. That was the reason for me to leave, that there was some  
33 important business going on. And, the way in which that  
34 message was put to me, made me believe that there was a  
35 facsimile there, which I thought was strange.  
36 Q. Was anything said to you, to indicate who this message  
37 was going to.  
38 A. No, there wasn't.

- 1 Q. There wasn't, for instance, the mention of the word  
2 'Minister', or anything like that.
- 3 A. No, I mean, from my knowledge of the situation, I  
4 believe that it would have been a fairly significant  
5 message that was being prepared.
- 6 Q. So, all in all, how many people, men and women, did you  
7 see down at this location, approximately.
- 8 A. Probably three or four men and three or four women.
- 9 Q. You returned then. I take it you got the impression you  
10 weren't wanted in the area, so you did leave, did you.
- 11 A. Yes, I did no more than make myself known to the people  
12 and the reason that I was there and I left it up to them  
13 to contact me. And I had the impression that they  
14 welcomed that approach. That they would, in fact, get  
15 back to me.
- 16 Q. You told us that you went down there, or you went on the  
17 look out for this protest group at about, I think you  
18 said, 2.30. So, I think you then returned to the Goolwa  
19 Police Station, didn't you.
- 20 A. Yes, I did.
- 21 Q. What time was that about.
- 22 A. I could refer to other notes that I have and give you a  
23 specific time, but I think it was about 4 o'clock in the  
24 afternoon.
- 25 Q. It is not that vital. You there made contact, I think,  
26 with Inspector Ryan and informed him that you had made  
27 some contact with the Aboriginal protestors.
- 28 A. Yes, I did.
- 29 Q. You stayed down there overnight.
- 30 A. No, we returned to Christies Beach.
- 31 Q. Did you return down to Goolwa again on the following  
32 day, Tuesday, the 10th.
- 33 A. Yes, I did.
- 34 Q. And arriving there at about what time.
- 35 A. At about 11 o'clock in the morning with Inspector Ryan.
- 36 Q. What happened then.
- 37 A. I am relying on my recollection now. And that is that  
38 Victor Wilson and George Trevorrow came to the station



1 and invited Inspector Ryan and myself to attend a  
2 meeting later in the day at the area on the island I  
3 know as 'The Pines'.

4 Q. You did that, did you.

5 A. Yes, that was at about 1 p.m. that same day that we went  
6 out to the island and to the area known as 'The Pines'.

7 Q. Your statement says that you found there a large group  
8 of Aboriginal and nonAboriginal people assembled.

9 A. Yes.

10 Q. You were surprised to see a media helicopter arrive and  
11 media personnel in attendance.

12 A. Yes, my discussions with the men had been that we keep  
13 our meetings low-profile so that we could freely discuss  
14 matters. That had been the preferred option, in my  
15 experience, with Aboriginal people, to work just quietly  
16 and to work things through. And I didn't expect that  
17 there would be media at that meeting. However, when we  
18 got there, there was a helicopter arriving and the media  
19 were in attendance.

20 Q. Were there representatives of the ALRM in attendance.

21 A. I can't recall if they were there or not.

22 Q. The solicitor, Tim Wooley, for instance.

23 A. No, I don't - I can't recall if he was there.

24 Q. I think you as your statement makes clear spoke to that  
25 group, amongst other things telling them that you had a  
26 background in Aboriginal and police affairs.

27 A. Yes, by way of an introduction I introduced myself and  
28 explained my role in working with Aboriginal people.  
29 And I mentioned specifically the Pitjantjatjara lands  
30 and the traditional laws and how we had worked enforcing  
31 traditional laws on the tribal lands and a women I know  
32 as Sarah Milera. I didn't know her before that day, but  
33 she rebuked me in front of the group and she called out  
34 that - a reference to me being a white fella and that  
35 their laws, meaning the Ngarrindjeri people, I presume,  
36 were as good as the Pitjantjatjara laws. That they were  
37 sacred. I had to explain that I wasn't denigrating  
38 their law, but that the traditional laws of the

1 Pitjantjatjara were still very prominent, practised and  
2 encoded to some degree in the Pitjantjatjara Land Rights  
3 laws. But, at that point, I handed over to Inspector  
4 Ryan.

5 Q. Could I interrupt there to ask what was the purpose of  
6 this gathering and your attendance at it.

7 A. Our intention was to meet with Aboriginal people and  
8 again explain the police role. And we didn't expect  
9 that there would be such a large gathering that would  
10 involve, you know, nonAboriginal people. We believed  
11 that we were going out to meet with the Aboriginal  
12 people, which is, in my view, appropriate, to prevent,  
13 you know, these violent conflicts that could have  
14 occurred.

15 Q. In fact, you were, as your statement makes clear, you  
16 and Inspector Ryan were invited to this gathering,  
17 weren't you.

18 A. Yes. If I could just qualify that?

19 Q. Yes.

20 A. When I first spoke to Mr Wooley I suggested to him that  
21 this sort of meeting should occur and he agreed and  
22 obviously assisted to make it happen.

23 Q. The nonAboriginal people at this gathering on the 10th,  
24 it is, isn't it.

25 A. Yes.

26 Q. Even drawing on your subsequent contact with these  
27 groups down at Hindmarsh Island can you tell us who they  
28 were, if they were from any cohesive organisation.

29 A. I don't know who they were. I know people who stood out  
30 in the group. There was a Dr Dean Harvey who made  
31 himself very clearly known to us. And, in fact, he then  
32 identified himself as a Police Liaison Officer. He said  
33 that he would occupy the role of liaising with the  
34 police. There was also a woman who dressed as a cleric,  
35 and I don't know her name, but she was quite angry in  
36 her conversations with us and with Inspector Ryan,  
37 challenging our right to be involved and be there.

38 Q. Can you tell us why she -

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- 1 COMSR: I don't know that this witness can say  
2 why someone else is angry, Mr Smith.
- 3 MR SMITH: No.  
4 XN
- 5 Q. Was anything said that betrayed why she was angry with  
6 your presence there.
- 7 A. I think generally everybody was angry with us. All the  
8 people there were against us interfering with their  
9 right to protest. And Sarah Milera claimed that it was  
10 corruption for us to be involved. She made a statement  
11 that said it was corrupt. So that generally we weren't  
12 popular, but, by the same token, the group thanked us  
13 for making the approach we had.
- 14 Q. So you had just gotten to the stage where you were  
15 telling us that you introduced Inspector Ryan to the  
16 group, but can I take you back to what Sarah Milera  
17 said having spoken out in protest against you or what  
18 you said.
- 19 A. Yes.
- 20 Q. Can you remember anything more of what she said.
- 21 A. No, she just made a loud statement to me that -  
22 something like 'That's where you white fellas get it  
23 wrong. Our law - ', and I took it to mean the people  
24 that were there, was as valid or as strong as the  
25 Pitjantjatjara law. Now, I know that there is conflict  
26 At times between the Pitjantjatjara people and other  
27 communities because they are - the Pitjantjatjaras have  
28 been identified as the real Aboriginal people. And that  
29 wasn't what I meant. I was trying to qualify the work  
30 that I had done. But she took me to task for making the  
31 statement I did.
- 32 Q. You introduced then Inspector Ryan and he spoke, I take  
33 it, to this gathered group.
- 34 A. Yes.
- 35 Q. What did he say.
- 36 A. He again spoke about the right to protest lawfully and  
37 he outlined the range of police actions that would  
38 follow if people broke the law, if there was breaches of

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1 the peace. And he outlined that he wanted to manage the  
2 protests in a fair way and didn't want it to end up in a  
3 police/Aboriginal conflict. He wanted the protest group  
4 to be allowed to protest and the other group to be able  
5 to get on with their task. And he went out of his way  
6 to illustrate that the people doing that work had a  
7 right to do that work.

8 Q. That is the workers on the construction site of the  
9 bridge, you mean.

10 A. Yes.

11 Q. Through all of this you observed the gathering and can  
12 you tell us what view you took of the role played by  
13 Sarah Milera.

14 A. It was my view that day that she was a dominant figure.  
15 People seemed to look to her and the comments that I  
16 heard indicated that she was seen to be the guardian of  
17 the important sites.

18 Q. Your presence then at this gathering was over what  
19 period of time.

20 A. Again I could refer to notes but we would have been  
21 there for a couple of hours I suppose.

22 Q. That was on the Tuesday, 10 May. And I take it then you  
23 did nothing more in connection with that matter, the  
24 matter of Hindmarsh Island and just returned to  
25 Christies Beach.

26 A. That's correct.

27 Q. On the Wednesday the 11th you returned to Goolwa again  
28 with Chief Inspector Ryan, did you not.

29 A. That's correct.

30 Q. Why did you return.

31 A. On Wednesday, 11 May?

32 Q. Yes.

33 A. That was the day the work was going to start on the site  
34 next to the Old Goolwa Police Station. Built Environs  
35 were moving - were going to move their equipment in, on  
36 that day.

37 Q. There was a large presence, I think, down near the  
38 approach to where the bridge was to be constructed, is

1 that right.

2 A. Yes, there was. There was a number of gatherings of  
3 people there.

4 Q. I think, as you have said in your statement, you went to  
5 a work site next to the Old Goolwa Police Station and  
6 remained there, until police moved on to the site at  
7 about 12.15 p.m.

8 A. That's correct.

9 Q. You were present, then, whilst equipment was brought on  
10 to the site, by Built Environs, is that right.

11 A. Yes.

12 Q. In summary, as you have set out in your statement,  
13 protests occurred, persons were arrested, and there was  
14 much activity, is that right.

15 A. That's correct.

16 Q. Was that the occasion where some Atco huts were taken  
17 off the back of trucks.

18 A. That is correct.

19 Q. Did you see that happen.

20 A. Yes, I did.

21 Q. Can you tell us what you remember about that particular  
22 incident.

23 A. I think, soon after 12 o'clock, a couple of police  
24 motorcycles drove past, then a couple of police horses  
25 went past, and then the truck with the Atco on the rear  
26 arrived. And, when it arrived, protestors went forward  
27 and blocked the path of the truck. Chief Inspector Ryan  
28 continually asked the people to get out of the way of  
29 the truck and to - not to impede the progress of the  
30 trucks. He continued, through a loud hailer, to tell  
31 them that, if they blocked the progress of that truck or  
32 interfered with the vehicles that they could be arrested  
33 for a breach of the peace. After quite a stand-off of  
34 warnings and no progress a number of arrests were made.  
35 And I remained near the Aboriginal people and I made it  
36 my business to walk around and just quietly say to  
37 people that - to keep it nonviolent. And I gave  
38 information forward to Inspector Ryan that may have

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1 assisted him. One of the points that was made was that,  
2 if the trucks or their vehicles cut into the soil that  
3 they would not be able to stop the Aboriginal people  
4 from turning violent towards the police or the vehicles.  
5 So, again, I relayed that information down to Trevor  
6 Treadwell, the site manager and Inspector Ryan that - by  
7 way of negotiating it to all go through smoothly. A  
8 number of arrests were made and people, at that stage,  
9 were really emotional. Some people were crying. A lot  
10 of people were calling out and abusing the police and  
11 others.

12 Q. Was there an occasion where one of the Atco huts was  
13 removed from a truck and actually dug into the soil.

14 A. Yes, it did. When it dropped backwards, it dug into the  
15 ground.

16 Q. Did you notice anything about the reaction to that by  
17 any of the protestors.

18 A. I think that the reactions were much the same. People  
19 were quite emotional about what was happening.

20 Q. There has been some evidence from a previous witness  
21 that, at that particular time, although there was a lot  
22 of other activity, a particular lady stood out in her  
23 behaviour. Do you have a memory of that. That is, when  
24 one of the Atco huts came off the back of the truck and  
25 dug in, to some extent, to the soil.

26 A. No, I don't. If it is useful, I have two videos in my  
27 possession, that were taken by police photographic  
28 crews, and they were taken at the direction of the  
29 Forward Commander, who had all of the activities  
30 videoed. So, I mean, by looking at those, I probably  
31 could assist you, or I could make them available.

32 CONTINUED

1 Q. Do you have those with you.

2 A. Yes, I do.

3 Q. Perhaps you can at least identify them for us. Are you  
4 happy to make them available to the inquiry.

5 A. Yes, I am.

6 COMSR

7 Q. How long are these videos. What length of time do they  
8 occupy.

9 A. I can tell you that video 1 is marked 'Operation bridge,  
10 11 May 1994' taken on two cameras at the site, the first  
11 running for 16 minutes and the remainder - one is from  
12 one camera, one is from the other. So probably that  
13 would be for the entire events that occurred on the  
14 first day.

15 XN

16 Q. So that's 16 minutes, is it.

17 A. No, it is more than that, but it identifies who the  
18 camera people were and which camera person took which  
19 segments of the video. And video 2 is dated 12 May, and  
20 again that is taken by two cameras. The first 14  
21 minutes was by one operator and the remainder by the  
22 second operator.

23 Q. All told, what is the viewing time of the two videos.

24 A. I haven't looked at them and I can't tell you.

25 MR SMITH: As the officer says they are a video  
26 recording of the protest, I propose to tender them.

27 COMSR: Excepting that you haven't played them  
28 through to see their content at this stage.

29 MR ABBOTT: I ask that they be played now. They can  
30 hardly be matters under Section 35.

31 COMSR: No, I wasn't for one moment considering  
32 that they were.

33 MR ABBOTT: If there is any matter on it that needs  
34 to be suppressed, it can be suppressed. I would be  
35 unable to cross-examine this witness without having seen  
36 them, and we might as well get on and see them.

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1 XN

2 Q. Any approximate idea about the duration of the videos.

3 How long did the protest last for, for instance.

4 A. I think it is possible that it could have been an hour

5 and a half, a couple of hours. I'm not sure.

6 COMSR: I am trying to ascertain how much of

7 these are relevant.

8 MR ABBOTT: Can we not look at 15 minutes and then

9 reassess the position?

10 MR SMITH: Yes.

11 EXHIBIT 142 Two video tapes taken at of work site on

12 11 and 12 May 1994 tendered by Mr Smith.

13 Admitted.

14 XN

15 Q. I think during the course of the protest, if I can call

16 it that, you spoke with a number of people and you have

17 named them in your statement, Victor Wilson, George

18 Trevorrow, Sarah Milera, Neale Draper, Doug Milera, Tim

19 Wooley, and Trevor Treadwell.

20 A. Yes.

21 Q. You were also, of course, talking to people such as

22 Chief Inspector Ryan, is that right.

23 A. Yes, and others.

24 Q. What part was Neale Draper playing in this gathering.

25 A. To me, he seemed like it was he was an observer. He was

26 standing well back from the main group and just seemed

27 to be observing.

28 Q. Victor Wilson and George Trevorrow, were they involved

29 in the protest in the sense of participating in it

30 pacifically or physically.

31 A. No, no, both of those men remained back in an area where

32 I was. The Aboriginal people actually put a barricade

33 across the site. They put a flag line across the site

34 and they indicated that no work was to proceed past that

35 point. We'd managed to negotiate an agreement that that

36 would occur, that the buildings were to be located

37 further up the block, but because of that barrier,

38 Trevor Treadwell agreed that he would put the building



1 down on a lower point on the block, and most of the  
2 group remained behind that barrier for most of the  
3 activities.

4 Q. What of Sarah and Doug Milera.

5 A. Yes, they were down at the protest point.

6 Q. Did you come to know a lady by the name of Doreen  
7 Kartinyeri in your involvement with the Hindmarsh Island  
8 Bridge matter.

9 A. Yes, I did. I recall seeing her there and speaking to  
10 her.

11 Q. What part did you notice she played in this.

12 A. I think she was like Mr Trevorrow and Wilson. I think  
13 she remained, from my memory, back with the group behind  
14 that line.

15 Q. You spoke, you said, with Neale Draper, amongst other  
16 people.

17 A. Yes.

18 Q. Could you tell us what was said between the two of you.

19 A. Some of the discussions we had were of a confidential  
20 nature, and I don't know where that leaves me here now,  
21 but some of the things that were said to me he said to  
22 me in confidence.

23 Q. Can I perhaps ask you what the topic was before we press  
24 you for an answer.

25 A. Part of the topic was the significance of the site, and  
26 part of the topic was what could occur at the site.

27 Q. I ask you, nonetheless, to answer the question. He  
28 conveyed this information to you on the basis that you  
29 wouldn't pass it on willy-nilly to other people, is that  
30 the position.

31 A. He prefaced it by saying it was confidential, not to be  
32 divulged, so that was the basis on which it was passed  
33 to me.

34 Q. It wasn't as to the topic of anything secret and sacred  
35 and in terms of Aboriginal lore, was it.

36 A. In part, it was. I think it is probably sufficient to  
37 say that what he was indicating was that research that  
38 he had conducted indicated that the site was very

## P.R. MORRISON XN (MR SMITH)

- 1 significant, and, as he said, that his work had  
2 indicated that it was much more significant than he had  
3 first indicated or first realised.
- 4 Q. Then there was some other topics discussed between you.  
5 A. Yes, there was.
- 6 Q. Were they covered by this wish for them to be  
7 confidential.  
8 A. Yes, it was.
- 9 Q. What were those other topics at least, at this stage.  
10 A. It was one other topic. It referred to the possible  
11 stopping of the work on the site.
- 12 COMSR  
13 Q. Arising out of their significance.  
14 A. Yes.
- 15 XN  
16 Q. Would you tell us what he said then.  
17 COMSR: What about, the sites and their  
18 significance?  
19 MR SMITH: No, I am not pursuing that.
- 20 XN  
21 Q. You earmarked the topic as being as to the stoppage of  
22 some sort, didn't you.  
23 A. Yes.
- 24 Q. I am not wanting you to convey to us anything said to  
25 you about the significance of the site, but the other  
26 topic, would you tell us what was said about that.  
27 COMSR: If it is possible to distinguish. I  
28 don't yet know from what the witness has said whether or  
29 not there is an overlapping of the two.  
30 A. I am merely identifying that what was said to me was  
31 asked to be treated as confidential. Is it appropriate  
32 that I now -  
33 XN  
34 Q. As I understand it, part of the conversation referred to  
35 the significance of the sites from an Aboriginal  
36 tradition point of view, if I can put it that way - part  
37 of your conversation. Is that correct.  
38 A. That's correct.

1 Q. And the other part related to what might flow from that,  
2 did it.

3 A. That's correct.

4 Q. What I am not quite clear on, were these two topics  
5 interrelated, or can they be separated so that I can  
6 hear that part which related to what Dr Neale Draper saw  
7 as the consequences of the significance of the site.

8 A. What Mr Draper was saying to me was that he had been  
9 working on the island.

10 Q. I don't want you to disclose anything about the sites.

11 A. No, no. And that the work he had been doing indicated  
12 that the site was far more significant than he had  
13 previously thought, and that he had been working at  
14 night to provide information to the Federal Minister,  
15 and that it may be that there would be Federal  
16 intervention as a result of that significance of the  
17 work that was being done. To me, again, that was  
18 important because it meant that I was able to encourage  
19 the police commander not to get involved in an all-in  
20 brawl that might have been for absolutely no purpose.

21 XN

22 Q. In effect, Draper told you that there was likely to be  
23 some declaration by the Federal Minister. Is that the  
24 position.

25 A. I don't know that he - he didn't indicate I think that  
26 it was likely. He indicated that - he was identifying  
27 significant aspects that were being put to the Minister  
28 with that in mind. As I say, at that point it was in  
29 confidence, and -

30 Q. You have been forced to disclose it, so don't be  
31 concerned about it. Was the topic, as part of this  
32 in-confidence discussion with Draper, including a topic  
33 such as co-ordinates and getting them right. Was  
34 something said like that.

35 A. That was discussed. I'd spoken to Dr Draper, I think it  
36 was the night before, on a mobile phone, and he was  
37 working into the night. That was a point he made, that

1 during the protest he had put in a lot of work on  
2 various co-ordinates because they had to be right.

3 Q. Did he say words to the effect that he had to do his  
4 co-ordinates again and get them right.

5 A. I don't think he had to do them again. I think it was  
6 that he had to make sure that what he had done was  
7 right. It wasn't a matter of correction. It was a  
8 matter of just confirming what he had done. That was  
9 the impression he conveyed to me.

10 Q. Neale Draper, as you said before, was your lecturer in  
11 your studies that you'd done, Aboriginal studies. Isn't  
12 that correct.

13 A. Yes, Mr Draper was a lecturer of mine. He was also part  
14 of a group of lecturers who provide training for police  
15 officers working in Aboriginal communities. For a  
16 number of years I co-ordinated that training and had a  
17 key role at the Aboriginal Studies and Teacher Education  
18 Centre in developing training for police officers in the  
19 Aboriginal community. So I had an on-going role with  
20 those people.

21 Q. So that was the gist of what passed between you both the  
22 night before on mobile telephone at the site.

23 A. Yes.

24 Q. Between you and Draper.

25 A. Yes.

26 Q. You spoke with Tim Wooley, you say, at the site of the  
27 protest on Wednesday, 11 May, did you not.

28 A. Yes.

29 Q. What was discussed between you and Tim Wooley, if you  
30 can recall.

31 A. No, I can't recall anything of significance. My role  
32 was simply just liaising and negotiating with all the  
33 people present. There was nothing significant about my  
34 contact with him.

35 Q. As your statement makes clear, you first moved onto the  
36 site at 12.15, and activity at the site concluded  
37 shortly after 3 o'clock on that day.

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- 1 A. I actually went to the site at about 10.30. The police  
2 group arrived at about - and the activity with the  
3 trucks started at about 12.15, but I went down there  
4 earlier in the morning.
- 5 Q. At about 4.30 p.m., with Inspector Ryan, you spoke to  
6 the Aboriginal people on site.
- 7 A. Yes.
- 8 Q. Before you left.
- 9 A. Yes.
- 10 Q. What were you saying on that occasion.
- 11 A. It was just to reinforce the way it would be handled.  
12 At that stage we expected it could be an on-going  
13 project, and that we would try and continue in the line  
14 that we were following.
- 15 Q. So that Built Environs had unloaded their Atco huts and  
16 such and no other activity took place on that day, is  
17 that the position.
- 18 A. I'm not sure, either that day or the next day they put  
19 some gravel around, but that was the extent of it.
- 20 Q. On Thursday, 12 May, you returned to Goolwa again from  
21 Christies Beach with Inspector Ryan.
- 22 A. Yes, I did.
- 23 Q. Down to the same work site you went, is that correct.
- 24 A. Yes, that's correct.
- 25 Q. As you make clear in your statement, the declaration  
26 from the Minister had been made, had it not, and that  
27 was read out by Tim Wooley on site. Is that right.
- 28 A. No. Tim Wooley arrived with somebody from ATSIC, from  
29 the Aboriginal and Torres Strait Islander Commission,  
30 and that person had the declaration with them. I spoke  
31 to Inspector Ryan and Trevor Treadwell. Trevor  
32 Treadwell approached them and the declaration was read  
33 out. Trevor Treadwell was told to get his equipment off  
34 the site, and we spent some time discussing that, and it  
35 was agreed that they could have a reasonable time to  
36 carry out that work.
- 37 Q. The declaration was read out, however, wasn't it, to the  
38 gathered people.

1 A. It was read to Trevor Treadwell, I think, as the site  
2 manager, but of course the group assembled and there was  
3 a cheer went up when it was divulged what had occurred.

4 Q. You make it clear here that Doug Milera borrowed from  
5 Inspector Ryan the loud-hailer.

6 A. That's correct.

7 Q. And then he did what.

8 A. He got onto a gravel heap and made an announcement that  
9 the declaration had been made, and I think there was  
10 some sort of a victory statement. From memory, he said  
11 something like: this was just the beginning, there was a  
12 long way to go.

13 Q. That was shortly after midday, according to your  
14 statement. Is that right.

15 A. That's correct.

16 Q. Is it the case, as you have indicated on the previous  
17 page of your statement at the bottom of p.5 'There was a  
18 belief amongst the Aboriginal people that the Federal  
19 Minister would intervene in the project'. That was on  
20 the previous day. You gleaned from your presence there  
21 that there was that belief amongst the Aboriginal  
22 people. Is that right.

23 A. I just heard comments during the day that indicated  
24 that, yes. There was an expectation that there was  
25 going to be some form of intervention.

26 CONTINUED

## P.R. MORRISON XN (MR SMITH)

- 1 Q. I think you make the point that Doug Milera was, to some  
2 slight degree, affected by liquor when he made that  
3 public announcement at the protest site.
- 4 A. It was my opinion that he was slightly affected by  
5 liquor, or had been drinking.
- 6 Q. I think you are familiar with the person David Thomason  
7 from the CFMEU, are you.
- 8 A. Construction Forestry Mining and Energy Union, yes, I  
9 am.
- 10 Q. At the bridge site on that day, did he make an  
11 announcement in your presence.
- 12 A. There was a number of groups of people and I can't  
13 recall him making an announcement. I didn't really  
14 interest myself in him or his activities.
- 15 Q. Can I suggest to you that someone said at the bridge  
16 site on this day 'The bridge will not be built', words  
17 to that effect, 'This bridge will not be built'.
- 18 A. I can't recall now that occurring, but I did hear that  
19 said at a meeting on a previous occasion.
- 20 Q. Jean and Henry Rankine are people known to you, aren't  
21 they.
- 22 A. Yes, they are.
- 23 Q. I think you know them to be people, Aboriginal people,  
24 with a high profile in Aboriginal affairs in and around  
25 the Hindmarsh Island area; is that right.
- 26 A. In the work that I did when I was in the Aboriginal  
27 Liaison Unit, Henry Rankine was, I think, the community  
28 advisor or community leader. They were very involved in  
29 community activities and I'd describe them as prominent  
30 members of the Narrunga community.
- 31 Q. I think you had, subsequent to these events at the  
32 protest at the bridge site, you and your family had  
33 occasion to go on a picnic into the Goolwa area; is that  
34 correct.
- 35 A. The people involved in this from the Aboriginal  
36 community held a family day at Goolwa and it was widely  
37 publicised. There was tours, awareness - cultural  
38 awareness tours, bus tours. And I had suggested to

- 1 Inspector Ryan that for continuity, somebody should  
2 attend that day and to keep abreast of the developments.  
3 And on that basis, I went down there.  
4 Q. You met there, I think, Jean and Henry Rankine.  
5 A. Yes, I spoke to them.  
6 Q. Whom you already knew.  
7 A. Yes, know them well.  
8 Q. And Matt Rigney, did you meet him there.  
9 A. No, I don't know whether I met him on the day. I saw  
10 him there. I saw him speaking to the group.  
11 Q. Was Val Power amongst the Aboriginal women there.  
12 A. Yes.  
13 Q. She, I think, addressed the gathering, didn't she.  
14 A. Yes, she did.  
15 Q. I think she had something to say about you, sergeant,  
16 didn't she.  
17 A. Well -  
18 COMSR: Is there some relevance to this?  
19 MR SMITH: There may be.  
20 Q. What did she say.  
21 A. As she walked past me, she made a comment, something  
22 about Judas.  
23 Q. Referring to you as Judas.  
24 A. She made a comment that I took to be a reference to me.  
25 Q. What could that have meant.  
26 COMSR: Well, are you asking the witness what Ms  
27 Power meant?  
28 MR SMITH: I'm asking the witness if he has got any  
29 idea why he might have been referred to by Val Power as  
30 'Judas'.  
31 Q. Have you any idea.  
32 A. I can only offer that over the years that I worked in  
33 Aboriginal Affairs, Val Power didn't always hold the  
34 police in affection and I think it was simply a comment  
35 made with that in mind.  
36 Q. This is the picnic at Goolwa. Do you remember the date  
37 of that.  
38 A. No, I don't.



1 Q. Did you receive a flyer, a brochure or whatever, in  
2 respect of that.

3 A. I have with me a copy of that document and associated  
4 documents and a brief report that I put in concerning  
5 that event.

6 Q. You can tell us the date that it was, can you, by  
7 reference to those.

8 A. 5 June, I think it was. Having a look at it, it's  
9 Sunday, 5 June.

10 Q. I don't want to - could you detach your private memo to  
11 your Chief Inspector from that. We are now looking at a  
12 notice of the family picnic day of Sunday, 5 June.

13 A. Yes.

14 Q. Sponsored, presumably, by the Ngarrindjeri Action Group  
15 and The Friends of Goolwa and Kumarangk.

16 A. Yes.

17 Q. Attached to it is a location map and as to various  
18 activities.

19 A. Yes.

20 Q. And you went down to that.

21 A. Yes.

22 EXHIBIT 143 Notice of the family picnic day  
23 attached to which is a map tendered by  
24 Mr Smith. Admitted.

25 Q. Did you go on any of the cultural awareness excursions,  
26 bus tours.

27 A. No, I didn't.

28 Q. Did you know what they were.

29 A. No, I don't.

30 BY CONSENT, MR SMITH SEEKS LEAVE TO PLAY TWO VIDEOS TO THE  
31 COMMISSION. LEAVE GRANTED.

32 VIDEOS SHOWN TO COMMISSION

33 A. That is the second of the videos. One should be marked  
34 one and one should be marked two.

35 Q. We are looking there, are we, at the crossroads just  
36 adjacent to the ferry crossing, are we.

37 A. Yes. That is actually being filmed from on the work  
38 site.

- 1 Q. This is Monday, 9 May.  
2 A. Or looks like it's opposite the work site, yes. I'm  
3 sorry?  
4 Q. This is Monday, or is it Tuesday, 10 May.  
5 A. What I'm seeing, I would say that it's Monday the 9th.  
6 Q. I might have misled you. Would that have been the 11th.  
7 A. Sorry, I think the 11th.  
8 MR SMITH: That is Wednesday, beings 11 May.  
9 A. You may need the volume up to hear the conversation.  
10 Q. And the officer with the loud-hailer, that is Inspector  
11 Ryan; is it not.  
12 A. That is Chief Inspector Tony Ryan.  
13 MR KENNY  
14 Q. Is the man with the helmet David Thomason.  
15 A. Yes.  
16 XN  
17 Q. The man with the helmet and the mobile phone is David  
18 Thomason.  
19 A. Yes.  
20 CONTINUED

- 1 Q. I think the man in the foreground there with his back to  
2 us is Neale Draper, is that right.
- 3 A. That is correct.
- 4 Q. And Doreen Kartinyeri with him.
- 5 A. Yes, I think.
- 6 Q. That was Doug Milera, wasn't it.
- 7 A. That was Doug Milera. And that lady then was the one  
8 that I mentioned. The clerical lady of the cloth.
- 9 Q. What did you say.
- 10 A. The woman that was also in view in black clothing was  
11 the woman that I described as having some religious  
12 involvement, who was very outspoken at our meeting.
- 13 MR SMITH: Could we go back to that? The sergeant  
14 pointed out a lady and spoke about it. If we could go  
15 back to where Doug Milera was standing up?
- 16 VIDEO PLAYED
- 17 A. That's Doug Milera. That is the lady there.
- 18 MR SMITH
- 19 Q. That lady there, that rather large lady in black, is she  
20 the lady with religious -
- 21 A. She was wearing a collar and apparently is a preacher or  
22 lay preacher.
- 23 Q. She had plenty to say.
- 24 A. She was the one at the meeting on Hindmarsh Island that  
25 raised a lot of issues, vigorously. That is George  
26 Trevorrow.
- 27 MR ABBOTT: This is the other camera, isn't it?
- 28 A. This is the other camera.
- 29 MR SMITH
- 30 Q. Can you tell us who that man with the beard is.
- 31 A. I don't know his name, but he was with David Thomason.  
32 He was a union - CFMEU union man.
- 33 MR ABBOTT: Sarah Milera in the white.
- 34 MR ABBOTT
- 35 Q. That is Doreen Kartinyeri. (NOT ANSWERED)
- 36 CONTINUED

1 XN

2 Q. That is Sarah Milera talking to the jounalist there, is  
3 that correct.

4 A. Yes, it is. The woman in the yellow was with the people  
5 from the CFMEU, Thomason and company. That is Trevor  
6 Treadwell.

7 Q. And Neale Draper next to him.

8 A. Yes.

9 Q. That's the end of the first tape then.

10 A. Yes.

11 COMSR.

12 Q. Has the tape completed.

13 A. As far as I know it is.

14 MR ABBOTT

15 Q. Sergeant, we could clearly hear Sarah Milera saying  
16 'Kumarangk means woman', could we not, in the interview.

17 A. Yes.

18 Q. Did you hear her say that down there.

19 A. Yes.

20 Q. She repeated it on more than one occasion, didn't she.

21 (NOT ANSWERED) Well, she said it more than once. We  
22 could hear it on the tape.

23 A. Yes, then. I heard it then, yes.

24 MR PALYGA

25 Q. Doug Milera got up and spoke with a loud-hailer, didn't  
26 he, in that tape.

27 A. Yes.

28 Q. He spoke about a fence on the other side of which he  
29 said they would not go. Do you recall that from the  
30 tape.

31 A. Yes.

32 Q. I think you said in your statement you had some  
33 discussions with Trevor Treadwell about exactly where  
34 Built Environs would be placing equipment or manoeuvring  
35 and so on, and where they wouldn't. Is that correct.

36 A. Yes. Trevor Treadwell had preferred to put those  
37 buildings on a higher point on the block. I suppose you  
38 would say closer to the river, and because of the line

## P.R. MORRISON XN (MR SMITH)

1 that was drawn across the block and the barricade - the  
2 flag line that was put across it and vehicles were  
3 parked behind it, and deck chairs were put behind it,  
4 Trevor Treadwell compromised and agreed to put it on a  
5 lower part of the block.

6 Q. So he had negotiations with whom about that, with  
7 Aboriginal people.

8 A. You would have seen at one point Trevor Treadwell was  
9 standing talking with a group of Aboriginal people.

10 Q. Yes.

11 A. I think you can see from the tape that everything about  
12 the movement was very slow. Everything was done in that  
13 sort of negotiated manner, even to the point of Trevor  
14 seeking to be appropriate at each point as he was moving  
15 along. He wasn't pushing. So whether it was through  
16 myself, whether it was through Neale Draper, or whether  
17 it was through George Trevorrow or Victor Wilson, or  
18 other people present, there was a process going on of  
19 negotiating to ensure that we didn't get to a  
20 push-and-shove situation.

21 Q. Do you know if Mr Treadwell had negotiations about areas  
22 that he wasn't to move men or equipment into with  
23 Aboriginal people.

24 A. The line across the block at that point on that day  
25 indicated a no-go area, and that was acceptable to  
26 Trevor to get those buildings onto that site where he  
27 did.

28 Q. So, in short, there were negotiations about the area  
29 that they were to go onto and the area that they weren't  
30 to go onto.

31 A. Yes.

32 MR KENNY

33 Q. It is fair to say that that video confirms what you said  
34 earlier, that there was no evidence of anyone being  
35 particularly upset at the unloading of the trucks,  
36 no-one acting in a manner that stood out to you. Is  
37 that correct.

38 A. I agree, yes.

- 1 Q. It appeared from the video that the protest was
- 2 reasonably orderly. It didn't get out of control at any
- 3 stage. Is that your observations of the day.
- 4 A. Yes.
- 5 MR SMITH
- 6 Q. The second video is likely to be shorter, is it.
- 7 A. Yes.
- 8 COMSR
- 9 Q. It is not likely to be completed, I take it, within five
- 10 minutes.
- 11 A. No.
- 12 ADJOURNED 12.55 P.M.

1 RESUMING 2.18 P.M.

2 MR SMITH: We are at the stage of playing the video  
3 for the last day I think, Thursday, 12 May.

4 Q. Is that right.

5 A. Yes

6 SECOND VIDEO PLAYED

7 Q. That shot where the man was hammering in a stake was on  
8 the land that was fenced off as being not able to be  
9 part of the construction site.

10 A. Where the vehicles are parked along that side of that  
11 line is the area that the protest group identified as  
12 where they didn't want any buildings or work to be done.

13 MR PALYGA

14 Q. The same area where their vehicles were parked.

15 A. Yes.

16 XN

17 Q. If the film is any indication, there is very little  
18 Aboriginal presence on this day, is that right, or is it  
19 just the way in which the film seems to be dwelling on  
20 various sections of the crowd rather than others.

21 A. The point you have made was correct, there was not a lot  
22 of Aboriginal people on site early that morning.

23 Q. Would this be the second camera again, or not  
24 necessarily.

25 A. I'm not sure. That may have been the break between the  
26 two cameras.

27 Q. It looks a bit like it, doesn't it, with the scooper  
28 coming in, or the front-end loader.

29 A. Yes.

30 MR MEYER: I'm a late arrival. Can't we press the  
31 fast forward button and have it on the screen and have  
32 it go through quickly? This apparently is a repeat of  
33 what we just saw from another camera.

34 COMSR: I don't know whether anyone else is  
35 asking me to.

36 MR KENNY: I'll support him.

37 MR SMITH: If we keep at this speed, it finishes  
38 off with Doug Milera giving a talk.

KC 31J

P.R. MORRISON XN (MR SMITH)  
XXN (MR PALYGA)

1 XN

2 Q. Is that likely to be all, is it.

3 A. I imagine it must be. I thought the reading of the  
4 document may have been taped, but it doesn't appear to  
5 have been. The protest activity was the main activity  
6 of interest to the cameraman.7 Q. We saw Doug Milera speak twice, I think, in the previous  
8 - he spoke once, I suppose, taped twice, on the previous  
9 day. And is it the case then that he got up and spoke  
10 with a loud hailer on both days, namely, 11 May and the  
11 12th.12 A. That is my recollection of events. There was just one  
13 point that I wanted to make and that was watching the  
14 video reminded me that Chief Inspector Ryan asked the  
15 anthropologist/archaeologist to -

16 Q. Neale Draper.

17 A. Neale Draper, he asked him to remain nearby throughout  
18 so he could interpret anything that was found or any  
19 allegations about significance when the tractor and  
20 other earthmoving equipment was working and I omitted  
21 that earlier.

22 CROSS-EXAMINATION BY MR PALYGA

23 Q. I would like to take you back to your earlier evidence  
24 about when you went to the Mouth House, on 10 June -

25 A. The 9th.

26 Q. 9 June, you say you can't recall Tim Wooley being there.

27 A. That's correct, I can't recall it.

28 Q. Can you recall speaking to Tom Chapman on the telephone  
29 about three months ago.

30 A. Yes, I do.

31 Q. Do you recall Tom Chapman enquiring about the events at  
32 the Mouth House on that day.

33 A. Yes, I do.

34 Q. Do you recall telling him that you saw Mr Wooley arrive  
35 at the Mouth House.36 A. I'm not sure what I - I'm not sure what I told Mr  
37 Chapman. He had been speaking to Goolwa Police. They  
38 had given him my name and I said to him that, to give



1 any clear indication of events, the best way would be to  
2 refer to the police meeting that was held in  
3 Superintendent Riach's office and I suggested that he -  
4 and I think he was going to come to Christies Beach and  
5 discuss those issues with us.

6 Q. You don't recall telling Mr Chapman that you saw Mr  
7 Wooley arrive at the Mouth House.

8 A. No, I don't.

9 Q. Nothing I have said refreshes your memory about whether  
10 or not Mr Wooley arrived at the Mouth House, while you  
11 were there.

12 A. No, I have thought over it a number of times who was  
13 there and I can't remember seeing him. It may have been  
14 put to me by Mr Chapman that that was the case and, in  
15 the conversation, I may have agreed, but I honestly  
16 cannot recall seeing Mr Wooley there.

17 COMSR

18 Q. Did you know Mr Wooley, at that time.

19 A. I knew him from prior work in Aboriginal affairs, yes,  
20 from quite some years before.

21 XXN

22 Q. Just moving forward to the meeting at The Pines, on 10  
23 May, do you recall Doreen being at the meeting at The  
24 Pines.

25 A. That is Doreen Kartinyeri?

26 Q. Correct.

27 A. No, I don't know whether she was or not. I can't  
28 specifically recall her being there.

29 Q. Again moving forward to the next day, you have given  
30 some evidence about what Mr Draper said in relation to  
31 the significance of the site. And I don't want to go  
32 into the detail of that. But, firstly, Dr Draper is an  
33 archaeologist, is he not.

34 A. Through my studies I regarded him as an  
35 archaeologist-cum-anthropologist. That was the  
36 relationship that I understood him in.

37 Q. You told us that he came to believe that the site was  
38 more significant than previously, that was your

1 evidence.

2 A. Yes.

3 Q. Can you tell us, was he talking in terms of size of a  
4 site.

5 A. No, he was talking in terms of its significance. He  
6 outlined to me that he had been working for sometime and  
7 that there had been some grants to undertake the work.  
8 And I think he indicated that there would be further  
9 grants, but that the work that he had been involved in  
10 had indicated - I think the words he used were 'much  
11 more than just middens.' That it was - the area was  
12 more significant than his earlier work had indicated.

13 Q. You have also spoken of a Henry and Jean Rankine.

14 A. Yes.

15 Q. And you knew those people.

16 A. Yes.

17 Q. How long had you known them prior to 1994.

18 A. I would have known them since 1984 in a liaison-type  
19 role, but I had probably known them years before that,  
20 from general police duties, through visits to the lakes  
21 communities.

22 Q. I think you say that you were surprised that they  
23 weren't in this bridge issue, is that correct.

24 A. The experiences I had had in the past with issues  
25 affecting people from down on the lakes area was that  
26 they were very prominent people. I was also aware, and  
27 I had been aware, for sometime, of on-going disputes  
28 that occurred between people from Meningie and people  
29 from Narrunga and I didn't know if maybe there was  
30 factions involved and this was why maybe Jean and Henry  
31 weren't involved. But, as I say, it surprised me that  
32 they weren't involved in the early activity.

33 Q. Was that because, to your knowledge, they were regarded  
34 as senior Aboriginal persons in relation to Aboriginal  
35 heritage matters.

36 A. I think generally they are senior Aboriginal people by  
37 their age, by their standing, by their recognition, both  
38 in the Aboriginal and nonAboriginal community. I think

- 1 they have been awarded Awards of Australia. I think  
2 Henry is a Justice of the Peace. So I think within both  
3 the Aboriginal and nonAboriginal area they are very  
4 significant people, yes.
- 5 Q. In relation to their knowledge of Aboriginal heritage.  
6 A. I think they would be.
- 7 Q. Looking at Exhibit 141, now before you, that is your  
8 briefing paper to the Commissioner, dated 14 April.  
9 A. Can I just say that it is a paper that I researched and  
10 prepared in draft form that Chief Inspector Ryan then  
11 edited and presented to the Commissioner.
- 12 Q. Can I take you to p.2 and the second dot point where you  
13 say that 'The bridge preparation was due to recommence  
14 construction on 21 March 1994, but was stopped due to  
15 Built Environs' concerns about a confrontation with the  
16 CFMEU and demonstrators.' And you go on to refer to a  
17 meeting with the Minister of Transport, Ms Laidlaw, and  
18 the union leaders. Can you tell me, how were you aware  
19 of that fact, was it from Built Environs.
- 20 A. That is a likely source. Throughout this research that  
21 was done, contact was made with various persons within  
22 Government. I think there was a number of documents of  
23 this type circulating. So, it could have come from  
24 them.
- 25 Q. You can't recall.
- 26 A. No, I can't. I mean, I spoke to Trevor Treadwell  
27 regularly and I had faxed to me media cuts daily of all  
28 the media comment to put into the file that Chief  
29 Inspector Ryan was holding, but it is possible that it  
30 came from that source.
- 31 Q. Just going down to the second and third last dot point  
32 on that same page there is a reference to Connell Wagner  
33 issuing a notice to suspend work on 12 April 1994. Can  
34 you recall how you were aware of that fact.
- 35 A. No, I can't. Again, it may have come from one of the  
36 Government departments involved in the project or Built  
37 Environs, but I don't know.
- 38 Q. Does the last dot point on the page help you where it is

- 1 stated 'The police are constantly in liaison with Built  
2 Environs who will advise if and when activity will  
3 recommence.' That suggests, does it not, that the  
4 Information is coming from Built Environs.
- 5 A. No, it doesn't to me. The necessity to liaise with  
6 Built Environs was more to do with the build up of our  
7 police resources, because we needed as much notice as we  
8 could get to get the necessary people in place.
- 9 Q. Taking you over the page to p.3, about half the way  
10 down, in the third last dot point about half way through  
11 that, there is a reference to a power struggle between  
12 the CFMEU and the Australian Workers Union. How were  
13 you aware of that fact.
- 14 A. I'm not sure how that information came to us, but I do  
15 recall that there was some sort of a hearing in  
16 progress, whether it was an Arbitration or an Industrial  
17 Relations hearing, but there was, in fact, a hearing  
18 going on and there was a finding imminent.
- 19 Q. Perhaps I can take you forward to p.4, the third dot  
20 point.
- 21 A. Yes.
- 22 Q. I think you refer to that hearing in the Federal  
23 Industrial Court under which the Carpenters and Joiners  
24 wanted to join the AWU and it states 'The AWU will then  
25 be able to build the bridge.'
- 26 A. That is under the heading 'Likely Outcomes'?
- 27 Q. Yes.
- 28 A. Right.
- 29 Q. Is that the action or legal action to which you refer.
- 30 A. In the Federal Industrial Court?
- 31 Q. Yes.
- 32 A. Yes, I imagine so, yes.
- 33 Q. I take it the ASC&J did win that appeal, because  
34 eventually the bridge was commenced by Built Environs.
- 35 A. Yes, I don't know. This was the state of affairs at the  
36 time this document was prepared.
- 37 Q. Can you recall whether or not the dispute, between the  
38 CFMEU and the AWU, was over membership.

- 1 A. I think that was part of the dispute, yes, was to do  
2 with membership.
- 3 Q. And that the CFMEU were pushing for more members,  
4 particularly the workers on the ferry and in the area.
- 5 A. I think it was a wider issue than that. I think some of  
6 the CFMEU were ex-Builders Labourers Federation people  
7 and that there was, I suppose, a regrouping of groups of  
8 unions. That was the impression that I had.
- 9 Q. There may have been elements of a left wing of the union  
10 movement against the right wing of the union movement.
- 11 A. That was suggested.
- 12 Q. But down the bottom of p.3 there is a reference to the  
13 National Public Works Committee suspending work on the  
14 bridge on 12 April in order to respect s.32 of the  
15 Aboriginal Heritage Act. Can you recall now how you  
16 knew that fact.
- 17 A. No, I can't help you. I mean, it - in preparing this  
18 document, there was a lot of research made ringing  
19 around and I presume that Inspector Ryan would have  
20 identified some of the issues identified here and he may  
21 well be in a position to answer some of these questions.
- 22 Q. You saw on the video that they were digging trees in,  
23 that is the video we have seen this afternoon. Was that  
24 then in the same area approximately where the Atco huts  
25 had been unloaded from the trucks.
- 26 A. No, those trees were being put in front of the tractor.  
27 The Atco huts came on to the site from the road leading  
28 down to the ferry and, from memory, the tractor came in  
29 off the adjoining side road. But the trees were being  
30 placed in front of the tractor, as it was approaching.
- 31 Q. And they were some distance from where the Atco huts had  
32 already been placed, is that the case.
- 33 A. A short distance.
- 34 Q. Have any threats been made to the police, that you are  
35 aware of, in relation to the bridge, if it was built.
- 36 A. In what regard?
- 37 Q. Are you aware that any threats have been made to blow up  
38 the bridge, if it was built.

- 1 A. No, I am not aware of that. There was concern, prior to
- 2 this activity, that people would chain themselves to the
- 3 work sites.
- 4 Q. You have not heard of any threats along the lines
- 5 mentioned.
- 6 A. No, not that I can recall here now.
- 7 CONTINUED

1 CROSS-EXAMINATION BY MR KENNY

2 Q. Sergeant, we have been briefly through, earlier this  
3 morning, your experience and contact with Aboriginal  
4 people. I don't wish to go over old ground. Could you  
5 perhaps expand upon it a little more, to tell us of the  
6 extent of your contact with Aboriginal people, and the  
7 different communities that you have had contact with,  
8 and people that you have had involvement with. When I  
9 say 'people', I mean the different tribal groups, if we  
10 can call it that.

11 A. It is not an easy answer. I have worked about 13 years  
12 specifically in Aboriginal communities, and during that  
13 time I worked in all of the Aboriginal communities in  
14 South Australia.

15 Q. Can you perhaps name some of those for us.

16 A. Maralinga, Yalata, Koonibba, Ceduna, Point Pearce, Point  
17 McLeay, Gerard.

18 Q. How long were you at Point McLeay. Were you based  
19 there.

20 A. I went there - I wasn't stationed there, but I visited  
21 there regularly as part of my duties. All of the  
22 communities in the Pitjantjatjaras: Pipalyatjara;  
23 Amata; Ernabella; Fregon; Indulkana; Mimili; Kenmore  
24 Park; the Umoona community at Coober Pedy; all of the  
25 out-stations surrounding those communities; the Northern  
26 Territory communities along the Northern Territory  
27 border, Impampa, Finke, Muta tjulu.

28 Q. So it is fair to say you have been to virtually every  
29 Aboriginal community in South Australia.

30 A. I visited and worked in all of the South Australian,  
31 some of the Northern Territory, some of the Western  
32 Australian.

33 Q. New South Wales.

34 A. I have performed in New South Wales in Redfern with the  
35 liaison unit in New South Wales. I have attended the  
36 Australian Police College in Manly, in specialist  
37 courses on Aboriginal police community relations.

38 Q. How long ago was that.

1 A. That was in 1985.

2 Q. So you have had a significant amount of contact with  
3 Aboriginal people in New South Wales as well as South  
4 Australia, would you say.

5 A. No, not significant, but I visited the Redfern area a  
6 number of times and worked with police in those areas,  
7 particularly the New South Wales liaison unit.

8 Q. That is the Aboriginal liaison unit, is it.

9 A. Yes.

10 Q. I think you told us you did an Associate Diploma in  
11 Aboriginal Studies. Can you tell us where you did that.

12 A. It was at the Aboriginal Studies and Teacher Education  
13 Centre at Underdale. That was the key centre in  
14 Australia in Aboriginal Studies.

15 Q. When did you do that.

16 A. Commenced in 1984, completed three years later.

17 Q. Were you the first police officer that you know of that  
18 undertook studies of that nature.

19 A. Yes, I was, and the first to complete them.

20 Q. I take it, as a police officer, you would have been  
21 regarded with some suspicion by, I won't say the  
22 Aboriginal community, but other people doing that  
23 Associate Diploma. Would that be a reasonable thing to  
24 say.

25 A. I think the history of Aboriginal/police relations  
26 speaks for itself, that they haven't always been good,  
27 and certainly back in 1984 it was different to have a  
28 police officer attending the Aboriginal Studies and  
29 Teacher Education Centre.

30 Q. Most of your fellow students would have been Aboriginal.

31 A. Yes, there was a predominance of Aboriginal people in  
32 the course.

33 Q. You appeared before the Royal Commission into Deaths in  
34 Custody.

35 A. I appeared twice before the Royal Commission on three  
36 separate issues I think. Once in relation to one of the  
37 deaths that I had investigated, and I gave evidence in  
38 overview. I think that was in Adelaide and at



1 Oodnadatta. The Royal Commissioner was looking to get  
2 an overview of issues affecting custody and effects of  
3 custody and the involvement of the police.

4 Q. So you gave evidence at that commission, did you, into  
5 the effects of imprisoning Aborigine people. Is that a  
6 reasonable statement to make.

7 A. I think that it was more the way that people in custody  
8 were managed, the effect that custody had on people, and  
9 the difference of the geographical settings and the  
10 different expectations of the people in those settings,  
11 the availability of legal services in those areas, and  
12 the impact of imprisonment and taking people to gaols.  
13 So it was an overview of all of the issues, and it was  
14 recognised that some of the things that we had done when  
15 we were at Ceduna, and some of the things that were done  
16 in the Far North, were far different than police  
17 practices in the metropolitan area. So that there was  
18 obviously an interest in whether these types of methods  
19 could be transported into other settings.

20 Q. Is it fair to say that some of those methods were  
21 essentially methods set up and initiated by yourself.

22 A. I think they were endorsed by myself. Other police  
23 officers had used them and we had probably worked at  
24 improving them. I was involved in developing training  
25 programs for police officers working in Aboriginal  
26 communities, and the emphasis was on police officers  
27 having knowledge of the cultural differences and  
28 appropriate behaviours in Aboriginal communities. In  
29 the past, we had just put police into these places and  
30 it hadn't worked. So both the police and the Education  
31 Department were working toward improving the way we  
32 delivered our services into the Aboriginal communities.  
33 It was my job. We set up training programs, I did a  
34 secondment to the national police research unit, where I  
35 had an article published on working in communities,  
36 working in the wider community and improving Aboriginal  
37 police relationships and reducing conflict, and  
38 ultimately reducing the number of people going into

1 prison. So this was part of the work we were involved  
2 with.

3 Q. Is it fair to say that, in terms of the population,  
4 Aboriginal people represent a grossly disproportionate  
5 number of inmates in prison.

6 A. Statistics certainly indicate that's the case. When we  
7 were doing the research in that regard, Aboriginal  
8 people made up 1 per cent of the general population. I  
9 am not sure whether it was 11 per cent of the gaoled  
10 population, but I know it was a high disproportionate  
11 figure. I think that needed to be balanced, too, by the  
12 fact that there was 10 per cent, I think, of the  
13 Aboriginal population that were offending, and they were  
14 repeat offenders. So there was a whole lot of factors.  
15 But certainly they were over-represented.

16 Q. Would it be fair to say that within the South Australian  
17 Police Force, you would be one of the most knowledgeable  
18 and informed police officers in relation to Aboriginal  
19 affairs. I know this is self-assessment, but it appears  
20 to me you have probably had more experience and more  
21 contact with Aboriginal people and made more of an  
22 effort to study Aboriginal people than any other police  
23 officer in South Australia.

24 A. I think I'm one of a group of people that have taken the  
25 trouble to undertake studies and apply those studies  
26 practically and work in this area. We were fortunate  
27 that in this State we had a lot of - we had made a lot  
28 of progress in Aboriginal police relationships prior to  
29 the Royal Commission coming to town. We were well  
30 advanced in the development of a police aid scheme, that  
31 has proven to be very successful. When I was at Marla  
32 we had - I think we started with four Aboriginal police  
33 aids. It was a trial scheme for three years in South  
34 Australia. The results of the success of that meant  
35 that it extended State wide, and we have got over 30  
36 Aboriginal police aids today. So I am one of a number  
37 of people that have worked in this field, and there is  
38 many other officers now that are following in the same

1 way, that have undertaken tertiary studies. It is  
2 almost mandatory if you wish to work in Aboriginal  
3 communities that you do these studies.

4 Q. Do you believe that your efforts towards becoming  
5 involved with Aboriginal people and understanding their  
6 culture has been recognised by the Aboriginal people.

7 A. I have very good relationships with the South Australian  
8 Aboriginal community. When I left Marla, I had a very  
9 significant Aboriginal farewell, which was quite  
10 significant for traditional people - and large numbers  
11 of traditional people - to come and make that sort of  
12 representation. I believe that, yes, I have a good  
13 relationship with the Aboriginal people. I qualify it  
14 by saying this, that it takes a long time to work in  
15 Aboriginal communities and to understand what's going  
16 on, and to gain credibility with them and also to  
17 maintain credibility with your own work group.

18 Q. Indeed, that has probably been a fairly difficult line  
19 for you to tread over the years.

20 A. Yes.

21 MR MEYER: I don't know whether this is going to  
22 attach itself somewhere?

23 COMSR: I expect this is preparatory to  
24 something Mr Kenny will eventually get round to.

25 MR KENNY: I am heading in that direction.

26 XXN

27 Q. Given your history with the Aboriginal people, have you  
28 ever been invited to Aboriginal ceremonies, for example.

29 A. Yes, I have.

30 Q. Have you ever been invited to ones that are not open to  
31 the general public, but ceremonies that are considered  
32 important or even secret to Aboriginal people.

33 A. I've been to a number of such ceremonies, yes.

34 COMSR

35 Q. In what parts of the State.

36 A. At Maralinga, at Mimili, at Amata, Pipalyatjara, a place  
37 called Inyarinya.

38 Q. Are these the more remote areas.

- 1 A. These are on the Pitjantjatjara and Maralinga lands,  
2 yes.
- 3 Q. They are more tribal traditional areas.
- 4 A. Yes.
- 5 XXN
- 6 Q. You spoke to us also about the police training. In that  
7 training, you discuss with them Aboriginal traditions  
8 and the respect that Aboriginal people have for their  
9 own traditions.
- 10 A. Yes, it is an important aspect of the training. A  
11 senior lecturer in that field is involved in training  
12 people, as are the Aboriginal people themselves involved  
13 in that. We also have cultural awareness programs where  
14 police officers who are going into remote communities  
15 are taken away and spend time in the communities to  
16 again be exposed to that type of training prior to  
17 taking up their postings.
- 18 Q. I imagine one of the things that you also tell the  
19 police is that they shouldn't expect to be told terribly  
20 much about Aboriginal traditions by the Aboriginal  
21 people when they first arrive, but that it is a slow and  
22 evolving process to gain the confidence of the people  
23 before the Aboriginal people would even talk to them  
24 about matters of significance.
- 25 A. It takes a long time to gain that, and I think it is  
26 based on the Aboriginal way of reciprocity of sharing,  
27 that both parties share some information, but I don't  
28 think you ever get too close or too much information.  
29 It is not an open book.
- 30 Q. That's not just restricted to the more remote areas, if  
31 we can call them that, the Pitjantjatjara lands.
- 32 A. I think it is a common thread with Aboriginal people,  
33 Aboriginal values and culture, that it is not widely  
34 shared. The only exception that I have experienced to  
35 that was the Adjanhamathana people in the Flinders  
36 Ranges. They were very public with their culture and  
37 there has been books written. I undertook field studies  
38 in the Flinders Ranges. They were very very open and

- 1 very revealing to all people, but that was the  
2 exception, and I recorded that in field studies that I  
3 undertook that it was the exception to the rule of  
4 complete openness.
- 5 Q. So the Ngarrindjeri people would also be part of the  
6 other group, in your experience, that are not as open or  
7 straightforward when discussing matters of significance  
8 to them. When I say `matters of significance', I mean  
9 beliefs that they have.
- 10 A. I haven't been in a situation where they have shared  
11 with me - people that I have known have shared with me  
12 significant cultural information.
- 13 Q. I suggest also that if there is a group within the  
14 Aboriginal community that is the most reluctant when it  
15 comes to sharing beliefs of significance, it would be  
16 the Aboriginal women. Would that be a reasonable  
17 statement.
- 18 A. I am sorry, can you just repeat that?
- 19 Q. I suppose I can rephrase this slightly.
- 20 COMSR: Are you putting to the witness in his  
21 experience?
- 22 MR KENNY: Yes.  
23 XXN
- 24 Q. In your experience, I take it you have had a lot of  
25 dealings with Aboriginal women over the years from all  
26 over South Australia.
- 27 A. Yes.
- 28 Q. Is it your experience that they are probably, as a  
29 generalisation, I suppose, even more reluctant than men  
30 to speak about matters of significance to them to other  
31 people.
- 32 A. Certainly with men. I mean, I have worked in areas  
33 where it has been appropriate even to talk to the women  
34 - inappropriate, totally inappropriate to go into areas  
35 where women were, or to mix with the group of women. It  
36 would not be that they would discuss those issues with  
37 me or with men. There is a clear separation of what is  
38 known as men's business and women's business.

1 Q. So you don't therefore, I take it, see it as surprising  
2 that in this case the Aboriginal women - and when I say  
3 `this case' I mean the case concerning the Hindmarsh  
4 Island Bridge - have been reluctant to come forward to  
5 this commission.

6 MR SMITH: This line of questioning of a policeman,  
7 as experienced as this policeman is in this area, is  
8 better directed to an anthropologist. But it is  
9 ultimately a question of weight for you. I just flag to  
10 my learned friend that I wonder how far he can take this  
11 topic with this witness.

12 COMSR: Yes. The question itself presupposes  
13 something, that there has been a reluctance, whereas in  
14 actual fact there have been a number of Aboriginal women  
15 who have come forward and given evidence. There has  
16 been a reluctance by some Aboriginal women, I think  
17 would be a more accurate way of framing the question.

18 MR KENNY: What I am really saying is that those  
19 who have come forward have said essentially they don't  
20 know of any secret business, so that puts them in a -

21 COMSR: That is not the form of your question to  
22 the witness. You put to him it is not surprising that  
23 Aboriginal women have been reluctant to come forward. I  
24 am simply pointing out there have been a number of  
25 Aboriginal women who have. In any event, Mr Smith, what  
26 is the basis of your objection to this witness -

27 CONTINUED

1 MR SMITH: I indicate that my learned friend, it  
2 seems to me that the witness is not claiming an  
3 expertise that reaches into anthropology and that the  
4 questioning is starting to get into an area of  
5 anthropology. I'm just flagging the fact that I object  
6 on the basis that the questioning is becoming  
7 inappropriate of this witness, but, in the end, I resign  
8 myself to the fact that it is really a matter of weight  
9 for you if you feel that you want Mr Kenny to proceed.

10 OBJECTION Mr Meyer objects.

11 MR MEYER: I have a slightly different one. I  
12 thought he was going to ask a question about women being  
13 reluctant to come forward at all, and I thought that the  
14 question was adding the rumours to this Royal  
15 Commission. As far as one can gain in relation to the  
16 issue of women coming forward, some women, who have said  
17 they will not come forward, have equally said they will  
18 attend a Federal inquiry. So, the basis of Mr Kenny's  
19 question fails from the public statements that are made  
20 and, therefore, to my mind is not of any relevance or of  
21 any weight. If he had merely asked whether women were  
22 reluctant to come forward and discuss matters with, for  
23 example, men, I don't think I could object to that - and  
24 they are the questions he was previously asking - but I  
25 do object to the current question because that is not  
26 relevant as a question to decide why these women cannot  
27 come forward to the Commission.

28 COMSR: I think that that is so. The women who  
29 have indicated they won't come forward have specifically  
30 said to this Commission that they would be prepared to  
31 attend a Federal inquiry.

32 MR KENNY: I agree that that appears to be the  
33 case.

34 COMSR: In any event, I have some difficulties.  
35 You're acting for the men, a group of men?

36 MR KENNY: Yes.

37 MR MEYER: I won't take up Mr Abbott's role of  
38 questioning.

1 COMSR: I mean, I've been only too happy to have  
2 you extract from the witness the extent of his  
3 qualifications.

4 MR KENNY: I agree that I've come probably to the  
5 end of the line in my questioning in that area.

6 COMSR: In fairness, I think that it's not  
7 appropriate to put the question that you did to the  
8 witness. First of all, the basis of it hasn't been  
9 established, and I don't think it's accurate to say that  
10 women have been reluctant to come forward to the  
11 Commission. Some have.

12 MR KENNY: Perhaps I'll take up Mr Meyer's  
13 suggestion and simply ask this:

14 Q. That in your experience, Aboriginal women are generally  
15 more reluctant than men even to talk about beliefs of  
16 significance to women.

17 COMSR: I take it that you mean Aboriginal  
18 beliefs?

19 A. All I can say is that Aboriginals generally have not  
20 discussed those matters with me.

21 XXN

22 Q. I take it that there is a fair degree of variation  
23 between the more tribal Aboriginals and the more  
24 sophisticated westernised Aboriginals.

25 A. There is. There has been a lot of research and a lot of  
26 publications about the thread of the sacred realm and  
27 the centre piece of the Dreamtime stories and their  
28 relevance to all of life, and I think that thread runs  
29 right through the Aboriginal community. Very, very  
30 significant the traditional lands though.

31 Q. Picking up on that point. Even for people, perhaps  
32 Aboriginal people, who live in the city, the lands or  
33 the areas that they come from, in your experience, are  
34 they still considered of great significance to the  
35 Aboriginal people, even if they don't live there.

36 A. The Aboriginal people that I have known, yes, they treat  
37 these issues significantly.

38 Q. It's of no surprise to you that the Aboriginal people



1 treated this Hindmarsh Island issue and the bridge very  
2 seriously.

3 COMSR: Well, it may be no surprise for the  
4 witness for a number of reasons.

5 MR KENNY: Perhaps we can ask him what they are.

6 MISS FREEMAN: Perhaps the word `Aboriginals' should be  
7 defined there. This could mean the whole country of  
8 Aboriginals, or is it just the Ngarrindjeri, or the  
9 city-dwelling Ngarrindjeri, or what?

10 MR SMITH: I think the line of questioning is quite  
11 mischievous of this witness. This witness is a  
12 policeman who has had contact with Aboriginal people in  
13 his business as a policeman. He has obviously built up  
14 a skill and experience. He even has a qualification in  
15 the area. But we are now getting down to questions  
16 really of real anthropological significance: the degree  
17 to which Hindmarsh Island is significant to Aboriginal  
18 people. This is quite an inappropriate witness to be  
19 addressing that question to.

20 COMSR: I suppose if it's addressed in terms of  
21 his experience and knowledge of the particular people,  
22 it's not objectionable.

23 Q. Are you acquainted with the beliefs of the Ngarrindjeri  
24 people in respect of Hindmarsh Island.

25 A. No, I'm not.

26 COMSR: It may be difficult to follow that line  
27 of questioning through too far.

28 MR KENNY: Certainly in terms of this witness, the  
29 other witnesses that Mr Smith says we will hear from,  
30 the anthropologists, I presume their evidence will  
31 concern the significance of the Hindmarsh Island area to  
32 the Ngarrindjeri people. However, this witness is  
33 unique. I say that he's a person who has had -

34 COMSR: He has just disqualified himself from  
35 answering any questions of the Hindmarsh Island  
36 situation and the Ngarrindjeri people by saying that he  
37 had no knowledge of -

38 MR KENNY: He has no knowledge of their beliefs is

1 what he said, and I don't find that at all unusual or  
2 surprising. I mean, I would have assumed that he  
3 doesn't have - certainly he may have some general  
4 knowledge, but no detailed knowledge. I would suggest  
5 that to be -

6 MR SMITH: He hasn't even claimed any general  
7 knowledge.

8 MR KENNY: He may have no knowledge at all apart  
9 from what he has read in the newspaper. He may not even  
10 read the newspaper.

11 MR MEYER: Now we are getting to the stage of  
12 deciding really how clever he is.

13 MR SMITH: Would you like to go outside and speak  
14 to yourself.

15 XXN

16 Q. You went to the extent of preparing a briefing paper in  
17 this matter. Was that your idea to do that.

18 A. No. The Commissioner requested an update on the  
19 situation as at that date and I was working with  
20 Inspector Ryan. I did the research, he forwarded the  
21 document.

22 Q. I think you told us that you are acquainted with Neale  
23 Draper.

24 A. Yes.

25 Q. In your discussions with him, he made it clear to you -  
26 and I'm not asking what he said to you - but he  
27 certainly made it clear to you that he believed that the  
28 site is quite significant.

29 A. Yes.

30 Q. And it would be reasonable to assume that the impression  
31 you got was that Draper, the impression that Draper  
32 conveyed to you was that the site was so significant he  
33 believed that the Federal Minister would, in fact,  
34 intervene to stop the building of the bridge.

35 A. I don't know if he gave me that belief. He certainly  
36 indicated that the work he was doing indicated the site  
37 was very significant and that he was forwarding  
38 information to the Federal Minister's office and, I

1 presume, maybe to the State office. I don't know. I  
2 don't know what he was doing. But certainly that was  
3 very significant and that he was forwarding that to the  
4 Federal Minister's office.

5 Q. You observed the demonstrations on both days; is that  
6 correct.

7 A. Yes.

8 Q. You had the opportunity to observe the Aboriginal people  
9 that were present.

10 A. Yes.

11 Q. In your observation, the protest appeared to be out of a  
12 genuine concern with what was happening.

13 OBJECTION Mr Meyer objects on the ground that  
14 the witness would have great difficulty  
15 in answering that question.

16 QUESTION WITHDRAWN

17 COMSR

18 Q. Was there any bad language around that day that you can  
19 recall.

20 A. No, I can't recall any bad language on either day.

21 XXN

22 Q. If we can go back to the Mouth House perhaps. You  
23 stated in your evidence, I think, that Victor Wilson  
24 gave you the impression that he didn't want to talk to  
25 you.

26 A. Yes. He was, as I think I regarded him as being,  
27 reticent or anti-police. He was very short, you know,  
28 whereas George Trevorror was fairly gregarious in his  
29 manner.

30 Q. I suggest that there was nothing that you could read  
31 into that of any significance.

32 A. No, I've experienced that many times.

33 MR MEYER: If I can ask a question out of general  
34 interest: When the police officer goes to the Mouth  
35 House, does he go in uniform or in civi-clothes, street  
36 clothes.

37 MR KENNY: We have had that one. He doesn't  
38 remember.

P.R. MORRISON XXN (MR KENNY)  
(MISS FREEMAN)

1 COMSR

2 Q. You have indicated that you believe you were in civilian  
3 clothes.

4 A. Yes. That was the preferred way I worked - and I  
5 noticed in the videos I was in plain clothes and I would  
6 say that I was definitely in plain clothes, casual.

7 XXN

8 Q. I think you have also said at the picnic or on or about  
9 5 June, if I remember correctly, there was mention of  
10 the word `Judas' in your vicinity; is that correct.

11 A. Yes.

12 Q. But the situation was that you were there on official  
13 police business.

14 A. No, I was off duty with my family, but I would have been  
15 obviously perceived to have been there as a police  
16 officer.

17 Q. Indeed, you did then prepare a report in relation to  
18 your attendance at the picnic.

19 A. I did, yes.

20 Q. I take it though you don't really attach anything of any  
21 great significance to that comment.

22 A. I, at the time, thought of it as almost a warning to  
23 other people present that I was a police officer in  
24 amongst them. That was the way that I took it, that for  
25 people to be a bit guarded. I don't know.

26 CROSS-EXAMINATION BY MISS FREEMAN

27 Q. I would like to take you back again to the conversation  
28 you had with Dr Draper on the mobile phone about which  
29 you have already been asked a couple of times. Are you  
30 aware at that time that Dr Draper was involved in the  
31 mapping of archaeological sites on Hindmarsh Island.

32 A. Yes, I was.

33 Q. When he used the word words `greater significance' in  
34 relation to the island, did you take that significance  
35 to relate to archaeological significance, or some other  
36 sort of significance.

37 A. I took it really as he put it, that what he was doing  
38 now indicated to him that it was more significant, that

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REXN

1 the sites were more significant, because he mentioned  
2 middens and he said that there was more than middens and  
3 that it was more significant. I think he also included  
4 in the discussions that he had with people, indicated  
5 that it was more significant as well as the work that he  
6 was doing.

7 Q. You also gave evidence that Dr Draper was working on his  
8 co-ordinates to ensure they were correct before they  
9 were sent to the Minister; is that right.

10 A. Yes. As I said before, he was - the point he made to me  
11 was that he had done the work once and he was doing it  
12 again to ensure that it was accurate.

13 Q. Did you understand by the word 'co-ordinates', that he  
14 was referring to the mapping of specific sites on the  
15 island.

16 A. I - whether that is to what he said to me or my own  
17 interpretation of what he was saying, but I took it to  
18 mean that he was setting out significant areas to the  
19 Minister's office.

20 Q. It was as if he were marking them on a map, for example,  
21 and ensuring that those markings of the particular sites  
22 he had found were correct before they went to the  
23 Minister.

24 A. Yes.

25 Q. In relation to your visit to the Mouth House on May 9th,  
26 you gave evidence that there were three to four men  
27 there and three to four women there and you identified  
28 some of the men. Are you able to say whether Sarah  
29 Milera was one of the women there.

30 A. I can't. I have thought it over who was there and I  
31 can't say. I don't know.

32 RE-EXAMINATION BY MR SMITH

33 Q. Can you tell the Commissioner what was the extent of  
34 your contact with the Aboriginal people of the lakes  
35 area prior to this time; which is about the middle of  
36 1994.

37 A. During the years 1984 to 1988, I visited sometimes  
38 weekly, sometimes monthly, sometimes three-monthly, but

1 I made regular visits to those communities. I attended  
2 community meetings.

3 Q. Could you name those communities for us.

4 A. At the -

5 Q. Raukkan.

6 A. Yes, Raukkan. I can't recall the name of the group, but  
7 I know they had a regular meeting and I attended those  
8 meetings.

9 Q. That is between 1984 and 1988.

10 A. Yes. They, themselves, attended what was then known as  
11 the Aboriginal Police Liaison Committee and we held  
12 those meetings monthly in the city of Adelaide and at  
13 other areas, and people from Raukkan came to those  
14 meetings on a regular basis. We also attended  
15 activities at Meningie. Any significant occurrences  
16 that involved the Aboriginal community, I attended them,  
17 whether they were ceremonies, funerals. Any significant  
18 activities that occurred, I attended. Back in the '70s,  
19 I was attached to the Christies Beach CIB and in those  
20 days we had responsibility for that entire area. That  
21 has all changed now. So, for five years, I investigated  
22 all crime in that area as well. So that I had two  
23 stints of involvement with the community: one as an  
24 operational police officer; and, one as a liaison  
25 officer.

26 CONTINUED

1 Q. Those meetings at the communities and the meetings on  
2 the liaison committees, what were they essentially  
3 about. I imagine they were a broad range of things, but  
4 the object and purpose of these meetings was, what.

5 A. The object and purpose of them was that researchers  
6 around Australia had decreed that to improve  
7 Aboriginal/police relationships and to improve wider  
8 Aboriginal communities relationships required meetings  
9 and required liaison and to address issues between the  
10 police and the local Aboriginal communities. And that  
11 was the purpose of these meetings. And, when I was in  
12 charge of that unit, they were very significant  
13 meetings. At times, they were chaired by the Chief  
14 Superintendent of Police, the local Commander, the  
15 Commissioner of Police, the Deputy Commissioner of  
16 Police. They were a fairly high-profile meeting. And,  
17 of course, at those times, the relationships had been  
18 fairly ragged in places. There had been some violent  
19 encounters between police and Aboriginal people. So the  
20 purpose was to improve those relations. But generally  
21 all sorts of issues were addressed.

22 Q. Is that how you came to know the Rankines. You  
23 mentioned them especially, didn't you.

24 A. Yes.

25 Q. Jean Rankine.

26 A. Yes.

27 Q. And her husband.

28 A. Yes, Henry Rankine was the chairman of the Raukkan  
29 community. He was -

30 Q. Did you find that Henry Rankine and, to some extent,  
31 Jean Rankine, or tell me if it is different, featured as  
32 spokespersons, as it were, for Aboriginal interests in  
33 the lakes area.

34 A. It doesn't follow that they would be spokespersons. I  
35 mean, in Aboriginal communities there is an element that  
36 everybody speaks, not just one person speaks, but at  
37 appropriate levels of representation on issues affecting  
38 police and Government issues, yes. But generally all

## P.R. MORRISON REXN (MR SMITH)

- 1 people attend meetings and can speak about matters and -  
2 somewhat different, I suppose, than our way. Although  
3 they have got elected council in these meetings, you  
4 still have a freedom of speech and they can come forward  
5 and speak. They would have spoken on behalf of the  
6 community, if it was appropriate.
- 7 Q. When you were down at the communities laising with them  
8 and discussing things that were of common interest  
9 between the police and the communities, the Rankines  
10 featured prominently.
- 11 A. Yes.
- 12 Q. Along with the people of Raukkan.
- 13 A. Yes, as a starting point, you went to the community  
14 adviser, you saw him and then went on from there, yes.
- 15 Q. My question was directed at this: did Doreen Kartinyeri  
16 ever feature in any of these meetings, either at the  
17 communities or in the liaison committee meetings here in  
18 town as representing in anyway at all the interests of  
19 the lakes Aboriginal people.
- 20 A. I can't recall her being involved, no.
- 21 Q. The Mileras, did they ever - were they ever involved.
- 22 A. No.
- 23 Q. Is that why you have said to us that you were surprised  
24 that Jean and Henry Rankine were not prominent.
- 25 A. Yes, personally, that because of their involvement I was  
26 surprised that they weren't prominent.
- 27 Q. We hear on the tapes of the protest gatherings, am I  
28 right, a female voice shouting `This is a sacred site',  
29 or words to that effect.
- 30 A. I heard that, yes.
- 31 Q. Can you tell us whether that was an Aboriginal female  
32 and, if it was, who it was.
- 33 A. Listening to it, I thought it was an Aboriginal female,  
34 but I don't know who it was.
- 35 Q. You don't know who it was.
- 36 A. I don't know. I would have said it was one of two  
37 women, but I don't know who it was.
- 38 Q. The two women being.



2412  
KC 31M

P.R. MORRISON REXN (MR SMITH)

- 1 A. Sarah Milera or Doreen Kartinyeri.
- 2 NO FURTHER QUESTIONS
- 3 WITNESS RELEASED
- 4 ADJOURNED 3.45 P.M. TO MONDAY, 18 SEPTEMBER 1995 AT 10.15 A.M.

1 COMSR STEVENS

2

3 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

4

5 MONDAY, 18 SEPTEMBER 1995

6

7 RESUMING 10.19 A.M.

8 MR SMITH: The programme for at least the next two  
9 to three days will be the journalist Chris Kenny will be  
10 giving evidence, touching on the entire history of the  
11 matter so far as he is concerned. That will take more  
12 than a day. Then, because counsel have not had notice  
13 in terms of having a statement and detailed material -  
14 of course, they would know from the news items, et  
15 cetera, what the core of Mr Kenny's evidence will be.  
16 Beyond that, they have had no circulated notice in the  
17 form of statements, et cetera, so there may be a gap in  
18 the middle of the week at the close of Mr Kenny's  
19 evidence-in-chief to enable people to prepare to  
20 question him if they want to.

21 Then, the balance of the week I will provide more  
22 detail to you and to those present of that tomorrow when  
23 we see how we are going.

24 MR KENNY: Before Mr Smith continues, as a matter  
25 of formality, Mr Simon Slade will be appearing with me  
26 on occasions from now on. Mr Tilmouth has not  
27 withdrawn. When he is not available, Mr Slade will be  
28 here.

29 MR SMITH: Did you propose handing down a ruling  
30 this morning on the interceptions?

31 COMSR: I will hand that out to counsel later  
32 today. We will have to make the additional copies.

1 MR SMITH CALLS

2 CHRISTOPHER KEVIN KENNY AFFIRMED

3 EXAMINATION BY MR SMITH

4 Q. I think that you have been employed as a journalist at  
5 Channel 10 since early 1989; is that correct.

6 A. That's correct.

7 Q. Prior to that, I think you were a journalist on the  
8 ABC's 7.30 Report.

9 A. That's right.

10 Q. I think you have reported somewhat intensively on the  
11 Hindmarsh Island Bridge issue, have you not.

12 A. I have, indeed, since April/May this year.

13 Q. I think your involvement in the Hindmarsh Island Bridge  
14 commenced again in April/May of this year, and when it  
15 became known that you would be a witness in the matter,  
16 you slowly stopped reporting on the matter.

17 A. Eventually it occurred, I withdrew completely. I have  
18 stopped investigating or reporting on the matter at all.

19 Q. I think that you have provided to the Commission a  
20 statement setting out your involvement in the matter;  
21 have you not.

22 A. Yes.

23 Q. Looking at this statement produced.

24 A. That's my statement, yes.

25 Q. That is your signature at the bottom of each page.

26 A. Yes, it is.

27 Q. That sets forth your involvement in the matter from  
28 about March 1995 until June/July 1995.

29 A. Yes, it does.

30 EXHIBIT 144 Statement of witness Christopher  
31 Kevin Kenny tendered by Mr Smith.  
32 Admitted.

33 Q. You refer in your statement, I think, to conversations  
34 you have had with various people and in particular with  
35 Douglas Milera.

36 A. Yes.

37 Q. I think you noted in particular the long conversation  
38 you had with him as a prelude to a news item video

- 1 recording session on 5 June; is that right.
- 2 A. Yes, at Victor Harbor.
- 3 Q. You produce, I think, those original notes, or copies of
- 4 your original notes, to the Commission; do you not.
- 5 A. Yes, I do.
- 6 Q. Looking at this copy produced to you, these are several
- 7 pages of your handwriting. Do you recognise those.
- 8 A. That is a photocopy of my notebook notes.
- 9 Q. Of the Douglas Milera -
- 10 A. Of Douglas Milera on 5 June at Victor Harbor.
- 11 EXHIBIT 145 Photocopy of notes tendered by Mr Smith.
- 12 Admitted.
- 13 Q. On Wednesday evening, 28 June 1995, you had a
- 14 conversation with the same Mr Douglas Milera on the
- 15 telephone, did you not.
- 16 A. Yes, I did.
- 17 Q. That was sort of late-ish in the evening of the 28th,
- 18 wasn't it.
- 19 A. It was about 10.30 p.m.
- 20 Q. At the beginning of the conversation, did you or did you
- 21 not alert Mr Milera to the fact that you were tape
- 22 recording his conversation.
- 23 A. I wanted to make sure I recorded the conversation. I
- 24 had some concerns about Mr Milera's behaviour at the
- 25 time, Mr Milera's position. As I said at the outset, I
- 26 wanted to tape record the conversation with his
- 27 permission.
- 28 Q. In the very beginning of the conversation, you said to
- 29 him 'I'd like to tape record this conversation. Is that
- 30 all right?'
- 31 A. Yes, I did.
- 32 Q. His response to that.
- 33 A. He says 'That depends - yeah, you can tape record
- 34 because I'm not going to lie or anything'.
- 35 Q. You went on and taped the entirety of the conversation.
- 36 A. Yes.
- 37 Q. I think you have listened carefully to that tape and
- 38 transcribed it yourself.

1 A. Yes.

2 Q. Looking at this transcription produced to you, do you  
3 recognise that as the transcription prepared by you.

4 A. Yes. That's a transcription I prepared at a later date  
5 after I had submitted the tape recording to the Royal  
6 Commission.

7 PART OF AUDIO TAPE PLAYED TO COURT

8 MR SMITH: I don't want to play the tape in  
9 entirety. I want the witness to identify that.

10 A. That is the conversation, indeed, which I refer to.

11 EXHIBIT 146 Audio cassette and transcript of the  
12 conversation between the witness and  
13 Douglas Milera tendered by Mr Smith.  
14 Admitted.

15 Q. I will come back to the tape in a moment. What was the  
16 incident that began your involvement in reporting on  
17 this matter.

18 A. Well, I had followed the issue of the Hindmarsh Island  
19 Bridge, as I suppose everybody in South Australia had,  
20 and particularly journalists had for some time. I had  
21 covered a few stories, I think, covering the political  
22 consequences. I think, for instance, I reported the  
23 decision of the Liberal Government to go ahead and build  
24 the bridge, and such matters as that. But, I first  
25 actually began enquiries about the veracity or otherwise  
26 of the secret women's business around the time that the  
27 letter, apparently signed by Nanna Lau - sorry, by a  
28 person I'm not supposed to name.

29 Q. The daughter of Pinkie Mack.

30 A. The daughter of Pinkie Mack. And because that was  
31 raised in Parliament and I saw some of the public debate  
32 about that letter, I decided that the only way to  
33 actually ascertain what had gone on there was to speak  
34 to the woman involved. I made some attempts through  
35 the Lower Murray Nunga's Club to speak to that woman.

36 Q. Interrupting you there. Did you actually see the letter  
37 itself; have you got a copy of it.

38 A. I haven't actually got a copy of it. I saw what was

1 read into Hansard in the South Australian Parliament.

2 Q. Looking at Exhibit 40 produced. Looking at Exhibit 40,  
3 is that the letter that you saw in Hansard.

4 A. Yes, I believe it is, although the Hansard contains  
5 quite a bit more detail. Yes.

6 Q. Go on, I interrupt you there.

7 A. As I was saying, I decided that the only way to actually  
8 get to the truth of that matter was to speak to the  
9 woman involved. And I made telephone contact with the  
10 Lower Murray Nunga's Club and I spoke - if I refer to my  
11 notes here, I spoke to a woman there by the name of Rosy  
12 Rigney, who apparently was a granddaughter of the  
13 daughter of Pinkie Mack. I was told that the daughter  
14 of Pinkie Mack was too old and ill to speak to me and  
15 that, unfortunately, I wouldn't be able to check out  
16 that matter any further.

17 Q. Had you seen, as your statement indeed alludes to, a  
18 television interview involving the member of State  
19 Parliament, Peter Lewis, and Sandra Saunders, the  
20 Director of the Aboriginal Legal Rights Movement.

21 A. Yes, indeed; and that television interview on the 7.30  
22 Report amounted to two people making counterclaims about  
23 what at a third party had said, or did believe. And  
24 that is why I decided it was the actual, original source  
25 that needed to be consulted.

26 Q. You couldn't get to the daughter of Pinkie Mack in the  
27 sense of speaking with her.

28 A. No.

29 Q. So, what was the next event that happened.

30 A. Effectively, my enquiries ceased. There didn't seem to  
31 be much I do could. At a later date, some time later  
32 the same year, I was approached by Ian McLachlan at a  
33 function I was attending as a reporter. It was a  
34 function at the Hilton International Hotel at which a  
35 Federal politician - I'm not certain now from my memory  
36 whether it was Alexander Downer or John Howard, one of  
37 them - was speaking there. And Ian McLachlan sought me  
38 out and referred to something I had mentioned in the

1 Adelaide Review. He asked about my interest in the  
2 Hindmarsh Island issue and asked me if I thought it  
3 would be worthwhile speaking to Aboriginal women,  
4 Ngarrindjeri women, who had doubts about the way the  
5 issue had been handled and about the sacred secret  
6 claims. I said, indeed, I would be and he said he  
7 would contact me at some later date.

8 Q. Mr McLachlan had made a speech to Federal Parliament in  
9 November 1994 which, in part at least, referred to  
10 Dorothy Wilson and her rejection of the secret sacred  
11 women's claim, and that had been reported on in the  
12 Advertiser.

13 A. Yes. I'm aware of that now, although I must confess it  
14 passed me by. It was in November 1994 and I'm certainly  
15 familiar with that speech and the reporting of that now,  
16 but I think it passed me and perhaps a lot of other  
17 journalists by at the time.

18 Q. Did Ian McLachlan then follow up and provide you with  
19 any material.

20 A. Eventually, we had a meeting and I talked to him in some  
21 detail about some tapes that he had come into possession  
22 of. I discussed with him what was on these tapes,  
23 discussed with him whether or not I could get access to  
24 them, whether there may be a story in what was alleged  
25 in these tapes. We discussed the issue in general.  
26 Eventually, I was given a copy of the transcripts of  
27 those tapes and I was put in contact with Sue Lawrie,  
28 who was the woman who had recorded them and forwarded  
29 them to Ian McLachlan.

30 Q. I think it's the case that during this period, you were  
31 doing some reading up on the Hindmarsh Island issue and  
32 the Ngarrindjeri people generally, is that right.

33 A. The general thrust from the outset was that these tapes  
34 would be of Ngarrindjeri women who would dispute the  
35 veracity of the so called sacred secret women's  
36 business. Therefore, I made it my business to  
37 re-acquaint myself with all the facts of the bridge  
38 case, and certainly do a lot more research into the

- 1 Aboriginal history of the area; just on the basis that I  
2 needed to be as well backgrounded as I could. At this  
3 stage, of course, I was not convinced there would be a  
4 story in it. It was something that needed to be  
5 investigated and I made that very clear to Mr McLachlan.  
6 In the end, I never listened to the tapes as Sue Lawrie  
7 was able to put me in direct contact with two of the  
8 women who had be involved in those tape recordings.
- 9 Q. You met with Sue Lawrie.
- 10 A. I did, yes.
- 11 Q. Your statement records that took place on Monday, 14 May  
12 1995.
- 13 A. Yes. I would have spoken to her a couple of times on  
14 the phone previously. We had a long meeting on the  
15 14th.
- 16 Q. Did you know Sue Lawrie.
- 17 A. I had met her briefly probably two or three years before  
18 that when I reported on a Liberal Party preselection in  
19 the electorate she was a candidate. I was well aware  
20 that she was someone active within the Liberal Party.
- 21 Q. Were you aware she had contact with the Ngarrindjeri  
22 people.
- 23 A. I wasn't initially. But as soon as we began discussing  
24 this matter in the earlier phone calls and in that  
25 meeting, it's clear to me that her family had had a very  
26 long connection with the Point McLeay, Raukkan  
27 community, and that is how she's been there to gain this  
28 information and to know many of these senior  
29 Ngarrindjeri women throughout her life.
- 30 Q. I think she told you that, at least at that stage, two  
31 of the women were prepared to speak on camera.
- 32 A. Yes.
- 33 Q. Those two women being.
- 34 A. Dulcie Wilson and Dorothy Wilson were going to be  
35 available to be interviewed the following day. It was  
36 the Tuesday at Millicent and so we would drive down to  
37 there and interview them. At that stage, I believed  
38 Bertha Gollan was also available to be interviewed, but



2420

CJ 32A

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- 1 had taken ill and so pulled out of the event at that
- 2 stage.
- 3 CONTINUED

- 1 Q. This initial contact, as far as you were concerned, took  
2 place in Millicent.
- 3 A. In Millicent, at Dulcie Wilson's house, at Plunkett  
4 Terrace.
- 5 Q. Did Dorothy go there, did she, Dorothy Wilson.
- 6 A. Dorothy went there with Sue Lawrie and Sue Lawrie's  
7 mother and I drove down with a cameraman and we all met  
8 at Dulcie's house.
- 9 Q. You spent sometime then speaking with these two ladies  
10 and actually video recording.
- 11 A. My first duty was to meet these women and make some sort  
12 of an assessment of their character I suppose. I was  
13 aware, from the transcripts of the tape recordings, of  
14 the sorts of things that they were saying. What I  
15 needed to do was to satisfy myself that these women were  
16 credible, were speaking the truth, to check what they  
17 were saying against any known facts I could come up with  
18 and to also make sure - satisfy myself that they were  
19 under no pressure from no outside parties. I am  
20 well-aware that there are powerful political and  
21 economic forces in the bridge issue and so I wanted to  
22 satisfy myself that these women were speaking purely at  
23 their own free will.
- 24 Q. Were Dulcie Wilson and Dorothy Wilson apprehensive about  
25 speaking to you.
- 26 A. They were very nervous about going public. They had  
27 grave concerns about the way the women's business issue  
28 had arisen and been followed through for sometime. They  
29 were of the opinion that what they were doing was going  
30 to lead to vilification within their own community and  
31 they were very apprehensive about that, but they were  
32 determined to go through with it.
- 33 Q. What occurred on that day, which was 16 May, was it not.
- 34 A. Yes.
- 35 Q. Just give us a picture of what you did.
- 36 A. A picture would be that we turn up and introduce  
37 ourselves and sit down and have a sandwich and a good  
38 chat and a cup of coffee and talked about all sorts of

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- 1 issues, looked over some photos of life on Raukkan and  
2 discussed the relationships of various people involved  
3 in the Raukkan community. Just generally discussed the  
4 history of Dulcie and Dorothy, where they were born,  
5 where they were raised, what they had been doing for the  
6 past thirty years. And all the time referring back I  
7 suppose to the more contemporary events of the bridge  
8 and what was happening there. Once we had done all that  
9 we agreed to go ahead and film the television interview.  
10 The cameraman set up lights and we sat down and probably  
11 filmed 40 or 50 minutes of interview. Afterwards we  
12 sort of packed up, I had some discussions with Dorothy  
13 and Dulcie about when the story would be run, they  
14 expressed some sort of nervous good humour about having  
15 to batten down the hatches when the story did go to air  
16 and I promised to contact them sometime after that.
- 17 Q. You made that initial assessment of these two ladies and  
18 you came to a favourable view of them, did you.
- 19 A. I was very impressed by the women, because of their  
20 demeanour, their attitude, their confidence with the  
21 facts that were known. I gave them opportunities I  
22 suppose to say more than they needed to. I gave them  
23 opportunities to make points in a political or other  
24 sense. They just - they weren't interested in that.  
25 They were interested in only saying what they had to  
26 say. For instance, neither of them expressed any  
27 opinion about the bridge even though I gave them  
28 opportunities to, at times, to say whether or not they  
29 favoured the bridge or development or whatever. They  
30 seemed quite genuine in the fact they didn't care about  
31 that.
- 32 Q. There followed then, what is the correct terminology,  
33 raw footage was taken.
- 34 A. Yes, raw footage.
- 35 Q. And from that a to-air footage was edited.
- 36 A. Yes.
- 37 Q. I will come back to that, in a minute. In the few days  
38 that followed before the story went to air you undertook

1 other jobs, didn't you.

2 A. In the preparation of the story?

3 Q. Yes, in the preparation of the story.

4 A. Yes.

5 Q. I will just get on the record quickly, I think the story  
6 went to air in the 5 o'clock Channel 10 News on 19 May.

7 A. Friday, 19 May, yes. So the interviews were conducted  
8 on the Tuesday. On Wednesday the 17th I went with a  
9 cameraman to Hindmarsh Island to do some filming and to  
10 film what we call pieces to camera, myself speaking to  
11 the camera. And Thursday I devoted the day to piecing  
12 the story together. We actually promoted the story  
13 Thursday night. I put the finishing touches to it  
14 Friday when it went to air Friday. I had been aware - I  
15 had been made aware through Ian McLachlan's office that  
16 the transcripts that had been provided to me were also  
17 being provided to other journalists. So I had asked  
18 that they place an embargo on the story. So, in other  
19 words, any reporter who had those transcripts had  
20 undertaken not to run a story on this issue until 5  
21 o'clock on 19 May. The reason I did that was because -  
22 I had struck that arrangement at least a week before  
23 then, maybe two weeks before then. The reason I had  
24 done that, I just wanted to make sure I had absolutely  
25 as much time as possible to check out all facts in this  
26 story. I was well-aware of how contentious the issue  
27 was and I wanted to have as much time up my sleeve as  
28 possible.

29 Q. There was a promotion of the story I think on the  
30 evening of Thursday, 18 May.

31 A. Yes.

32 Q. Did that provoke any response.

33 A. Yes, it provoked a response the following day from  
34 Sandra Saunders from the ALRM. She called me in a  
35 rather agitated state, I would suggest late morning or  
36 around mid-day on the Friday, and wanted to know what  
37 the story was, although she seemed to have some idea of  
38 what it entailed. She seemed to have some idea that it

1 would call into question the secret women's business and  
2 she demanded to know more about it. I told her I would  
3 tell her everything about my story if she agreed to give  
4 me an interview that day at 3 o'clock. I was very keen  
5 to make sure we had her point of view as a response to  
6 the story in the bulletin that Friday night.

7 Q. Did she agree to that.

8 A. She agreed to and when I attended the Aboriginal Legal  
9 Rights Movement office Doreen Kartinyeri was standing  
10 outside the building and I went inside and asked to see  
11 Sandra Saunders. She came down briefly and said she  
12 would give me an interview and I asked, at that time,  
13 whether I could also get an interview with Tim Wooley, a  
14 lawyer with the Aboriginal Legal Rights Movement, and  
15 Doreen Kartinyeri. At that stage, Sandra Saunders went  
16 back upstairs into the office and didn't return for  
17 about three-quarters of an hour. I remember it well,  
18 because it was getting later in the day and I needed to  
19 get her on tape to get her into the 5 o'clock News. She  
20 eventually did come down and we filmed an interview,  
21 which ran for about four minutes, in which she denied  
22 the allegations, refused to investigate them, and  
23 accused me both of not being - both of not knowing what  
24 I was up to and of knowing full-well where I wanted to  
25 take the issue. She was quite agitated.

26 Q. And the interview with Tim Wooley that you wanted.

27 A. She said that Tim Wooley wouldn't be speaking to us and  
28 she said that Doreen Kartinyeri would not be speaking to  
29 us.

30 Q. So the next event was actually the story going to air  
31 then on 19 May.

32 A. Yes.

33 Q. And that included footage of your interview with Dorothy  
34 Wilson, Dulcie Wilson and what you would call a short  
35 grab of Sandra Saunders, is that right.

36 A. A long grab of Sandra Saunders in a separate piece the  
37 same night. At 5.30 we recapped the main story of the  
38 day, as we do in our bulletin, we cross to me live in

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- 1 the newsroom in which I threw to a - I think it was  
2 about a 40 second to a minute grab from the Sandra  
3 Saunders interview, her reaction to our piece.
- 4 Q. I want to show that news item quickly now, so, if we  
5 could pause for a moment.
- 6 VIDEO PLAYED
- 7 MR SMITH: It restarts again and it is correct this  
8 time through, so, we will have to put up with the  
9 introduction bit.
- 10 This is final, this one.
- 11 VIDEO PLAYED
- 12 A. Could I - the next bit you were about to see was from  
13 the same evening. It was the Sandra Saunders interview.
- 14 XN
- 15 Q. There is a further interview, is there, on this tape.
- 16 A. Yes.
- 17 VIDEO PLAYED
- 18 Q. In order to arrive at that story, you spent quite  
19 sometime, as you have told us, with Dorothy Wilson and  
20 Dulcie Wilson, and that is what is called the raw  
21 footage, is that correct.
- 22 A. The raw footage is the other material that was - that  
23 was used to piece together that piece, yes.
- 24 Q. I want to play that to you so that the Commission can  
25 hear all that took place between you and those two  
26 ladies at Millicent.
- 27 A. Sure.
- 28 Q. On 16 May.
- 29 A. Yes.
- 30 Q. Can you give us an approximate idea how long this takes.
- 31 A. I believe this would take about 40 minutes or slightly  
32 over 40 minutes. I think we went through more than two  
33 standard tapes.
- 34 CONTINUED

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1 VIDEO PLAYED

2 MR SMITH: There is nothing more coming than has  
3 already been trumpeted about in the public press. Panic  
4 stricken instructions.

5 MR KENNY: Mr Smith is anticipating what I'm going  
6 to say, and that is that it appears to me that despite  
7 what some people say has been trumpeted about, in my  
8 opinion it offends s.35, and that we should await the  
9 ruling or the authority before we receive this  
10 information into evidence. I mean it's not my desire to  
11 delay the hearing or to cause any further inconvenience,  
12 but it would appear to me that what this witness is  
13 giving is what she may say is a fabrication, but it's  
14 clearly not seen as a fabrication by other people, and  
15 it is information that is considered to be secret to  
16 aboriginal women and, as such, in my opinion it  
17 shouldn't be considered until we have a s.35  
18 authorisation.

19 COMSR: So you're anticipating that it may be  
20 something which is additional to what went to air.

21 MR KENNY: I'm not sure, I haven't seen these  
22 tapes, but it appears to me that this is heading -

23 COMSR: That there is a possibility that that  
24 may be the case, but you're not in a position to say, is  
25 that your apprehension?

26 MR KENNY: Certainly.

27 COMSR: So you're asking for an opportunity to  
28 look at the tapes in private?

29 MR KENNY: I wasn't at this stage, but perhaps that  
30 may be one solution to it, if we have an opportunity to  
31 examine those tapes before they are shown.

32 MR SMITH: It's unnecessary. You can take my  
33 assurance that the tapes do not go further than what is  
34 well and truly in the public arena, what additionally  
35 has been put in the public arena by Channel 10 in  
36 connection with this matter as well, but not only  
37 Channel 10, so that's what is coming up. There is no  
38 purpose served by Mr Kenny having a private viewing.

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1 COMSR: On the basis of that assurance, that  
2 there is nothing additional, it would appear that s.35  
3 might not be the issue. Do you wish to raise any other  
4 basis for objection to the, I suppose you're saying,  
5 publication of this material?

6 MR KENNY: My note is you're ruling on them.

7 COMSR: This goes to the issue of whether or not  
8 it offends, if I can put it that way, s.35 of the  
9 Aboriginal Heritage Act, and of course that's one basis  
10 on which the evidence shouldn't be led in the absence of  
11 an authority. Of course there are powers under the  
12 Royal Commissions Act to suppress evidence, and I'm just  
13 not sure at this stage what -

14 MR KENNY: Perhaps the way to go at this stage  
15 would be to suppress this so that the press here are not  
16 misled in relation to the use of this material, and  
17 perhaps at the conclusion we can re-examine that issue  
18 of suppression.

19 COMSR: I suppose what you're putting to me is  
20 that based on the assurance by Mr Smith, we'll proceed  
21 with the viewing of this tape, but you're forecasting  
22 that if the material is particularly sensitive for one  
23 reason or another, you may be applying for a suppression  
24 order as to some of it. Is that the situation?

25 MR KENNY: This witness has given evidence before  
26 the commission. During her evidence she herself  
27 considered that - not the witness, the person being  
28 interviewed here, Dorothy Wilson - she considered this  
29 information to be so sensitive that all men - it wasn't  
30 only men - but all men were excluded.

31 MRS SHAW: Quite the opposite. She's always taken  
32 the view that it's a fabrication. That's why she went  
33 public.

34 COMSR: It was the view that I took at that  
35 time, that having, as it appeared on the face of it, a  
36 proper authorisation under the Act, that rather than run  
37 any risks, as it were, that I shall limit the people who  
38 would view that, and only permit certain persons to view



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1 it, but I don't think it was Mrs Wilson's contention  
2 ever -

3 MR MEYER: Can we treat it as a foreshadowed  
4 application and deal with it after the video? I oppose  
5 the foreshadowed application, but if we can leave it  
6 until then.

7 MR KENNY: I anticipate that will go for some time.  
8 Rather than having people who may be opposed to at this  
9 stage, perhaps the evidence can be suppressed now, and  
10 we consider the information that does become available  
11 at the conclusion of the evidence.

12 MR SMITH: Mr Short should be notified before this  
13 happens. There are vigorous arguments as to why this  
14 suppression should not occur.

15 MR KENNY: I'm considering a suppression perhaps to  
16 the end of the day so we can consider it at that time.

17 MR MEYER: I was only thinking until the end of the  
18 40 minutes, for the duration the tape. At the end of  
19 the tape, we can argue about it and get on with it.

20 That may be the most practical way to get on to it. I  
21 don't think there should be a suppression if we're only  
22 going to deal with it for the next 40 minutes.

23 COMSR: I think that might be the most  
24 expeditious way, because it may well be as Mr Smith  
25 says, there is nothing additional to what has already  
26 been well and truly published.

27 MR KENNY: Certainly.

28 VIDEO PLAYED

29 CONTINUED

## C.K. KENNY XN (MR SMITH)

1 Q. What follows now. What do you call that.

2 A. Editings, shots - two shots, three shots in this case.

3 Various people sitting around, talking.

4 Q. Occasionally during the editing there is conversation  
5 about the topic, isn't there.

6 A. Yes.

7 Q. The Bertha Gollan interview took place later, didn't it.

8 A. Yes.

9 COMSR: Perhaps we will deal with this interview  
10 then before we go on to the other.

11 MR KENNY: I don't think there is anything actually  
12 new that came out in that interview. Perhaps if you  
13 simply note my objection in relation to the distribution  
14 of that evidence, although I note that your earlier  
15 rulings would say that that information had previously  
16 been divulged to the public.

17 COMSR: Yes, as I say, that is one part of it.  
18 That means, consistent with that ruling, that the  
19 republication of that evidence would not amount to a  
20 divulgence. That, of course, doesn't deal with the  
21 issue of whether or not, for any other reason and  
22 pursuant to the provisions of the Royal Commissions Act,  
23 s.16, that there is not a basis on which the  
24 republication of the evidence might be suppressed.

25 MR KENNY: Yes, certainly. I would perhaps ask you  
26 to consider the perhaps sensitivity of some of the  
27 comments made by Dorothy Wilson there and, indeed, her  
28 own reluctance to speak the words on camera where she  
29 apparently thought she was stating some of them off  
30 camera.

31 MS SHAW: That is very good of my learned friend  
32 to offer to make objections on my behalf about my  
33 client's reluctance, but I can assure you that Mrs  
34 Wilson has no objection to any of that material being  
35 released.

36 COMSR: Yes, I appreciate her position.

37 MR SMITH: And the other question you should  
38 consider is, on what basis is Mr Kenny making these

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1 submissions? Are these his client's instructions?

2 MR KENNY: Yes.

3 MR SMITH: Or is he being a friend of the  
4 Commission, in some sense?

5 MR KENNY: My client's instructions are that,  
6 firstly, the material that is being discussed there is  
7 material that should not be discussed publicly by  
8 nonAboriginal people. They certainly are my  
9 instructions and it is on that basis that I ask that the  
10 information be suppressed, not as a friend of the  
11 Commission.

12 COMSR: You would appreciate, in some ways, that  
13 it is perhaps a little late in the day, after the matter  
14 is in the public arena, to prevent it getting into the  
15 public arena. The question is, where there is sensitive  
16 material, whether the Commission should suppress the  
17 republication of it, as it were, on the basis that  
18 allowing the material to be republished in the reports  
19 concerning the Commission might come under the heading  
20 of whether it is an undue hardship to any person.  
21 Certainly the matter is in the public arena.

22 MR KENNY: I agree.

23 COMSR: There is no doubt about that.

24 MR KENNY: It has been published.

25 COMSR: The question is whether, in the  
26 reporting of the Commission's Inquiry, sensitive  
27 material should be suppressed from publication because  
28 of its sensitive nature on the basis that the  
29 republication might be a hardship to some persons. I  
30 think that could be the only issue that could be before  
31 me, at this stage, on the question of a suppression  
32 order of the material.

33 MR KENNY: Certainly, and it is on that basis that  
34 I make the application.

35 MR MEYER: As I indicated, I oppose that.  
36 You will recall I asked Mr Easdown a question where  
37 I asked him whether he thought that the women that he  
38 interviewed were calm, cultured and articulate and he

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1 agreed and we have just had another exhibition of  
2 exactly the same thing. And what has happened is that  
3 you have a very tasteful, a very proper discussion about  
4 absolutely nothing that is new and absolutely nothing  
5 that is offensive. If we ran that in one minute bites  
6 and, at the end of every bit you said 'What is new and  
7 offensive about that?', there is nothing. And the  
8 Commission, in fact, must have some sort of benefit by  
9 proper reporting, because, if there is proper reporting,  
10 it is the only way that many people who are not present  
11 at this Commission can have any idea what is going on  
12 and may come forward and speak to counsel assisting the  
13 Commission. There is, in fact, a positive advantage in  
14 proper reporting. And to suggest that any of that  
15 material should in anyway be suppressed, in my  
16 submission, is carrying the suggestions of suppression  
17 in this order to the point of being ludicrous. And, to  
18 be quite frank, as I said, I thought that great steps  
19 were taken particularly by Mrs Wilson, Dorothy Wilson,  
20 who was very careful about what she did and didn't say.  
21 But, otherwise, I would have thought a very credible and  
22 careful performance.

23 COMSR: The question at issue is not, of course,  
24 how creditworthy the witness is, but how sensitive the  
25 material might be.

26 MR MEYER: That's right. And the way it was  
27 sensitively presented.

28 MS SHAW: The concern that you have raised is the  
29 republication of what has been said before.

30 COMSR: That's right, yes.

31 MS SHAW: Of course, the television stations and  
32 the media can republish it at any time they feel from  
33 the material that is already in the public arena. So  
34 that theoretical possibilities of some hardship which  
35 haven't been identified, in my submission, ignores the  
36 reality of what has occurred and what can occur. And my  
37 client doesn't claim that she is going to suffer any  
38 hardship.

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- 1 COMSR: No, certainly not.
- 2 MS SHAW: It is not suggested that the publication  
3 today, tomorrow or in the future of some of the same  
4 material could possibly form a basis for any  
5 theoretical, possible hardship to anybody.
- 6 COMSR: Yes, I am not suggesting that there is  
7 any evidence before me, as yet, to that effect, other  
8 than what has come out from the body of court on  
9 occasions, which I don't suppose one would call  
10 evidence, but, of course, the Inquiry hasn't run its  
11 course.
- 12 MS SHAW: That's so.
- 13 COMSR: We don't yet know what evidence might be  
14 before the Commission by the time it has.
- 15 MS SHAW: If we want to stop republication of  
16 material that is in the public arena on the basis of  
17 theoretical possibilities in the future, we would be  
18 undermining our own Inquiry.
- 19 MR LOVELL: Seeing my client is in the witness box,  
20 at the moment, we would oppose a suppression order,  
21 mainly for the reasons outlined by Ms Shaw.
- 22 COMSR: As no-one else wants to be heard:  
23 I must say, I don't find it an easy issue to deal  
24 with. I see the practicality of the situation where a  
25 matter is already in the public arena, but it could be  
26 republished from a variety of sources other than from  
27 the Commission itself. And it would be very difficult  
28 to identify whether it was a republication of something  
29 that happened, of material gathered from another source,  
30 or from material before the Commission.
- 31 I must say, I am concerned, though, that the  
32 Commission not be seen to be ignoring the sensibilities  
33 of persons who might be harmed by the publication of  
34 sensitive evidence.
- 35 MR LOVELL: That hasn't been identified by my  
36 friend, Mr Kenny, what hardship or what the problem is  
37 here. It is just a bare assertion from the bar table.  
38 I mean, if that is troubling you, let's hear from Mr

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1 Kenny and he can identify the problems and make your  
2 decision a bit easier.

3 COMSR: I don't know if Mr Kenny wants to accept  
4 that invitation.

5 MR LOVELL: I think that says it all.

6 MR KENNY: I'm not sure how my friend knows exactly  
7 what is troubling you, but I can simply say that the  
8 areas that cause me and my clients particular concerns  
9 are the discussion of the - perhaps I can say, the use  
10 the women made of the island in relation to babies and  
11 also the discussions in relation to the map as well.

12 I might say that my clients don't say that they know  
13 what is in the secret envelopes, but they are treating  
14 this material very cautiously. And, if it is possible  
15 that information may be there then they say that that is  
16 part of the Aboriginal business, as it were, and not  
17 something that should be repeated widely in the general  
18 media.

19 Every publication of it, even though it may be a  
20 repeat, causes them concern and that essentially is the  
21 basis of my application.

22 COMSR: I can say I have followed a consistent  
23 line to date in trying to prevent the publication of  
24 such material in the reporting of what has occurred  
25 before the Commission. Of course, the reporting from  
26 other sources is something over which the Commission has  
27 no control.

28 There are two separate issues here.

29 One is, of course, the question of the use to which  
30 the island was put by women. And, the other, the  
31 question of the resemblance of the area to women's  
32 bodies, but I suppose one could say that the second is  
33 more a matter that is in the public arena than the  
34 first.

35 MR SMITH: I am not sure about that. If the first  
36 aspect - which is the question of aborted fetuses,  
37 isn't it? - is vigorously in the public arena, I can  
38 refer you to all the articles and newspapers clippings,

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- 1 which are gathered in Exhibit 67. There are at least -  
2 well, there is about a dozen, which are from papers  
3 including The Canberra Times, The Advertiser, the topic  
4 is canvassed widely.
- 5 COMSR: Perhaps if you would like to show me  
6 those?
- 7 MR SMITH: Yes.
- 8 MR MEYER: Do you want to do that over the lunch  
9 break?
- 10 COMSR: Yes, that is what I was thinking.  
11 Perhaps we could proceed now. This is not a matter that  
12 has to be determined now and I can look at those over  
13 the luncheon adjournment.
- 14 But, meanwhile, I suppose I should point out that  
15 the temporary suppression orders will continue until  
16 this afternoon until I have had an opportunity to peruse  
17 those specific articles. And that relates to both  
18 issues, at the present time, but I find the first issue  
19 the more difficult one to deal with. However, I will  
20 make a ruling when we resume after the luncheon  
21 adjournment in respect of that matter and make a  
22 temporary order for suppression until this afternoon  
23 when I resume.
- 24 MR SMITH: Just to be clear about it, because the  
25 media have asked me to ensure that they are clear: you  
26 are suppressing, then, reference in the hearing this  
27 morning to the two topics?
- 28 Firstly, the question of women going to the island  
29 to bury aborted foetuses.  
30 Is that the first topic?
- 31 COMSR: That is the first topic.
- 32 MR SMITH: And the island and its environs  
33 resembling female reproductive organs?
- 34 COMSR: Yes, I make an order, pursuant to the  
35 provisions of s.16 (1)(b) of the Royal Commissions Act,  
36 suppressing that material before I resume the sitting  
37 after the luncheon adjournment.
- 38 MR SMITH: And are the media to understand that

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1 what is suppressed is simply reference to those topics  
2 in the evidence this morning?

3 COMSR: Yes, in reporting what has occurred  
4 during this morning's session.

5 MR SMITH: Just so that the media don't  
6 accidentally breach your order, if the material is drawn  
7 from another source, if they are determined to publish  
8 it, it is confined to this evidence this morning?

9 COMSR: Unless there are other suppression  
10 orders already in existence covering the same material,  
11 Mr Smith. And there are a number of such orders, of  
12 course, that have been made in relation to the evidence  
13 of various witnesses. And that was made pursuant - or  
14 some of it, of course, was not in the public arena at  
15 all because, at the time, it was covered by an authority  
16 which, of course, allowed me to determine what persons  
17 would be permitted to hear the evidence.

18 I am simply trying to preserve the situation, at  
19 this time, until I have had an opportunity to consider  
20 what is in the public arena.

21 MS SHAW: Just to be clear: I don't believe this  
22 morning there has been any reference to the map  
23 resembling female genitalia. All Mrs Wilson ever said  
24 was the business about the map.

25 COMSR: That may be so.

26 MS SHAW: I raise that because it seems  
27 unnecessary for Mr Smith to do a search of that, when it  
28 really wasn't a topic raised. And, secondly, the first  
29 topic, of course, was in the public airing that was at  
30 the beginning. That is, that it was part of what went  
31 to air in the 5 o'clock News.

32 COMSR: Yes, I appreciate that. I am only  
33 concerned with the question of whether I need to  
34 consider whether the republication of it is -

35 MS SHAW: But what I am putting to you is that,  
36 because it did go to air, then, of course, the media can  
37 get that tape from their own sources and play it anyway.

38 COMSR: Yes, I realise that. That is part of



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1 the material that is before me this morning. And I  
2 simply wish to have an opportunity to consider whether,  
3 in the conduct of this Commission, I need to concern  
4 myself with the question of whether the republication of  
5 matters which might be considered to be sensitive  
6 material is an area where I should consider a more  
7 permanent suppression order under s.16 (a). There is no  
8 argument that it is matters that are already within the  
9 public arena. And there is no doubt at all that the  
10 material is available from other sources. I am simply  
11 concerning myself with the question of the reporting of  
12 the matters that are before this Commission.

13 XN

14 Q. We have reached the stage where the story, the raw  
15 footage of which we have just seen, went to air at 5  
16 p.m. in the Channel 10 News on 19 May.

17 A. Yes, indeed.

18 Q. During the period that followed, say, a period of weeks  
19 that followed that story on 19 May, did you make  
20 attempts to contact other people, such as Sandra  
21 Saunders, Doreen Kartinyeri, Deane Fergie, for instance.

22 A. The most important person I wanted to speak to was  
23 Doreen Kartinyeri and I made extensive efforts to  
24 interview her. I also wanted to interview Sandra  
25 Saunders and tried to get interviews with her through  
26 various means over a long period of time. And Deane  
27 Fergie also was someone I chased and other people in my  
28 newsroom chased as well. All three were giving  
29 interviews to other media organisations, particularly  
30 the ABC. None would grant me any interview, in that  
31 first week, at least.

32 Q. On the weekend following that report, did you, for  
33 instance, seek out people such as Doreen Kartinyeri on  
34 that weekend.

35 A. On that weekend I wasn't on duty, so to speak. We had  
36 people - other people at Channel 10, both in Canberra  
37 and in Adelaide, prepared follow-up reports both on  
38 Saturday and on Sunday and I did consult with them from

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1 home as to who they should try and contact. I can't  
2 recall whether they made attempts to get Doreen  
3 Kartinyeri or Sandra Saunders on that weekend. They  
4 probably did. But certainly as of the Monday I was  
5 directing most of my efforts towards securing a  
6 response, an interview, a version of events from Doreen  
7 Kartinyeri and Sandra Saunders and Deane Fergie.  
8 CONTINUED

## C.K. KENNY XN (MR SMITH)

1 Q. In the weeks that followed that story of 19 May,  
2 however, those people did appear on other media, did  
3 they not.

4 A. Yes, they did.

5 Q. Such as.

6 A. They were on ABC Radio as I recall, they were on the  
7 7.30 Report the night my story went to air. I believe  
8 that - well, from what I've seen on television, the 7.30  
9 Report was set up at Aboriginal Legal Rights Movement  
10 headquarters by 5 o'clock on Friday, 19 May to film my  
11 story going to air and the responses from Doreen  
12 Kartinyeri and other of her supporters. There was also  
13 a story on the 7.30 Report on the following Monday,  
14 which contained footage of various gatherings of these  
15 Ngarrindjeri women over the weekend, and their responses  
16 to the claims of Dulcie and Dorothy and, by that stage,  
17 Bertha as well.

18 Q. Were there occasions when you, as it were, camped  
19 outside the Aboriginal Legal Rights Movement offices.

20 A. Well, I was very, very keen to speak to these people,  
21 and went to perhaps greater than usual lengths to secure  
22 an interview. Obviously I made phone calls and made  
23 requests and left messages that often weren't returned,  
24 but I also did camp outside the office of the Aboriginal  
25 Legal Rights Movement where I was abused a number of  
26 times by Sandra Saunders, and she threatened to get the  
27 police to remove me from the foyer of the building. On  
28 another occasion I went down to the museum, and was  
29 lucky enough to see Doreen Kartinyeri on the steps  
30 outside the museum smoking a cigarette at the time. I  
31 approached her and we had a fairly civil discussion  
32 off-camera about whether or not she would be available  
33 for an interview. She went back into the building after  
34 telling me that I would have to - she was busy working,  
35 and I would have to get permission from her superior,  
36 the head of the Anthropology Department, Dr Philip  
37 Jones. So when she went back into the building, I  
38 contacted him through the security staff in the museum

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1 building, and he informed me that she was just leaving  
2 for the day.

3 Q. Dr Fergie.

4 A. Dr Fergie I had tried to secure an interview with after  
5 hearing her on ABC Radio, and another reporter from  
6 another station also went to visit her at the Adelaide  
7 University and tried to convince her to give us an  
8 interview about all the issues raised. She did not  
9 agree to do one but then, at a later stage, I think the  
10 Friday following the story going to air, a week after  
11 the story went to air, Deane Fergie returned my call,  
12 actually it was on my mobile number while I was waiting  
13 outside the Aboriginal Legal Rights Movement to try and  
14 interview anybody else, and we had quite a long  
15 discussion about all the issues involved, and I tried to  
16 convince her to grant me a similar discussion on camera.  
17 She didn't rule that out completely, she suggested that  
18 perhaps if we promised to give her five minutes on-air  
19 unedited, that she might agree to do it. I said these  
20 were fairly onerous decisions, but I didn't rule it out  
21 altogether but, two or three days later, I was lucky  
22 enough to bump into her.

23 Q. That was where.

24 A. That was the Monday following that, so if you just  
25 excuse me, I don't have the date here, but it was the  
26 date that Doreen Kartinyeri was awarded the honorary  
27 doctorate at the Festival Theatre.

28 Q. That, I think, was 29 May.

29 A. That would be right, yes. I went along to cover that  
30 event. Obviously it was a newsworthy event in itself,  
31 but I was very keen to speak to Doreen Kartinyeri again.  
32 After the ceremony, I approached her for an interview;  
33 all the material's on tape. She suggested that today  
34 was not the day to discuss Hindmarsh Island, that it was  
35 a day to recognise her achievements in her work. I said  
36 I agreed with that, can we make an arrangement at some  
37 other time to discuss Hindmarsh Island. She made no  
38 response. I then withdrew from the situation but, a few

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- 1 minutes later, I heard her speaking to an ABC 7.30  
2 Report crew about issues relating to her role as a  
3 custodian of secret business. I felt then that she was  
4 raising this particular issue again, and I chipped in  
5 with one question with my camera crew. That is the only  
6 time I interviewed her. On that occasion I noticed  
7 Deane Fergie in the crowd, and we did what we call a  
8 `door stop interview', we walked up with the camera  
9 rolling and started asking her questions. I'd given her  
10 every opportunity to agree to an interview under much  
11 more comfortable circumstances, but I had the chance to  
12 get her view on this whole issue.
- 13 Q. Can I take you back to the time that Dr Fergie returned  
14 your telephone call.
- 15 A. Yes.
- 16 Q. I think you put that at 26 May or thereabouts, Friday  
17 the 26th.
- 18 A. Yes, that would have been Friday the 26th.
- 19 Q. Did you have a conversation with her on that occasion,  
20 Dr Fergie.
- 21 A. Yes. We just discussed off-the-cuff some of the issues  
22 involved. I think it probably began by her asking me  
23 well, what would I want to ask her in an interview, and  
24 I suggested some of the questions might be her  
25 explanation of why none of the so-called secret women's  
26 business had appeared in at least published  
27 anthropological data. I also wanted to ask her in her  
28 study why hadn't she cast her net wider, spoken to  
29 people at Murray Bridge and spoken to some of the elder  
30 members of the Aboriginal community. It occurred to me,  
31 on reading the Fergie report and the Cheryl Saunders  
32 report, that they had both taken the information from a  
33 narrow sampling of Ngarrindjeri people.
- 34 Q. You were canvassing with her the topics that you wanted  
35 to raise with her in an interview.
- 36 A. Precisely. We had quite an intelligent debate over the  
37 issues, exactly the sort of exchange I would have been  
38 looking to get on tape for television purposes.

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1 Q. Did Dr Fergie respond to those, or did you take on board  
2 the topics that you wished to question her on.

3 A. She responded. We had a good discussion about these  
4 issues.

5 Q. Can you tell us what was the response.

6 A. It's difficult to recall in any great detail; I was  
7 standing around on the footpath outside the Aboriginal  
8 Legal Rights Movement. It's similar, I suppose, to the  
9 responses that she gave a few days later when I did grab  
10 her on camera, but essentially she was suggesting that I  
11 was criticising her work, and she would stand by her  
12 work, that there wasn't a great need to go out and  
13 spread her sampling through the Ngarrindjeri community.  
14 She also suggested that it was the nature of secretness  
15 that none of this material would have surfaced  
16 previously, that she didn't feel any great discomfort or  
17 professional displeasure that no-one else had recorded  
18 this information.

19 Q. That's the sort of material you'd be looking to have, if  
20 you like, in a news item.

21 A. I wanted her points of view. She is a critical player  
22 in this issue. People who had been watching our station  
23 were getting more information about these issues than  
24 any other station, and I wanted to make sure they had  
25 every available point of view.

26 Q. On the next news report on this topic, which was the  
27 following day, 20 May, 1995, I think Bertha Gollan was  
28 also featured, was she not.

29 A. Yes. I didn't interview her, another reporter  
30 interviewed her. As I said earlier, it had been relayed  
31 to me that she was another person who was willing to  
32 speak publically, but couldn't make that initial  
33 interview down at Millicent, so another reporter  
34 interviewed her in Adelaide on Saturday when we were  
35 following up the original story.

36 Q. So that was on Saturday the 20th.

37 A. 20 May, yes.

38 Q. That went to air.

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- 1 A. On the same day.
- 2 Q. I think the raw footage tape and the news tape includes  
3 Bertha Gollan as a subject, does it not.
- 4 A. Yes.
- 5 MR SMITH: Before it starts, so that it is clear in  
6 the transcript which tapes are going in and out of the  
7 machine, I should tender them at this stage.  
8 Could I tender first of all the tape which is now in  
9 the machine which is called `Channel 10 News Reports'.
- 10 COMSR: Has it got a date?
- 11 MR SMITH: No. It spans May 1995 to June 1995.
- 12 COMSR: Does that include the next -?
- 13 MR SMITH: Yes, that includes the next item coming  
14 up.
- 15 COMSR: Perhaps we better see it.
- 16 MR SMITH: The only reason I'm tendering it at this  
17 stage is that I'm going to move between the raw footage  
18 tape and the news tape as we move in chronological  
19 order.
- 20 COMSR: This is the actual to-air tape?
- 21 MR SMITH: This is the Channel 10 News report  
22 standing reports from 19 May to approximately 20 June  
23 1995.
- 24 MR MEYER: One is to-air and one is raw.
- 25 MR SMITH: This is the news report to-air tape.
- 26 EXHIBIT 147 Videotape `Channel 10 News Reports' from  
27 approximately 19 May to 20 June 1995  
28 tendered by Mr Smith. Admitted.
- 29 MR SMITH: I tender also the tape which includes  
30 the raw footage which is marked `CKK1'.
- 31 EXHIBIT 148 Videotape including raw footage tendered  
32 by Mr Smith. Admitted.
- 33 MR SMITH: Now if we can proceed to look at the  
34 news report, the Channel 10 News report of 20 May.
- 35 VIDEO PLAYED
- 36 VIDEO STOPPED
- 37 COMSR: Are you tendering the whole of that  
38 tape?

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1 MR SMITH: Yes. The news tape that covers all the  
2 news items is this one that's currently being played  
3 from time to time.

4 COMSR: I can see that portion of it relates to  
5 what the Ngarrindjeri women had to say concerning the  
6 matter, but as to the political background -

7 MR SMITH: I've taken the view that you receive  
8 that, along with the balance, on the basis that part of  
9 your function is really to identify the conflict in the  
10 community, as indeed the Supreme Court suggested you  
11 should do. That other material goes to that question.

12 COMSR: It couldn't go to the issue of  
13 fabrication.

14 MR SMITH: I wouldn't suggest that it helps you in  
15 that respect at all.

16 XN

17 Q. I think you made arrangements for that reporter whom we  
18 have just seen, Kelly Sloan, to assist you in this  
19 matter, is that correct.

20 A. Not in particular, but a couple of times she became  
21 involved, yes. That was one occasion. She was also the  
22 reporter who approached Deane Fergie at the university  
23 for an interview, so she was becoming reasonably well  
24 grounded, and on a couple of subsequent occasions she  
25 had become involved in some reporting, yes, but many  
26 other reporters did as well also over the duration.

27 Q. There was a meeting at Camp Koorong scheduled for 24  
28 May, was there not.

29 A. Yes.

30 Q. Did you intend to, or go down to that.

31 A. Obviously this was going to be an important meeting.  
32 The Ngarrindjeri women were gathering together at Camp  
33 Koorong, and we were still very keen to get their point  
34 of view and put it across on our station. We thought  
35 about me going down there, but because of what had  
36 transpired and the antagonism shown to me personally, we  
37 thought if Kelly Sloan, another reporter, went down  
38 there and spoke to Doreen Kartinyeri, Sandra Saunders



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1 and Sarah Milera, essentially any of the women who would  
2 be prepared to speak to us - we were interested in all  
3 their points of view - so Kelly went down there.

4 Unfortunately, she was refused interviews by everybody;  
5 in fact Channel 10 cameras were excluded from the  
6 meeting. I believe all the other stations were allowed  
7 to take their cameras into the meeting, but Channel 10  
8 was excluded.

9 Q. I think on the way back Kelly Sloan visited Nanna Laura,  
10 or the daughter of Pinkie Mack's place in Murray Bridge.

11 A. I explained to Kelly the significance of the daughter of  
12 Pinkie Mack, and gave her the address of where she was  
13 staying, and suggested that she might just drop past  
14 there and try and speak to her personally and see  
15 whether there was any chance of securing an interview,  
16 or a conversation, or any information at all from the  
17 daughter of Pinkie Mack. Kelly went to an address there  
18 and spoke to a younger woman who answered the door, who  
19 said she was the daughter of the daughter of Pinkie  
20 Mack, and said that the elder woman was too sick and  
21 couldn't help out.

22 CONTINUED

1 Q. Could I take you then to Monday, 29 May, which was the  
2 doctorate ceremony, Mrs Kartinyeri's honorary doctorate  
3 ceremony. You attended there you told us.

4 A. Yes.

5 Q. You told us that you did seek to have an interview with  
6 Doreen Kartinyeri in the course of that or after that  
7 ceremony was completed.

8 A. I did indeed, yes.

9 Q. It was on that evening also that you spoke briefly with  
10 Dr Deane Fergie; is that so.

11 A. Yes. I managed to secure rather brief television  
12 interviews with both those people at that function.

13 Q. In the weeks following that function, did you continue  
14 to seek out Mrs Kartinyeri and Mrs Saunders, for  
15 instance, Doreen Kartinyeri and Sandra Saunders.

16 A. It became a matter of routine. I would place calls  
17 routinely every few days with the Aboriginal Legal  
18 Rights Movement, leave messages for Sandra Saunders and  
19 Doreen Kartinyeri. On a couple of occasions in the  
20 ensuing months, Sandra Saunders actually returned my  
21 phone calls, but I never interviewed either of them  
22 again.

23 Q. I think you even went to the stage, did you not, of  
24 going to a house in Holden Hill which you believed to be  
25 the house where Doreen Kartinyeri was staying.

26 A. There was an address at Holden Hill which I was told I  
27 might find Doreen Kartinyeri. I believe a relative of  
28 hers lived there. I went there, I think it was, in  
29 early June after I had aired the story with Doug Milera  
30 where Doug Milera had publicly declared his role in what  
31 he called 'the fabrication'. I was trying then to  
32 redouble my efforts to talk to Doreen Kartinyeri and get  
33 her reaction. I went on that occasion to an address at  
34 Valiant Road, Holden Hill. A younger Aboriginal woman  
35 answered the door and said that Doreen was not there.

36 Q. I think later on that same day - that is the day that -

37 A. Yes, I went from -

38 Q. The day you put Doug Milera to air.

1 A. It is the day I put the Doug Milera interview to air,  
2 two days after the actual interview occurred.

3 Q. That is on 7 June.

4 A. Yes. I went on that day up to Wellington to speak to  
5 Doug Milera again on camera, and then I went across to  
6 Murray Bridge to speak to Dorothy Wilson, on camera  
7 again, to her reaction to the latest developments.  
8 Also, on that day, I went to the Lower Murray Nunga's  
9 Club again to speak to anybody there who might be  
10 willing to give me their point of view. I was  
11 threatened - they threatened there that they would call  
12 the police unless I left the premises.

13 Q. In this period, were you also attempting to speak with  
14 the Aboriginal Affairs Minister, Robert Tickner.

15 A. Throughout the entire period, I have had longstanding  
16 requests to Robert Tickner's office for an interview. I  
17 spoke to him, his office through his press secretary on  
18 numerous occasions and we even went to the unusual step  
19 in a news room of sending a written request from my news  
20 director to Robert Tickner's office. We further offered  
21 to fly anywhere in Australia at any time, or set up a  
22 satellite link from Adelaide to anywhere he wanted to be,  
23 and to no avail. He would not give me an interview.

24 Q. Still on this topic, you had a man by the name of Victor  
25 Wilson identified to you by, amongst other people, Doug  
26 Milera.

27 A. It had become clear to me too that Victor Wilson was  
28 another key player in what had gone on in the bridge  
29 affair and I made attempts to secure an interview with  
30 him. I rang him at the establishment he works on the -  
31 at Murray Kalparran Farm, that is the correct name. I  
32 spoke to him on the phone on one occasion, which he  
33 refused to give me an interview. Since then, I rung a  
34 couple of times and left messages which have not been  
35 returned. I did bump into him outside the Commission on  
36 one occasion.

37 Q. Going back a little way then, following 19 May, that is  
38 the story that went to air focusing on Dorothy and

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- 1 Dulcie Wilson, did you speak to a number of other  
2 Ngarrindjeri women who supported the allegations made by  
3 Dulcie and Dorothy.
- 4 A. Yes. That was certainly in the following week. I had  
5 my own list of at least ten that were using the term -  
6 which I think it's a strange term - of 'dissident  
7 women', and some of those were prepared to go on camera  
8 and have their names used, and others were only willing  
9 to speak to me on the phone and confirmed to me that  
10 they knew nothing of secret women's business and doubted  
11 its authenticity and asked me to not use their names  
12 publicly.
- 13 Q. I think during this period, that is the period  
14 immediately following that story of 19 May, you also  
15 made approaches to the Museum and in particular the  
16 anthropology staff at the Museum.
- 17 A. Yes. I may have placed more than at least one call,  
18 maybe two. I had been - I wanted to get some sort of  
19 independent opinion on this and so I placed a call to  
20 the head of the anthropology division of the South  
21 Australian Museum to Philip Jones. The call wasn't  
22 returned. I felt that the Museum was probably worried  
23 about getting involved in the issue. But, the following  
24 week, I think it was, I noticed that Philip Jones had  
25 been quoted in Time magazine. I tried again and he then  
26 agreed to an interview.
- 27 Q. I think you interviewed Philip Jones on Tuesday, 29 May.
- 28 A. Yes.
- 29 Q. His story went to air on that night.
- 30 A. On that night, yes.
- 31 Q. I think that the first raw footage tape, marked CKK1,  
32 which is Exhibit 148, contains the raw footage of the  
33 Doreen Kartinyeri interview at her doctorate ceremony.
- 34 A. Yes.
- 35 Q. The Deane Fergie doorstep interview on the same occasion  
36 and Dr Philip Jones.
- 37 A. That would be right, yes.
- 38 MR SMITH: That is a short tape and perhaps if we

1 could have this now. That is the balance of Exhibit  
2 148.

3 EXHIBIT 148 PLAYED TO COMMISSION

4 Q. That's a shot of Bertha Gollan.

5 A. Yes. I think what you are about to see is the interview  
6 which would have been conducted on 20 May by Kelly Sloan  
7 with Bertha Gollan.

8 VIDEO PLAYED

9 A. I think there is now a lot of general vision of the  
10 ceremony before it actually gets into it.

11 TAPE PAUSED

12 Q. It's correct that from now on we get the televising of  
13 the ceremony; is that right.

14 A. There is actually five or ten minutes of the general  
15 vision of the ceremony, the doctorate ceremony at the  
16 Festival Theatre.

17 Q. Including the speeches as well.

18 A. Yes.

19 Q. And the replying speech of the Doreen Kartinyeri.

20 A. Yes.

21 Q. And it is in the foyer outside that your interviews take  
22 place, isn't it.

23 A. That's correct.

24 MR SMITH: I don't think we will subject everybody  
25 to the doctorate ceremony, unless anyone would like to  
26 look at it.

27 MR KENNY: I would indicate that I would like to  
28 look at it and I would be happy to look at it over lunch  
29 time.

30 MR SMITH: That would bring us to the interviews at  
31 the end of the ceremony. If Mr Kenny can watch it over  
32 lunch time and take it up to the part I want to get to  
33 over the break, then we can commence from that point  
34 onwards at 2.15 p.m.

35 ADJOURNED 12.56 P.M.

1 RESUMING 2.22 P.M.

2 COMSR: You were about to add something, or were  
3 you waiting for a ruling?

4 MR KENNY: No, I don't wish to add anything from  
5 that point.

6 COMSR: I will deal with your application for  
7 suppression now that I have had an opportunity to  
8 consider the material in Exhibit 67, which shows the  
9 extent of the previous publication of the relevant  
10 material.

11 It appears to me that where material has been  
12 published in the Advertiser, the Australian, the Sydney  
13 Morning Herald, Canberra Times, on TV broadcasts and in  
14 various correspondence, that it is difficult to maintain  
15 that it is confidential and that its confidentiality  
16 ought to be protected. Furthermore, the greater the  
17 degree of prior publication, the less force to a claim  
18 of prejudice or hardship such as to bring the matter  
19 within s.16 of the Royal Commissions Act.

20 There may have been a time early in the piece before  
21 the controversy arose when the material in question  
22 could have been restricted and that hurtful consequences  
23 which had been claimed might have been minimised.

24 However, much that it might be a cause for regret  
25 that in some contentious matters the material had not  
26 been restricted, it is too late for this Commission to  
27 reverse the process and return what has been publicly  
28 stated into private material. Indeed, it was the  
29 publicity concerning this material which preceded the  
30 setting up of this Commission.

31 In the circumstances, Mr Kenny, I don't propose to  
32 make any order for a suppression of the material in  
33 question.

34 MR KENNY: Thank you.

35 COMSR: Was there any further matter?

36 MR KENNY: There is a different matter, an  
37 additional piece of evidence that I would like you to  
38 have a look at. It's contained on this tape. It is Dr

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1 Doreen Kartinyeri's ceremony of the appointment of her  
2 as a doctorate of the University of South Australia.  
3 This Commission has heard a lot of evidence concerning  
4 Dr Kartinyeri and her involvement in the Hindmarsh  
5 Island affair. It may be that she will not give  
6 evidence before this Commission, but I believe it will  
7 assist the Commission if you view this tape. There is  
8 about 10 or 15 minutes worth giving some background and  
9 history of Dr Kartinyeri and her acceptance speech.

10 It's relatively short.

11 COMSR: She's made it very clear that she  
12 doesn't wish to be taking part in this Commission. I  
13 rather wonder whether before I did that - and I take it  
14 you have no instructions from her?

15 MR KENNY: I certainly don't have any instructions  
16 from her. I wasn't even aware that this tape existed  
17 until this morning.

18 COMSR: I'm hesitant to do something in the face  
19 of a fairly forceful statement to the contrary. I mean,  
20 it does form part of the exhibit. If I consider at the  
21 end of the hearing that it is appropriate to do so, I  
22 suppose there is no reason why I shouldn't have regard  
23 to it, but I am a bit hesitant, in the absence of any  
24 indication from Dr Kartinyeri that she has changed her  
25 attitude and wants me to take in her account, to do so.  
26 I'm not ruling it out, I'm just hesitating a little  
27 because you certainly have no instructions to ask me to  
28 view it. I don't rule out that possibility, but, just  
29 for the time being, I would like to reserve my views in  
30 respect of this material and the use to which I could  
31 properly put it, given the state of that attitude by Dr  
32 Kartinyeri or Dr Kartinyeri's counsel. All I say is  
33 that there appears to have been a considerable amount of  
34 evidence already given concerning Dr Kartinyeri to date.

35 COMSR: Yes, there has been, and one never knows  
36 in an inquiry what material might be forthcoming in the  
37 final analysis. As I say, I don't rule out that I might  
38 well have regard to it. I'm a little hesitant as to

- 1 what use I could make of it at the present time.
- 2 MR KENNY: That may be a matter for submissions.
- 3 At this stage, I was going to ask that you view it.
- 4 COMSR: No, but I'll bear in mind what you have
- 5 to say. I know that it's there and if you consider that
- 6 it is useful at some stage and it's not inappropriate to
- 7 do so, I could have regard to it.
- 8 MR KENNY: I would ask that perhaps you at least
- 9 view it during, or during the Commission at some stage.
- 10 MR SMITH: If we could go to the end of that tape,
- 11 the ceremony where the interviews start.
- 12 VIDEO PLAYED
- 13 CONTINUED



1 XN

2 Q. I think, in the course of your further investigations,  
3 you spoke with Betty Tatt, is that correct.

4 A. That's correct, yes.

5 Q. I think that was on 31 May.

6 A. Yes, the following day, as I remember it.

7 Q. I think you spoke yourself with Bertha Gollan again.

8 A. Yes.

9 Q. Although a previous reporter had done that, hadn't she.

10 A. Yes, I eventually made contact with Bertha myself and  
11 interviewed her.

12 Q. Audrey Dix and Una Wilson, were they separately  
13 interviewed, or were they merely together.

14 A. They had expressed to me their support for what Bertha  
15 Gollan was saying. They didn't feel particularly  
16 confident about speaking on camera so they agreed to sit  
17 in on the interview and be filmed on location supporting  
18 Bertha.

19 Q. I think you spoke again with Dorothy Wilson, is that  
20 right.

21 A. Yes, Dorothy came up to Adelaide and I interviewed her  
22 at Bertha's house.

23 Q. Then the next interview was then, in connection with  
24 this matter, at least, Douglas Milera at Victor Harbor  
25 on 5 June.

26 A. Yes.

27 Q. There is both news items relating to Bertha Gollan and  
28 Betty Tatt and also wild or raw footage relating to  
29 their interviews, is that right.

30 A. There was a long series of interviews and items  
31 virtually every night with a small gap for the State  
32 budget and there is raw footage behind all of those.

33 Q. First of all, I just wanted to look at the raw footage  
34 relating to your interviews with Betty Tatt, Bertha  
35 Gollan and again with Dorothy Wilson before we come to  
36 Doug Milera and then I will show the balance of the news  
37 items.

38 A. Okay.

C.K. KENNY XN (MR SMITH)

- 1 COMSR: That is Exhibit 148, is it?  
2 MR SMITH: This is a new tape altogether. We have  
3 just finished with Exhibit 148.  
4 This is the raw footage of the interviews with Betty  
5 Tatt and Bertha Gollan in the presence of Audrey Dix and  
6 Una Wilson and Dorothy Wilson.  
7 VIDEO PLAYED  
8 XN  
9 Q. About how long do these take.  
10 A. Is the tape full there? It might be a one hour tape.  
11 Q. Is this Betty Tatt, is it.  
12 A. Yes, this is Betty Tatt.  
13 COMSR: Isn't this material that I will have  
14 difficulty with, under the terms of the -  
15 MR SMITH: It clearly does not purport to be what  
16 you are on about, but it is tied in with some  
17 conversation, in a moment.  
18 CONTINUED

1 XN

2 Q. This is your interview with Bertha Gollan present and  
3 with who else.

4 A. Audrey Dix and Una Wilson.

5 TAPE CONTINUES

6 TAPE STOPPED

7 Q. We are up to the interview of Doug Milera at Victor  
8 Harbor on 5 June.

9 A. Yes.

10 Q. On that tape, we have watched there from the very  
11 beginning of the first interview with Dorothy Wilson and  
12 Dulcie Wilson on 16 May through to that interview with  
13 Bertha Gollan and Dorothy Wilson which again formed a  
14 part of a barrage of news items.

15 A. There were many, many news items which you would have on  
16 another tape. Certainly all of those interviews were  
17 used and probably other interviews as well. But I think  
18 what we have to look at is the dissident women's, so to  
19 speak, parts of those interviews.

20 COMSR: You haven't tendered that tape, but do I  
21 have the same problem with the introductory part of that  
22 tape as I have with the other sections that could  
23 possibly conflict with the Terms of Reference requiring  
24 me not to prejudice the Federal Court proceedings,  
25 which, in essence, is to avoid evidence which deals with  
26 the issue of the manner in which the Federal Minister  
27 dealt with the application for a declaration?

28 MR SMITH: There is certainly material that we have  
29 seen already, and I'm not sure about material to come,  
30 but I think there is the odd remark in material to come  
31 that deals with the question of the widths of Professor  
32 Saunders' consultation and that sort of thing, but you  
33 are bound to have that. We are hear debating much the  
34 same subject matter that Professor Saunders was  
35 investigating.

36 COMSR: It wouldn't be a problem, but for the  
37 specific requirement in the Terms of Reference that I'm  
38 to avoid prejudicing.

## C.K. KENNY XN (MR SMITH)

1 MR SMITH: Just hearing some evidence that is mixed  
2 in with other evidence cannot offend against that Term  
3 of Reference.

4 COMSR: It's difficult to say what the ambit of  
5 the Terms of Reference is pending the decision in the  
6 Federal Court. I suppose one must have regard to the  
7 possible effect of that.

8 MR SMITH: It can only have an effect on you. I  
9 mean, my submission to you about that would be that part  
10 of the evidence just doesn't assist you in the Terms of  
11 Reference, and just hearing it is not going to prejudice  
12 the Federal Court proceedings; which were, after all, to  
13 do with the exercise of power. We are not investigating  
14 that or touching on that in any respect.

15 COMSR: Up to date, of course, the attitude I  
16 have taken in respect of that is not to receive that  
17 type of evidence, simply because of the existence of the  
18 Term of Reference and the rather indefinite nature of  
19 the requirement.

20 MR SMITH: It's rather difficult, isn't it,  
21 mechanically? It's difficult to prise any of those  
22 comments out, and I would invite you just to ignore  
23 those.

24 COMSR: Precisely.

25 MR SMITH: I think that is the best we can do.

26 COMSR: That is what I'm saying: really, I don't  
27 receive them, I have no regard to them in the  
28 circumstances. They form part of the exhibit, but  
29 that's about all.

30 MR SMITH: Indeed, it's barely evidence. It's a  
31 view expressed. If you are content with that, there is  
32 nothing practical we can do about that.

33 Q. The last raw footage tape of your interview with Bertha  
34 Gollan and Dorothy Wilson, can you tell us what that  
35 was, what date that was.

36 A. It was the same date of the earlier interview with  
37 Bertha shot on the same day I went back to Bertha's  
38 house.

1 Q. 23 May 1995.

2 A. That would be right, I think.

3 Q. Yes. That's right, isn't it.

4 A. Okay.

5 MR SMITH: I want to play that series of news items

6 that brings us up to 5 June. If we could go back to

7 Exhibit 147. There will be material here which embraces

8 a wider perspective.

9 EXHIBIT 147 PLAYED

10 CONTINUED

## C.K. KENNY XN (MR SMITH)

- 1 COMSR: That contains a lot of material, Mr  
2 Smith, also that I wouldn't have thought very  
3 significant. I would certainly propose to ignore that  
4 part of the tapes which deals with the political  
5 reaction and comments by and about the various political  
6 figures concerned. I don't know that that is going to  
7 assist me very much with the issue before me.
- 8 MR SMITH: No, I think we always have to keep  
9 reminding ourselves here, don't we, that this is an  
10 Inquiry and you will use of this material what you can  
11 to answer your Terms of Reference.
- 12 COMSR: Yes, I appreciate that.
- 13 MR SMITH: And you will cast aside things that  
14 don't help you.
- 15 COMSR: I am just making the comment that that  
16 portion of the tape is not likely to be of much  
17 relevance to me in dealing with the issue of  
18 fabrication.
- 19 MR SMITH: No, and I don't think anyone from this  
20 table will argue otherwise, but there are intercepts  
21 with that material, of course.
- 22 COMSR: Yes, I appreciate the difficulty that  
23 the tapes contain material that is useful material and  
24 it also contains other material which is marginal, if I  
25 can put it that way.
- 26 XN
- 27 Q. That brings us to 5 June 1995 and the interview with  
28 Doug Milera.
- 29 A. Yes.
- 30 Q. Can you tell us on that evening of 5 June or the  
31 afternoon of 5 June what occurred.
- 32 A. Very late in the day, it must have been after 5 o'clock  
33 because I was preparing to leave Channel 10 for the day,  
34 I received a phone call from somebody who said the call  
35 was off-the-record. That person wanted to get my mobile  
36 phone number so that I could be put in contact with  
37 another person who I was told would have someone with  
38 him who was effectively defecting from the sacred

1 secrets camp.

2 Q. On that basis you gave your mobile number.

3 A. I provided my mobile phone number and headed home  
4 alerting my superiors at work to the fact that something  
5 may be happening that evening. And before I arrived  
6 home I got a call on that mobile number from Kym Denver  
7 who told me he was with Doug Milera at Middleton and we  
8 made arrangements to meet as soon as possible at Victor  
9 Harbor. I returned to work to meet a cameraman and we  
10 headed down there.

11 Q. Did you know this man, Kym Denver.

12 A. I had never met Kym Denver before, no.

13 Q. Did he introduce himself on the phone to you.

14 A. We had a brief introduction on the phone. He explained  
15 to me in straightforward terms who he was, that he was a  
16 landholder on Hindmarsh Island, that he was active in  
17 fighting in favour of the bridge and that he had known  
18 Doug Milera for sometime locally and that Doug had come  
19 to him that day. I got a better idea of who he was and  
20 talked to him in more detail about all that when I met  
21 him face-to-face in Victor Harbor.

22 Q. You set off to Victor Harbor, what, at about 7 o'clock  
23 in the evening, did you.

24 A. It would have been about 7, because we arranged to meet  
25 at 8 o'clock at the Appollon Motor In, where I had  
26 arranged to get a room.

27 Q. You had done that yourself, had you.

28 A. Yes.

29 Q. You and your cameraman, was that the only crew you had.

30 A. Yes, one cameraman.

31 Q. Arriving at the Appollon Motel at about.

32 A. It would have been very close to 8 o'clock, maybe five  
33 minutes afterwards, and Kym Denver and Doug Milera were  
34 waiting for us in the foyer.

35 Q. Is it the case, you have already said in relation to  
36 Denver, but was it the case that you had met neither of  
37 these men before.

38 A. No, I hadn't met either of them before.

1 Q. When you got there they were in the reception area, were  
2 they.

3 A. Yes.

4 Q. Can you recall what they were doing when you got there.  
5 For instance, were they having a drink.

6 A. No, they were both just sitting in chairs next to the -  
7 a receptionist's desk. There was a girl at the  
8 receptionist's desk and as we walked through the door  
9 they stood up to shake hands and introduce themselves.

10 Q. You had booked a room, hadn't you.

11 A. What I had done was booked as large a room as possible  
12 thinking it was where we could sit down and have the  
13 cameraman there and have an interview and have a chat.  
14 On arrival the receptionist said there was a conference  
15 room available and we decided to take that instead.

16 Q. You went into the conference room I take it, the four of  
17 you.

18 A. Yes.

19 Q. Had you had a meal on that evening.

20 A. No, myself and my cameraman hadn't eaten. The first  
21 thing we asked was whether we could organise a meal of  
22 some kind and other refreshments. The kitchen was  
23 closed, there wasn't much available by the way of  
24 coffee, so the cameraman went out to get some take away  
25 and Doug suggested that he would like a beer, so I had a  
26 beer with him, and so did Kym Denver.

27 Q. This was at the outset, was it.

28 A. This was within 20 minutes of arrival, yes.

29 Q. Just to get the picture, for how long did you, for  
30 instance, have a discussion before you started filming.

31 A. We didn't start filming until much later, at least two  
32 hours, probably closer to three hours later.

33 Q. In that time I take it you had something to eat.

34 A. I had pizza and chips and a couple of beers.

35 Q. During that, what did you say, two to three hours, did  
36 you.

37 A. Yes.

38 Q. During that two to three hours, what did you set about



1 doing. You hadn't met either of these men before, had  
2 you.

3 A. No, I hadn't met either of them before. I was  
4 well-aware of who Doug Milera was. He was on my list of  
5 people to meet and talk to as I was checking out this  
6 story. So, the first thing I did upon arriving in the  
7 conference room was just to chat both to Doug and Kym  
8 about their relationship, about their background, about  
9 what had gone on previously that day. To discuss with  
10 them just in detail how Doug managed to arrive at this  
11 location, with the expressed intention of Doug  
12 confirming to me the fabrication claims. I wanted to  
13 make sure that Doug was not being manipulated by anybody  
14 else. I wanted to be - satisfy myself that Kym Denver  
15 was a straightforward character, dealing with me in an  
16 honourable fashion.

17 Q. The telephone call earlier in the evening when this was  
18 set up as it were by Denver.

19 A. Yes.

20 Q. Did Denver convey to you what he had in mind, or what  
21 this -

22 A. Yes, that had actually been conveyed in the earlier  
23 off-the-record phone call, when I was told that there  
24 was a person from the sacred secrets camp who was going  
25 to spill the beans, so to speak. I asked whether it  
26 was a male or a female. I was told it was a male and I  
27 said 'Is it Doug Milera?' And the other person said  
28 'Yes, it is.'

29 Q. In that earlier telephone call did you get any more  
30 detail than that over what the spilt beans were going to  
31 be.

32 A. No, it was a very, very quick call and the idea was just  
33 basically to get my - to find out whether I was  
34 interested, to get my mobile number, so that Kym Denver  
35 could contact me.

36 Q. In this period of two to three hours that was a prelude  
37 to the filming did you come to any views about Milera's  
38 sobriety.

- 1 A. Milera had been drinking, he was definitely not  
2 stone-cold sober, but he was very much in control of  
3 what he was doing. He was very well-aware of what he  
4 was saying and very much in control of the situation.  
5 He was the one who dominated the meeting. He was - kept  
6 telling me to write things down and kept correcting me  
7 on points. And I was very keen to question him about  
8 all sorts of things that - so that I could check what he  
9 was saying against known facts.
- 10 Q. You kept notes of this conversation that preceded the  
11 filming.
- 12 A. I took notes. It is not a habit of mine to take very  
13 detailed notes, but Doug kept insisting that I write  
14 some of this down, so there are about, I think, seven or  
15 eight pages of scribble there.
- 16 Q. You have those original notes with you.
- 17 A. Yes.
- 18 MR SMITH: These are part of Exhibit 145. We all  
19 have copies of these.
- 20 XN
- 21 Q. By reference to your notes, when you need to, could you  
22 tell us what was said, broadly speaking, in that two to  
23 three hour period.
- 24 A. In essence Doug wanted to tell me all about the  
25 background of the anti bridge fight and about how he and  
26 his wife were brought into it, firstly, at the  
27 insistence of union officials. He talked about meetings  
28 with union officials from the CFMEU and he talked about  
29 how he and Sarah had been taken to a picnic at Goolwa.  
30 And he kept referring to this picnic. I think they  
31 went along expecting it just to be a picnic. When they  
32 arrived, it turned out to be a tactics meeting and they  
33 were each asked how they felt about protesting and the  
34 fight against the bridge. Doug went on to talk about  
35 meetings with Victor Wilson who was the Chairman of the  
36 Lower Murray Aboriginal Heritage Committee, a very good  
37 friend of Doug's and Doug was the Secretary of that same  
38 committee. And he talked about how Victor had discussed

- 1 the fight against the bridge with him along with other  
2 men involved in the same committee, George Trevorrow and  
3 Henry Rankine. He was at pains to stress that, going  
4 back over the years, Victor Wilson had virtually  
5 assigned Henry Rankine along with George Trevorrow and  
6 Jean Rankine to deal with the bridge issue. And he said  
7 to me that they didn't negotiate with Binalong. He was  
8 keen to stress now that Aboriginal people had been  
9 consulted, did deal with Binalong about the bridge.
- 10 Q. Just to interrupt you there, all this factually checked  
11 Out with what you knew about the matter, to some degree.
- 12 A. All the names that Doug mentioned, all the meetings he  
13 mentioned, all the occurrences he mentioned checked out  
14 factually, yes.
- 15 Q. I don't necessarily mean consultation to the extent of  
16 it, but just the names mentioned and the events.
- 17 A. Yes, all those little bits and pieces of facts you can  
18 check along the way. He was pretty well on the ball all  
19 the way.
- 20 CONTINUED

## C.K. KENNY XN (MR SMITH)

- 1 Q. So he went back to the question of your notes. You then  
2 record, don't you, back to the meeting or the picnic.
- 3 A. Yes. He mentions the name of Dave Thomason, a person he  
4 had met that day, and another gentleman, a Casey  
5 Rittenberg, that's a name I'm not familiar with.  
6 Certainly I'm aware of Dave Thomason, a CMFEU  
7 representative. He talked about how he copes with  
8 protesting, he talked about George Trevorrow, how the  
9 area was a registered site, that the site had been  
10 recognised and then overruled, and that money was being  
11 brought in to have the island resurveyed, and he talked  
12 about the efforts, then, through the committee, to have  
13 Mr Lucas look over the island and try and establish more  
14 of the Aboriginal sites there. Do you just want me to  
15 keep going through these notes?
- 16 Q. Yes. If you remember other things that were said that  
17 aren't necessarily noted.
- 18 A. Right, well, the whole tenor of Doug's discussion was he  
19 just wanted to go through the background, the way that  
20 he had been involved, and the way that things had panned  
21 out. I wasn't particularly interested in my notes. As  
22 I say, I was taking them basically at Doug's insistence.  
23 I was more interested in sitting there with Doug, making  
24 eye contact and assessing his state of mind and how he  
25 felt about what he was saying, and measuring what he was  
26 saying against the known facts.
- 27 Q. So can we glean from that that there was much  
28 conversation that wasn't noted.
- 29 A. Yes. We were there for two and a half hours at least,  
30 discussing all of these matters in detail.
- 31 Q. But nonetheless, by reference to your notes, could you  
32 keep going.
- 33 A. It goes on, I think, on p.3 of the notes here, at the  
34 top of the page, where he talks about when Michael  
35 Armitage overruled the Aboriginals concerned, and said  
36 that the bridge would go ahead.
- 37 Q. Can I interrupt you and take you back to about 2.5 of  
38 your notes. Is there a mention there of Tickner and

## C.K. KENNY XN (MR SMITH)

1 Neale Draper. Have I got the right page. Does your p.2  
2 start 'With union expecting a picnic' at the top of p.2.

3 A. Yes, I'm with you.

4 Q. About 2.5 there's a mention of Lucas.

5 A. Yes. 'Lucas found so many sites. We asked Tickner - we  
6 wanted to check the island property. We called Neale  
7 Draper on the day that they were going to put machines  
8 on Amelia Park. We were getting fed stories of  
9 Kumarangk, that skeletons were being found. I went to  
10 the Murra with Draper. He showed me where they were  
11 interred. I was satisfied'. Now to that next page  
12 where he says that when Michael Armitage overruled the  
13 Aboriginals concerned and said that the bridge could go  
14 ahead, 'The Unions and mostly white people and me',  
15 being Doug, 'And Sarah were at the point of most  
16 dangerous', they were vulnerable. He talked about a  
17 meeting just before that of Ngarrindjeri people on a  
18 park on Hindmarsh Island owned by the university. He  
19 said 'I believe that's The Pines on the island where a  
20 number of meetings have taken place'. Doug, as he has  
21 done often with me, goes on to talk about how he was  
22 born a Christian, and his wife was as well, and that a  
23 lot of people involved in this whole issue are  
24 Christians and that, despite this, they respected the  
25 beliefs of their forefathers. Even though they don't  
26 practice them. 'We like to record the past and respect  
27 it, respect the tradition of our own people'. They like  
28 to achieve things for the Ngarrindjeri people and their  
29 children. Although he says it's impossible to live in  
30 two worlds, it's a theme he often returns to. At the  
31 bottom of this page I mentioned that Dorothy Wilson was  
32 declared an outcast. It was, Doug explained, what had  
33 convinced him to go to Kym Denver and to me. 'I was  
34 upset about vilification which had been directed to  
35 Dorothy Wilson'. He also mentioned the alleged curses,  
36 threats of singing from the desert tribes, and that this  
37 had tipped him over the edge, and he mentions 'She is  
38 declared an outcast, so have other Ngarrindjeri people

C.K. KENNY XN (MR SMITH)

1 like Bertha Gollan, because they do not want to follow  
2 Doreen Kartinyeri and Sandra Saunders because they have  
3 differed'. He then went on to speak in detail about the  
4 meeting at the Mouth House, the meeting that Dorothy had  
5 referred to in her interviews with me.

6 COMSR: Do you wish to cover this?

7 MR SMITH: We have got a way to go, if this was a  
8 convenient spot.

9 COMSR: We'll adjourn until 10.15 in the  
10 morning. I just advise counsel that I have prepared  
11 some written reasons for my rulings on the admissibility  
12 of the tapes that Mr James introduced into evidence, and  
13 they are available for counsel.

14 ADJOURNED 4.33 P.M. TO TUESDAY, 19 SEPTEMBER 1995 AT 10.15 A.M.

1 COMSR STEVENS

2

3 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

4

5 TUESDAY, 19 SEPTEMBER 1995

6

7 RESUMING 10.24 A.M.

8 MR SMITH: Perhaps if I indicate before I start  
9 that the programme for the next couple of days is that  
10 Mr Kenny will conclude his evidence-in-chief today and  
11 that will take a goodly portion of today. That unless  
12 counsel are ready to cross-examination Mr Kenny, that  
13 can take place on Thursday. I think you're viewing  
14 Hindmarsh Island tomorrow. So, that's the short-term  
15 plan so that people can make arrangements for that.

16 WITNESS CHRISTOPHER KEVIN KENNY CONTINUING  
17 EXAMINATION BY MR SMITH

18 Q. Prior to the adjournment last evening, we had reached a  
19 stage in your notes, I think at p.4.

20 A. Yes.

21 Q. You were refreshing your memory from your notes.

22 A. Yes.

23 Q. Can you pick it up there where I think you mentioned  
24 'One day Vic Wilson ...'.

25 A. Perhaps if I take it from the top of that page. This is  
26 the note I was jotting down at the request of Doug  
27 Milera as we were chatting prior to the television  
28 interview. The top of the page he says 'I had told  
29 Dorie Wilson about Hindmarsh Island being a child in' -  
30 and he went on to say 'in the womb of a woman', et  
31 cetera. 'I spoke to a person' - I left the, and I left  
32 the question mark there. He didn't name the person. He  
33 goes on to say that person is Victor Wilson 'Who got in  
34 contact with Doreen Kartinyeri and explained the  
35 issues'. The next note refers to meeting, a meeting  
36 with Vic Wilson: 'One day Vic Wilson, the Chairman of  
37 the Lower Murray Aboriginal Heritage Committee' -

38 Q. Interrupting you there. You see there when you

1 refreshed your memory from the notes, you read 'I spoke  
2 to a person' and then a question mark 'Who got in  
3 contact with Doreen Kartinyeri and explained the  
4 issues'. Does that mean that person was named to you,  
5 but you weren't able to recall at the time in your  
6 notes.

7 A. That means that when Doug was speaking to me at that  
8 time, he didn't name the person, and I made a note  
9 myself to question who that person was. And in the very  
10 next note, he mentions Vic Wilson, and that is the  
11 person he was referring to.

12 Q. Go on then.

13 A. 'One day, Vic Wilson, the Chairman of the Lower Murray  
14 Aboriginal Heritage Committee, called me in his office  
15 and showed me an aerial photo of Hindmarsh Island and  
16 said "This is a woman, it's the creation of the  
17 Ngarrindjeri people and I'm going to ring Doreen  
18 Kartinyeri to explain it and to find out about it".  
19 Doug went on to say that he was convinced that this  
20 business, and there is a dash 'I'm going to blow it all  
21 wide open because it needs to be done'.

22 Q. To make it clear, Doug's there telling you that Vic  
23 Wilson, in effect, briefed Doreen Kartinyeri.

24 A. Yes. On the next page, the note says that 'Sarah at the  
25 CFMEU picnic, no clue what was going on with regards to  
26 women's business' - in 15 years of marriage Doug is  
27 referring to, she had never mentioned women's business  
28 to him. 'I believe my wife and I were conned by  
29 Ngarrindjeri women and all concerned with the whole  
30 issue of the Hindmarsh Island bridge'. There, he is  
31 referring to Sarah saying that since being the first  
32 woman in Goolwa and the custodian. He is referring then  
33 to the way that he and Sarah were, in effect, he says,  
34 placed at Goolwa to lead the anti-bridge movement and to  
35 be the custodians of that area in the fight against the  
36 bridge. He says 'Since that, the ALRM and Doreen  
37 Kartinyeri have taken over the role as leaders with  
38 knowledge that they don't have'. The next note refers



- 1 to Draper, Dr Neale Draper. `Draper has been  
2 manipulated by anti-bridge people. He and my wife  
3 conned Draper. My wife first heard about it from me' -  
4 referring to the women's business. `I was fooled into  
5 believing' - this is Doug speaking again directly -  
6 `that we were undertaking reconciliation with the white  
7 people who opposed the bridge'. As I was discussing  
8 things with him, he said to me that he and Sarah and the  
9 other females felt close to the white people, the  
10 unionists and the conservationists, who were opposed to  
11 the bridge and were working together, they were working  
12 together in reconciliation. I have a short note at  
13 the top of the next page which is: `People like Doreen  
14 and them don't want to be the power, don't want us to be  
15 the power and the leaders of the Ngarrindjeri nation'.  
16 Q. I don't think -  
17 A. That is the end of the notes.  
18 Q. They are the notes of a much longer conversation, I take  
19 it, if it was two to three hours.  
20 A. Yes.  
21 Q. You alluded to it earlier in your evidence and your  
22 statement discloses it that you had a number of  
23 objectives in mind when you sat down with Milera and  
24 Denver.  
25 A. Yes.  
26 Q. Can you tell us what they were and whether you were, you  
27 know, in other words, satisfied what you were enquiring  
28 about.  
29 A. Well, my initial intention was that everybody who had  
30 been involved with this issue, to treat them with some  
31 sort of scepticism as to their motives, et cetera. I  
32 was observing both individuals as to what motives they  
33 might have to speak to me and what other pressures were  
34 involved. I was very keen to make assessments about the  
35 relationship between Kym Denver and Doug Milera. Here  
36 were two men who were from opposing camps, one a large  
37 landholder and presumably possibly wealthy, and the  
38 other an opponent of the bridge and living in Goolwa and

1 fighting against the bridge. And I wanted to explore  
2 why they would come together. And I spoke to both men  
3 individually and collectively, and as it turned out they  
4 have had a good relationship throughout the debate and  
5 still both maintained a friendly sort of association.  
6 Even though they had been even opponents to each other  
7 around Goolwa leading the different respective camps in  
8 the bridge struggle, they maintained a healthy,  
9 respectful relationship. And when Doug explained to me  
10 that he finally decided he wanted to come clean and talk  
11 about what he thinks is the truth, Kym was someone he  
12 could speak to and so he rang him and asked to meet him.  
13 And so in discussing all of that sort of detail, I  
14 became satisfied that there was certainly no pressure  
15 here.

16 Q. That was one of your objectives. The next objective  
17 was, I think, for you to be satisfied that Milera was a  
18 truthful historian in a sense.

19 A. Well, I needed to know that Doug knew what he was  
20 talking about. Obviously, although I had never met  
21 Doug, I was well aware of his role in this issue. I was  
22 well aware of his position with the Heritage Committee  
23 and his role in the anti-bridge lobby. But, because it  
24 was the first time I had spoken to him, I wanted to talk  
25 to him about the whole issue, various events, various  
26 names, places - and all the time making mental notes to  
27 make sure that these sometimes irrelevant and sometimes  
28 crucial facts measured up against the known facts. On  
29 all occasions, Doug showed a comprehensive knowledge of  
30 the issues and the people involved.

31 Q. In your statement, you have a copy of that there.

32 A. Yes.

33 Q. Which is Exhibit 144.

34 A. Yes.

35 Q. You make a point at the bottom of p.8 and more  
36 particularly at the bottom of p.9 as to his motivation  
37 for coming forward. You explored that with him, did  
38 you, his motivation.

1 A. Yes, with Doug.

2 Q. Apart from uncovering the truth or what it was that  
3 motivated him to do that at that juncture.

4 A. Doug seemed to be very upset with what had been  
5 happening to Dorothy Wilson in particular and other  
6 dissident women, such as Bertha Gollan and Dulcie  
7 Wilson. He was upset that they had been made outcasts  
8 and declared that by the other women. There were some  
9 fairly unkind terms being used in the media like  
10 `traitors' and `women off the streets' - `dogs' I think  
11 at one stage, and this upset Doug. Doug said he was  
12 naturally upset as he had known these women all of his  
13 life. And the threats of curses I mentioned, he said  
14 that this was going to stop. If people were talking  
15 about doing harm from the use of curses to Dorothy  
16 Wilson and others, that was far too much for him, he  
17 couldn't be involved in it any longer.

18 Q. Did you canvas with Milera and Denver the question of  
19 their connection with the Chapmans and the Liberal  
20 Party.

21 A. I certainly questioned the connection with the Chapmans.  
22 I was aware that Kym Denver had dealings with the  
23 Chapmans and knew them. I was aware that the Chapmans  
24 had met with Kym Denver earlier in that day. That it  
25 was obvious that if Denver was a large landholder on  
26 Hindmarsh Island fighting for the bridge, he was going  
27 to come in contact with the Chapmans. In discussing the  
28 issue with Denver, I was satisfied that the Chapmans  
29 hadn't taken a role in the case in pressuring anybody.  
30 Doug Milera was very straightforward and keen and eager  
31 to speak to me and tell me everything.

32 Q. The topic of money, was that raised by Milera with you  
33 before the cameras started rolling.

34 A. It was raised very briefly, effectively by Kym Denver,  
35 but in the presence of Milera. I suppose they raised it  
36 together. Kym said to me that `Look, Doug's broke,  
37 homeless. He might need a bit of help'. I closed off  
38 the conversation immediately and said `It's completely

- 1 improper to discuss this sort of thing now. I won't be  
2 paying anybody for anything. Let's talk about the issue  
3 first and I'll give you my personal undertaking that if  
4 it's a matter of a man sleeping in the gutter tonight, I  
5 personally am not going to stand by and watch that  
6 happen. Let's deal with this business now and we can  
7 return to that some hours at the end of the interview'.  
8 I brought it up with Doug and asked him what his  
9 situation was that night.
- 10 Q. That conversation, did that take place in front of  
11 Milera, the conversation about money.
- 12 A. Yes. Doug was certainly right there.
- 13 Q. In fact, the evening's proceedings were around the table  
14 in this conference room.
- 15 A. Yes, a small table. There was some to-ing and fro-ing,  
16 using the lavatories and going out to get food and  
17 whatever. There weren't always all the three of us  
18 there together at the one time, but most of that was the  
19 three of us together.
- 20 Q. I want to get a general picture of the drink that was  
21 consumed by the group of you, the four of you.
- 22 A. Yes.
- 23 Q. Denver Milera, the cameraman and yourself.
- 24 A. Yes.
- 25 Q. Who was the cameraman.
- 26 A. Todd Decker.
- 27 Q. Can you just give us an overview of what was drunk in  
28 the evening, in the course of the evening.
- 29 A. Doug asked for a beer, so I thought I'd have a beer with  
30 him, and Kym said he would have one also. As we sat  
31 and as Doug's giving us all the issues, we had two  
32 stubbies each and ordered a third round which was never  
33 consumed. This is over a period of four hours.
- 34 Q. In total for the evening whilst you were in his company,  
35 Milera's company, he drank how many stubbies.
- 36 A. Two stubbies of Victorian Bitter.
- 37 Q. And yourself.
- 38 A. The same.

1 Q. The cameraman.

2 A. The cameraman, as I recall, had two cans of lemonade.

3 Q. And Denver.

4 A. Two beers.

5 Q. Before the cameras commenced rolling in the two to three  
6 hours, did you make an assessment of Milera's sobriety.

7 A. Yes, indeed. It was clear to me that he had had a  
8 drink. And I asked how much he had been drinking and  
9 took careful note of just how much, what sort of level  
10 of control he had over his faculties and how sober he  
11 was. And Doug was very straightforward, very much in  
12 control, very clear and precise about what he wanted to  
13 say.

14 Q. So, you satisfied yourself as to all those matters, the  
15 questions of pressure being brought to bear, his  
16 relationship with Denver and you assessed his grasp of  
17 facts that you knew about in order to assess his  
18 veracity; is that so.

19 A. Yes.

20 Q. And also you made an assessment as to his sobriety.

21 A. I perhaps should stress at this stage that a television  
22 interview not been agreed to. What I'm doing here is  
23 sitting down and discussing with Kym Denver and Doug  
24 Milera in great detail exactly what Doug wants to say.  
25 In fact, after I've discussed the issue of pressure and  
26 the relationship between Denver and Milera, Kym has just  
27 taken a seat off to the side and it's me just dealing  
28 with Doug and talking about the whole issue. Doug had  
29 indicated that he wants to come clean and tell the  
30 truth, but he said that he would like to go on camera  
31 and talk about it. He's - as well as I'm assessing him,  
32 he's assessing me to see whether he can trust me and  
33 agree to sit down and do a television interview. There  
34 is the period - this is the process that is going on  
35 over this two and a half to three hours before the  
36 interview actually takes place.

37 Q. Who was, in fact, running the show. Was it you, in your  
38 view.

1 A. Doug was very much keen to dominate the show, as was his  
2 right. He had the information. He was the one who had  
3 sought out the meeting and he was very keen to put me in  
4 my place on a number of times to sit me down and tell me  
5 to write it down and listen to this, and dominated the  
6 proceedings. He picked me up on a number of issues and  
7 it was very much his show.

8 Q. There is a topic I skipped over with you. You  
9 ascertained what had been going on in the earlier part  
10 of the afternoon in terms of drinking. Can you tell us  
11 what was said to you by either of the two men.

12 A. Kym and Doug said they had met at Goolwa, with Doug  
13 virtually ringing Kym and arranging to meet him to, as  
14 he termed it, 'spill his guts'. He had to virtually  
15 sneak out of home and meet Kym in some bushes in Goolwa,  
16 to pick him up from behind some bushes in a park. Kym  
17 had then taken him to another town, I think Middleton,  
18 so they get away from all the Goolwa crowd where they  
19 are both very well recognised. And, as I understand it,  
20 from early afternoon until the time they had met with  
21 me, that the pair of them had consumed maybe three or  
22 four drinks of beer between them as they sat around and  
23 discussed the whole issue.

24 Q. It was at about what time that evening that the cameras  
25 started rolling.

26 A. It would have been about 10.30, I believe.

27 Q. The interview took approximately over what period of  
28 time.

29 A. It would have taken up at least an hour. There's  
30 probably 40 minutes on tape. By the time you are  
31 setting up and getting other bits and pieces, tape  
32 changes, battery changes, it was probably an hour.

33 Q. In the course of the interview, I think the question of  
34 a letter to Mr Tickner arose, did it not.

35 A. That had arisen before the interview. I hadn't  
36 expressed great interest in the letter. Being a  
37 television reporter, I was much more interested in  
38 obviously what I get on tape. I want to hear people

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- 1 speaking and see them and hear what they have to say.  
2 The letter was going to be of great interest to most  
3 newspaper reporters or newspaper follow-ups. Certainly,  
4 Doug decided that he wanted to write a letter to Mr  
5 Tickner and he had begun to dictate one to Kym Denver  
6 before we had even got together that night. They must  
7 have worked on it, I think, earlier in the afternoon.  
8 And in our presence at Victor Harbor, Doug had continued  
9 to dictate that letter with Kym Denver writing it down  
10 in longhand and then forwarding it to the receptionist  
11 of the hotel to be typed up.
- 12 Q. This took place in front of you, as it were, did it.  
13 A. Yes. The drafting of the letter went out of the room to  
14 be typed up. Kym took that out of the room and had it  
15 typed up while I was in the room with the cameraman  
16 talking to Doug.
- 17 Q. To what extent did the two of them contribute to what  
18 went into the letter. I want to know whose letter it  
19 was in effect.  
20 A. It was essentially Doug's letter. Kym had some input, I  
21 suppose, into the matters of grammar, et cetera, but  
22 Doug dictated exactly what he wanted said in that  
23 letter.
- 24 Q. I want to show you two documents now, Exhibit 61.  
25 Looking at the letter produced. If you look at the  
26 handwritten version there rather than the typewritten  
27 version. Have you that in front of you.  
28 A. Yes.
- 29 Q. Do you recognise that as the handwritten version that  
30 was composed on that evening in front of you.  
31 A. I couldn't tell you, to be honest. I didn't - I saw  
32 them writing there, but I didn't pay a lot of close  
33 attention to the actual handwritten note.
- 34 Q. The typewritten version, Exhibit 61.  
35 A. The typewritten one is definitely the very letter that I  
36 saw signed and we have camera footage of it being  
37 signed.
- 38 Q. Did Doug Milera read either one of those letters in your

- 1 presence, or appear to read either one of those letters
- 2 in your presence.
- 3 A. He read the typewritten version very carefully before he
- 4 signed it.
- 5 CONTINUED



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1 Q. Was there any response in front of you by him to the  
2 letter as he read it.

3 A. I recall him making some complaint about the wording not  
4 being strong enough. I can't recall exactly what the  
5 wording was, but there was some suggestion from Doug at  
6 the time that perhaps it should be a little bit  
7 stronger, and Kym said to him `Well, it has been typed  
8 up now. Believe you me, Doug, this is probably strong  
9 enough'. And Doug said `Yeah, it probably is', and then  
10 he went ahead and signed it.

11 Q. I propose now showing the raw footage of the interview  
12 with Milera. This is about 40 minutes or so.

13 A. It would be about 40 minutes, I believe.

14 VIDEO PLAYED

15 CONTINUED

## C.K. KENNY XN (MR SMITH)

- 1 INTERJECTOR: You should be ashamed of yourselves.  
2 Absolutely disgraceful.
- 3 VIDEOTAPE CONCLUDES
- 4 MR SMITH: I tender that tape of raw footage which  
5 concluded with the interview of Doug Milera on 5 June  
6 1995, and it's marked CKK 2.
- 7 MR KENNY: Just on the tendering of that, I wonder  
8 whether we could have have copies of that tape. I  
9 obviously need to take instructions on some of the  
10 allegations there - there doesn't seem to be a  
11 transcript of that tape - and I'd also like a copy of  
12 particularly that tape. I just wonder whether that is  
13 possible to organise?
- 14 MS PIKE: I would endorse that request.
- 15 MR SMITH: There is a copy available.
- 16 MR KENNY: I'd like a copy that I can take away.
- 17 MR LOVELL: I behalf of Mr Kenny, these tapes were  
18 handed over on certain conditions to the Royal  
19 Commission. I have no objection to my friends looking  
20 at it whilst it's in the custody of the Royal  
21 Commission, but as for copies being made and  
22 disseminated to my friends, unless there are very strict  
23 undertakings given about that, we would oppose that very  
24 much.
- 25 COMSR: Are you suggesting that any part of this  
26 evidence should be suppressed?
- 27 MR LOVELL: No, but we're concerned about a number  
28 of copies of this being made and disseminated widely.  
29 There is just no reason why that should be.
- 30 COMSR: Is anyone making any application for  
31 suppression? No?
- 32 MR MEYER: Has this, in actual fact, been tendered  
33 yet?
- 34 MR SMITH: It's been tendered.
- 35 COMSR: I haven't given it a number.
- 36 MR MEYER: We suddenly stopped in the middle.
- 37 COMSR: Mr Kenny wanted to be heard.
- 38 MR SMITH: He just wants a copy of it. He's not

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- 1 stopping the marking of it, as I understand it.
- 2 MR KENNY: I'm not suggesting we stop the tendering  
3 of it. The process should be completed.
- 4 COMSR: I thought you were objecting to the  
5 tendering of it.
- 6 MR KENNY: No, I simply want a copy.
- 7 MR SMITH: What we can do is resolve the question  
8 of dissemination of copies with Mr Lovell. There are  
9 confidentiality undertakings which have been signed by  
10 people, and it may be necessary that some other  
11 conditions be entered into and complied with.
- 12 COMSR: That's what I'm not sure, whether there  
13 are some undertakings, whether or not there is an  
14 application for suppression.
- 15 MR SMITH: No, the normal course has been -
- 16 COMSR: I appreciate that.
- 17 MR SMITH: - that exhibits and statements and  
18 things like that that have been tendered are subject,  
19 quite apart from confidentiality and suppression and  
20 that sort of thing, to the confidentiality undertakings.  
21 In other words, that counsel and solicitors and their  
22 clients are not free to copy these documents and  
23 disseminate them around to other people in the public.  
24 I take Mr Lovell's point to be that that's what he  
25 doesn't want happening with any copies of these tapes  
26 that are made available to counsel.
- 27 COMSR: Yes.
- 28 MR LOVELL: Yes, that's the point.
- 29 COMSR: Mr Kenny can look at the tape if he  
30 wishes to, is that what you're saying?
- 31 MR LOVELL: If it's subject to the original  
32 confidentiality undertakings, I'm happy.
- 33 MR KENNY: I'm not totally happy with that. I do  
34 wish to take that tape and I do wish to show it to  
35 people who are not my clients.
- 36 MR LOVELL: ALRM? 7.30 Report?
- 37 MR KENNY: I wish to show it to parties that I  
38 believe may become witnesses before this Commission. I

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- 1 wish to take their instructions in relation to that  
2 tape, and then -
- 3 COMSR: We haven't yet received any witness  
4 statements from the parties you're representing, Mr  
5 Kenny, and you now say that there are other persons  
6 what, whom you may possibly represent?
- 7 MR KENNY: No, I'm talking of parties I do not  
8 represent. Now witness statements haven't been given,  
9 but I have given the undertaking in respect of at least  
10 one of my clients that has been required. I certainly  
11 need some time to take witness statements, and it  
12 appears that every time that -
- 13 COMSR: How much time?
- 14 MR KENNY: What I was going to say was that with  
15 every witness there appears to be a new issue arising;  
16 new issues have arisen with this client. Until we're  
17 aware of the allegations against my clients, I'm not in  
18 a position to finalise witness statements with them. I  
19 can indicate that I have taken several drafts of  
20 statements, and I have made arrangements to speak to my  
21 clients, but until we know the full extent of the  
22 information that is available to this Commission, there  
23 is very little point in me attempting to take and  
24 provide statements to the Commission.
- 25 That's off the point. What I'm asking about,  
26 particularly with this tape, I wish to take this tape  
27 and show it to a third party with a view to that party  
28 becoming a witness before the Commission.
- 29 COMSR: Mr Lovell, is there any - I know that  
30 you say you've provided this tape and certain  
31 undertakings, is there any problem about Mr Kenny  
32 bringing this prospective witness to view the tape?
- 33 MR LOVELL: Within the confines of the Royal  
34 Commission premises, no. None at all.
- 35 COMSR: I'm sure the necessary arrangements can  
36 be made.
- 37 MR KENNY: I believe that may be impractical. I  
38 don't wish to go into who I wish to show it to, but I

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1 also wish to take the tape and show it to my clients,  
2 one of whom, when I last spoke to him Monday morning,  
3 was in hospital in Meningie. Now he is not going to be  
4 able to come up here and view it.

5 MR SMITH: The problem the Commission would have  
6 with this is Mr Kenny's intimation that he wants to show  
7 the tapes other than to his clients. Confidentiality  
8 undertakings can embrace the tape, and if the ones that  
9 are presently in existence don't do that adequately,  
10 we'll have counsel execute fresh ones. My submission to  
11 you would be that for him to be showing other people  
12 these exhibits, that's never been contemplated in the  
13 course of this Commission, and on the basis of what he's  
14 told you, I would be opposed to that.

15 In any event, it would be breaching the  
16 understanding we have with all the witnesses who have  
17 come forward, to change the basis upon which they  
18 proffered assistance to this enquiry, so Mr Kenny will  
19 have to find another way to -

20 COMSR: I think it's a matter you should take up  
21 with Mr Kenny to see if we can expedite a way in which  
22 the potential witness can be shown the tape. I  
23 understand that Mr Lovell has some objection to copies  
24 being made of this particular tape, I suppose in which  
25 you'd say you have copyright.

26 MR LOVELL: Yes.

27 MS PIKE: Can I clarify that? I understood the  
28 position of Mr Lovell was that he didn't object to  
29 copies being made, provided they were given to counsel  
30 who complied with the confidentiality undertakings, and  
31 viewed it themselves and with their clients, is that  
32 correct?

33 MR LOVELL: If my friend is assuring the Commission  
34 that other copies of this tape will not be made, and  
35 that she is only going to use it for the purposes of  
36 showing it to her client and taking instructions on it,  
37 then on that basis I wouldn't have an objection. I have  
38 no problem with my friend, we all know who she is acting

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- 1 for.
- 2 COMSR: I think her client has already seen the
- 3 tape.
- 4 MR LOVELL: She has been in the Commission.
- 5 MS PIKE: Certainly we would want a copy. Clearly
- 6 the only issues is for me are (a) to view it at my
- 7 leisure again, and (b) to take instructions. Might I
- 8 say that this was something that was done with Mr Abbott
- 9 with the 7.30 Reports. They were released to him and he
- 10 was able to - there doesn't seem to have been any issue
- 11 about that, and they indeed were transcribed by Mr
- 12 Abbott. I'm not quite sure why we are having a
- 13 different approach now but, be that as it may, I just
- 14 want to make clear that I simply want it for myself and
- 15 the party I'm representing.
- 16 COMSR: That's not quite what Mr Kenny is
- 17 putting to me.
- 18 MS PIKE: I wanted to clarify that there are two
- 19 separate issues.
- 20 MR MEYER: Can you give the exhibit a number so we
- 21 can get it tendered, so the transcript knows what we're
- 22 dealing with, then can we deal with the issue, because
- 23 I've got a brief issue, and that it is that the very
- 24 last bit we couldn't hear very well. Could we make some
- 25 arrangement with counsel assisting to be able to
- 26 transcribe that in some way or another? That's a
- 27 mechanical issue; we don't need to take it away from the
- 28 Commission to do that. I would have thought, once you
- 29 get it numbered, any counsel who wants to look at the
- 30 tape again can arrange with counsel assisting for
- 31 counsel to come down and do that.
- 32 COMSR: I must admit that I can't say why
- 33 arrangements can't be made for this tape to be viewed in
- 34 this hearing room when we're not sitting.
- 35 MS PIKE: Can I say firstly there seems to be a
- 36 different rule that's applied to the other tape.
- 37 COMSR: I'm not making any rule.
- 38 MS PIKE: Can I just go on?

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- 1 COMSR: Because we are talking about copies  
2 galore.
- 3 MS PIKE: We are not talking about copies galore,  
4 we are talking about the same principle applying to this  
5 tape as applied to Mr Abbott with the 7.30 Report tape.
- 6 COMSR: I'm not -
- 7 MR LOVELL: It's totally different.
- 8 MR SMITH: Mr Abbott signed the second  
9 confidentiality undertaking, and that's all we're  
10 proposing for these tapes. That's what Mr Lovell is  
11 happy with. Ms Pike did not sign the second  
12 confidentiality undertaking.
- 13 MS PIKE: This isn't suppressed, there is no s.35  
14 issue relating to it. It's not suppressed. I have  
15 signed a confidentiality undertaking. I stood in the  
16 Commission and said that I wanted it for the purposes of  
17 looking at it myself at my leisure, rather than come to  
18 the Commission and stop and start it. That's not  
19 necessarily an easy thing to do.
- 20 COMSR: I appreciate that.
- 21 MS PIKE: I suggest to you that is unduly  
22 restrictive. This tape is no different from any other  
23 exhibit that's been tendered. There is no secrecy about  
24 it. All it is doing is making the job of counsel and  
25 their clients very difficult to get instructions.
- 26 COMSR: Counsel and parties, of course, is one  
27 thing.
- 28 MS PIKE: I just want it to be released to me so  
29 that I don't have to come down here and try and find the  
30 time to fit it in between now and when we resume.  
31 Otherwise we might as well put the witness off for the  
32 next few days.
- 33 COMSR: How does it affect your client?
- 34 MS PIKE: A number of things affect my client, and  
35 a number of things affect my cross-examination.
- 36 MR SMITH: We're going to release it to her on the  
37 basis she is not going to do more than take her client's  
38 instructions on it, and that she is not going to

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- 1 disseminate it around the community.
- 2 MS PIKE: The Commissioner was talking about  
3 something different. That's all I'm trying to clarify.
- 4 MR SMITH: Our position has been clear.
- 5 MS PIKE: Madam Commissioner hasn't taken that  
6 position. We have to go by her ruling.
- 7 COMSR: In any event, let's get it marked as an  
8 exhibit.
- 9 EXHIBIT 149 Videotape concluding with the interview  
10 of Doug Milera on 5 June 1995 marked  
11 CKK2 tendered by Mr Smith. Admitted.
- 12 MR KENNY: I just want you to finish marking it.  
13 If it's marked, it's identified, then I would have  
14 something to say.
- 15 COMSR: Yes?
- 16 MR KENNY: I think it might be an appropriate time,  
17 since we have started this discussion, to have some  
18 clarification on the exhibits that have been tendered.
- 19 COMSR: They are dealt with individually. A lot  
20 of them are suppressed as of this stage.
- 21 MR KENNY: We have given undertakings in relation  
22 to those exhibits, and I wish to talk to a number of  
23 people that potentially may be witnesses, or I may call  
24 as witnesses before this Commission, depending on the  
25 information I receive from them, and it's not just this  
26 tape, now I'm talking about a broader context.
- 27 At the moment, I understand there are suppression  
28 orders that have been listed with respect to certain  
29 exhibits, and that's very clear, they are suppressed.  
30 What I seek is a ruling in relation to the other  
31 exhibits that have not been suppressed. Now as I  
32 understand it, at the present stage, I've certainly  
33 given a confidentiality undertaking, but I want a  
34 clarification of that undertaking. For example  
35 yesterday, I think, if I remember correctly, it was  
36 Exhibit 146 that was given to me, that is a typed copy  
37 of a conversation between this witness and Doug Milera.  
38 As far as I'm aware, this is covered by my undertaking



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1 to the Commission that I will not publish this beyond my  
2 clients, my immediate clients. The only difficulty I  
3 have is I believe - and the press may confirm this -  
4 that copies of this were given to the press at the same  
5 time that we received them. Now it appears that there  
6 is two standards, one for counsel, that I'm restricted,  
7 and secondly that I think it was given by counsel  
8 assisting, or some other party, but it appeared it was  
9 organised that they were all handed copies at the same  
10 time. That appears to be a little unfair to me.

11 I would like to take the exhibits and discuss them  
12 with people that I consider may be parties, so I would  
13 therefore seek a ruling from you that we be released  
14 from our undertakings, apart from those documents that  
15 have been suppressed by you.

16 MR LOVELL: There is a big difference between  
17 getting a transcript of the tape and getting the tape  
18 itself. The tape was not released to anybody yesterday,  
19 it was tendered. As Mr Meyer suggested some weeks ago,  
20 with I think it was a tape of either Mr James, the  
21 journalist, or Mr Denver, I can't remember now, we  
22 didn't sit through it, and what was given out would be a  
23 transcript, which is what appears in the evidence, so  
24 there is no problem with that, but my friend did not get  
25 a copy of the tape.

26 If there is a transcript of what was said this  
27 morning, we have no problem with that. What we don't  
28 want is copies of the very item before you.

29 MRS SHAW: Can I make an application? I ask that a  
30 transcription be made of the tape. I noticed that the  
31 stenographer didn't seem to be taking it down whilst it  
32 was being televised. It would seem to me that it would  
33 solve the problem; it was assist counsel and solve many  
34 problems.

35 COMSR: The tape was provided with certain  
36 undertakings that were given to you -

37 MR LOVELL: Yes.

38 COMSR: - is that what you're saying.

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1 MR LOVELL: What was said on the tape is evidence,  
2 and may well appear in the transcript, or a transcript  
3 of what was said would be made available. First we have  
4 no control over that, but we wouldn't have objection to  
5 a transcript being made available, it's the actual tape  
6 itself.

7 MR MEYER: It's probably the universal application  
8 of all counsel that the court reporter listen to the  
9 tape and transcribe it, and we'll make it into part of  
10 the transcript, and that might satisfy everybody.

11 COMSR: I think that may be unduly optimistic.

12 MR KENNY: Now that Mr Lovell has raised the  
13 question of the tape of this transcript, indeed I  
14 anticipate that I may make a copy of that tape as well.  
15 I have, I assure you, a specific purpose in requiring  
16 the actual tape itself, not just the words, and when I  
17 say 'tape', the tape that went with Exhibit 146.

18 MR SMITH: Perhaps I can discuss this with Mr  
19 Kenny, and his difficulties and Mr Lovell's difficulties  
20 may be resolved. If he's got some other purpose in  
21 mind, we could discuss that, I think, not taking up the  
22 time.

23 CONTINUED

## C.K. KENNY XN (MR SMITH)

- 1 MR KENNY: My purpose -  
2 COMSR: Doesn't have to be done at the moment,  
3 does it?  
4 MR KENNY: Yes. This witness - we are going to  
5 have one day tomorrow to prepare cross-examination. I  
6 need a copy of that tape and I may need it as early as  
7 this afternoon.  
8 COMSR: You may need it. I'm not quite sure of  
9 the circumstances of the undertaking that has been  
10 given. I may have to consider that, but it may be  
11 resolved. I don't know if we were to take a break for  
12 ten minutes whether we might not more expeditiously deal  
13 with the matter?  
14 MR SMITH: We could do that. Can I make it clear,  
15 so that people don't think there are two standards being  
16 applied to the exhibit, that with exhibits - that is  
17 witness statements and other real evidence - have always  
18 been subject to the confidentiality undertakings.  
19 However, we exempted from that rule, that basic rule,  
20 transcripts of tapes on the basis that many of the tapes  
21 that have come into evidence thus far, that is the audio  
22 tapes, have been very difficult to hear. Therefore,  
23 short of getting the stenographers to painfully take  
24 down or have the tapes enhanced, we made a rule that  
25 everybody could have a transcript and that the media,  
26 who are entitled to see the evidence - which is public  
27 evidence - should also, in that event, have a  
28 transcription of the tapes as a quicker way of getting  
29 the tape into evidence. None the less, the transcript  
30 of the tape recorded evidence is still subject to the  
31 undertakings so far as counsel are concerned.  
32 Certainly, giving them to the media is, to some extent,  
33 like giving them to the members of the public. We only  
34 do that as an exception so the media don't sit here and  
35 listen to the tape and not have a transcript to follow  
36 it by and have a clue about what was really being said  
37 or have difficulties deciphering what was being said.  
38 That is why we made an exception of transcripts of

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1 tapes. There are no double standards involved. This is  
2 only to give the media, as representatives of the public  
3 if you like or with a responsibility of publishing  
4 material that is open in this hearing access to what the  
5 evidence is, that is the only reason why transcripts of  
6 tapes have been treated differently to other real  
7 exhibits.

8 COMSR: As I say, perhaps you could resolve this  
9 issue by finding out what Mr Kenny's problems are.

10 MR SMITH: If you could give us ten minutes to do  
11 that?

12 ADJOURNED 12.02 P.M.

13 RESUMING 12.45 P.M.

14 MR SMITH: The matter hasn't been resolved. We  
15 have agreed to press on with this witness's evidence on  
16 the base that we will finish before the end of the day  
17 and that debate can take place before you as to what Mr  
18 Kenny wants, whether or not you are agreeable to it. I  
19 flag also that the media want to be heard on the topic.

20 COMSR: On the topic of what?

21 MR SMITH: On the topic of the release of this  
22 exhibit. But perhaps we can deal with that later.

23 XN

24 Q. The tape ran off then. That was really the end of the  
25 filming of the raw footage.

26 A. That was the end of the filming for the night, yes.

27 Q. The last bit of filming was the signing of the letter.

28 A. Yes.

29 Q. You witnessed that, I take it.

30 A. Yes.

31 Q. I take it from what you said in your statement, which  
32 makes it plain at p.11, that you weren't overly  
33 interested in the fact that the letter was being sent to  
34 Mr Tickner, or when it was.

35 A. No. It was going to be sent the next day, and that was  
36 fine by me. I think Kym Denver said that he was going  
37 to go and fax it from somewhere the next day.

38 Q. Denver had custody of the typewritten letter.

1 A. Yes.

2 Q. The filming and the signing of the letter had taken  
3 place at about what time.

4 A. Would have been around 11.30, somewhere between 11.30  
5 and midnight.

6 Q. So the question then arose as to what was going to  
7 happen to Mr Milera that night.

8 A. I then raised the matter with Doug and asked him what  
9 was going on, and he explained that because of what he  
10 was doing, it would create a rift - or already had with  
11 his wife Sarah, and that he couldn't return to his home  
12 in Goolwa; that he was penniless and homeless,  
13 effectively. I raised with him what options he had and  
14 he said he really had none. So, I said to him that what  
15 I would do, under the strict understanding with him that  
16 there were no conditions attached, would go to an  
17 automatic teller machine and get him \$100 to get food in  
18 the morning and get a taxi either to Goolwa or to  
19 Adelaide, wherever he wanted to go. He wasn't quite  
20 certain at that stage what he was going to do the  
21 following day. I took him to the Crown Hotel, I think  
22 it was - the main one at the bottom of the main street  
23 in Victor Harbor, and tried to book a room for him in  
24 there.

25 Q. Was there a discussion about him staying at the Appollon  
26 Hotel.

27 A. I had - there had been a room booked there. As I said  
28 earlier, I had booked a room for the interview  
29 initially. We didn't end up taking up that room because  
30 the conference room was available instead. So, my first  
31 suggestion to Doug was 'Do you want to stay here? I can  
32 get a room here.' He said for some reason he didn't  
33 want to. I said 'Okay, we will go somewhere else'.

34 Q. Is it the case that you left the cameraman to tidy up.

35 A. The cameraman was left to pack up all the gear and put  
36 it into our news vehicle. So, Kym Denver drove myself  
37 and Doug into the centre of Victor Harbor. As I say, we  
38 withdrew the \$100, walked across to the Crown Hotel. I

1 went inside with Doug and they said there was no  
2 accomodation available there. By this stage, I was  
3 then going to go to another hotel to try to get  
4 accomodation. Doug was getting toey, as if he'd spent  
5 enough time with us and wanted to get moving. At this  
6 stage, I thought I'd go back to the machine to get  
7 another \$100 as that should be able to cover the  
8 accommodation for the night. I did that and thought  
9 that was enough for him to get by.

10 Q. When you went into the Crown, which is the one closest  
11 to the beach, is that right.

12 A. Yes.

13 Q. Did you intend to pay for the accommodation in some  
14 other way other than cash.

15 A. Yes. I thought I could put that on the Master Card and  
16 that would be fine.

17 Q. The \$100 was intended to be cash for what.

18 A. I thought \$100 cash for food and transport the next day,  
19 and I could put him up for the night on the Master Card.

20 Q. In any event, the Crown had no accomodation, so you went  
21 off to the ATM again.

22 A. Yes. I was concerned for Doug in that it was around  
23 midnight, it was the middle of winter, this was not his  
24 home town. He needed to stay somewhere, somewhere for  
25 the night. I had obviously spent four hours with him in  
26 a very tense situation where he was going through a very  
27 stressful period talking about events and issues which  
28 were very nerve-racking and distressing for him. There  
29 was no alternative, in my view, but to try and look  
30 after him that night. To do otherwise, I would have  
31 left him walking down the main street of Victor Harbor  
32 without money and without anywhere to sleep and that  
33 would have been unconscionable - and I wouldn't do  
34 anything different today.

35 Q. Despite the criticisms you had with that.

36 A. I received a bit of criticism from certain  
37 organisations. I will stand by everything I've done in  
38 this case.

1 Q. So, having left the Crown not being able to get him a  
2 room there.

3 A. Yes.

4 Q. Did he want a room at the Crown; was he receptive to the  
5 idea of being booked into the Crown.

6 A. He wasn't objecting to it, but I don't think getting a  
7 room was the highest thing on his list of priorities at  
8 that stage.

9 Q. Where did you go then, having left the Crown. You went  
10 to the ATM and got the \$100.

11 A. The ATM is virtually on the road that the Crown is; it  
12 must be only 20 or 30 metres away. I gave him the other  
13 \$100 and he walked up the street towards another hotel,  
14 I understand. I shook hands and got a lift with Kym  
15 Denver back to the Appollon Motel.

16 Q. Did you see him enter this other hotel.

17 A. No.

18 Q. You were in Denver's vehicle whilst all of this was  
19 happening.

20 A. Most of it occurred either in the foyer of the Crown  
21 Hotel or the footpath outside at the ATM.

22 Q. You drove down to the Crown in Denver's car.

23 A. Yes.

24 Q. You joined back up with your cameraman and your vehicle  
25 at the Appollon Hotel.

26 A. Yes.

27 Q. And parted company with Denver.

28 A. Yes.

29 Q. The story that you had filmed on that night, the 5th,  
30 did not go to air until the following night.

31 A. That's correct.

32 Q. On the 6th.

33 A. On the 6th.

34 Q. On the morning of the 6th, did you follow this matter up  
35 in this anyway.

36 A. I did quite a bit the next day to follow the issue up.  
37 I made attempts to contact Doug again and had a bit of  
38 trouble getting hold of him. I eventually spoke to him

1 later in the afternoon. He had made a mess of himself  
2 after we had left him in Victor Harbor the previous  
3 night. That was plain when I was speaking to him the  
4 next afternoon. Other people had informed me likewise.  
5 So, he was pretty drunk the following day.

6 Q. Was your first contact, however, on the next morning  
7 with Sarah Milera.

8 A. I'm not certain whether I spoke to her or Doug first.  
9 It was around about at the same time in the mid to early  
10 - no, mid-afternoon on the Tuesday.

11 Q. Would you have notes.

12 A. I do have notes of that conversation. They are quite  
13 brief. I contacted Sarah at her Goolwa home and my only  
14 notes are saying `Sarah: "I support Doreen. My husband  
15 is a drunk. Doug is an alcoholic"'. Sarah also spoke  
16 to me in some detail then about the secret women's  
17 business. I think that was the very first time I had  
18 spoken to Sarah. I have - I have spoken to her many  
19 times since we had the first discussion on the whole  
20 issue of secret women's business. And Sarah, in that  
21 conversation, adopted a line which she has been very  
22 consistent with ever since; that is, that she believes  
23 the island is sacred, that the bridge should not be  
24 built, but that the last bit about the map was wrong and  
25 should never have happened.

26 Q. This conversation with Sarah took place when.

27 A. This was on 6 June around about 2 or 3 o'clock in the  
28 afternoon. Her comments to me about the secret women's  
29 business helped to confirm my view that what Doug was  
30 saying was true.

31 Q. What was the purpose of your call on that morning.

32 A. I was initially trying to track down Doug. So, I put in  
33 quite a few calls into that area. I can't recall now  
34 whether Sarah rang me or I rang her in the final  
35 instance, but Sarah has rung me many times since.

36 Q. On the next day or so, the story went to air that  
37 evening.

38 A. Yes.



## C.K. KENNY XN (MR SMITH)

- 1 Q. When was it in terms of time in relation to the actual  
2 Appollon Motel interview that you next spoke to Doug  
3 Milera.
- 4 A. It would have been more than 24 hours later. It was at  
5 about 10 o'clock in the morning on 7 June.
- 6 MR SMITH: If now is a convenient time, I will  
7 resume at 2.15 by showing the news item. That would  
8 only occupy a couple of minutes - sorry, it occupies  
9 more than a couple of minutes. If I could set that up  
10 for 2.15 and the debate about Mr Kenny's point can take  
11 place at the end of this witness's evidence. I will  
12 notify the media representative. The media want to be  
13 heard on that topic.
- 14 COMSR: Of whether tapes that are the property  
15 of one television channel and for which they claim that  
16 they have the rights, whether those tapes, copies of  
17 those tapes, can be released to the media?
- 18 MR SMITH: Released generally is going to be the  
19 argument. I am just foreshadowing that. You will hear  
20 on that topic this afternoon.
- 21 ADJOURNED 12.58 P.M.

1 RESUMING 2.21 P.M.

2 VIDEO OF CHANNEL 10 NEWS OF 6 JUNE PLAYED

3 XN

4 Q. Is it the case or is this just my perception of it, that  
5 Mr Milera was more forthcoming off camera - that is, in  
6 the noted conversation that you deposed to over the two  
7 to three hours - than he was on camera.

8 A. There's no doubt that he was certainly initially. It is  
9 not every interview you do where you sit down and talk  
10 with someone in detail before you film the interview.  
11 In this case, Doug had given me a very detailed account  
12 of what he wanted to say on the public record before we  
13 set up for the interview. So initially, when we began  
14 filming, I sensed a certain reticence in that Doug  
15 didn't want to tell me exactly what he said to me  
16 previously and what I had noted down. I think I  
17 mentioned that during the interview. Eventually I could  
18 see he was having trouble. He wanted to say it was  
19 wrong. He didn't want to go quite into the detail. He  
20 seemed to me to be reluctant to mention the name of his  
21 very good friend, Victor Wilson, but I thought as the  
22 interview progressed he became more settled about  
23 exactly how forthcoming he was going to be.

24 Q. Is it the case that you had to draw more of the  
25 information out of him on camera in contradistinction to  
26 the situation before camera.

27 A. There was certainly an element in the interview, I  
28 think, of drawing out what he had already explicitly  
29 detailed to me off camera, but there was still, I think,  
30 an amount of inquiry in the actual interview because I  
31 was still keen to get to the bottom of his whole  
32 reasoning and the events.

33 Q. You told us just before luncheon adjournment that you  
34 telephoned the following day and spoke with Sarah -

35 A. Yes.

36 Q. Who, amongst other things, told you she had reservations  
37 about the whole of the secret sacred women's business.

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1 A. She had more than reservations. She said then, and she  
2 has said ever since, directly to me, that the last bit,  
3 the sacred secret women's business relating to the  
4 aerial map, was wrong and should never have happened.

5 Q. Then the news footage, as we have just seen, went to  
6 air. Then you spoke, on the next day, with Douglas  
7 Milera, on 7 June.

8 A. The next day was 7 June, and I got up to see the now  
9 famous headline in the 'Advertiser', after Sarah had  
10 apparently spoken to Colin James. I must admit that  
11 that story, given my conversation with Sarah the  
12 preceding day, didn't come as a total surprise, but it  
13 was one that I thought was a very important development,  
14 and, therefore, I began the day by seeking out Doreen  
15 Kartinyeri again, and I wanted to go and speak to Doug  
16 again, and I eventually spoke to Dorothy again that day.  
17 I just thought it was a critical development in the  
18 whole issue, the Doug and Sarah statements taken as a  
19 whole.

20 Q. Perhaps I will just show you that to be sure. Looking  
21 at Exhibit 24, 'The great lie of Hindmarsh Island',  
22 that's the article to which you are referring.

23 A. Yes.

24 Q. Did you happen to hear the Keith Conlon program on the  
25 morning of the 7th.

26 A. I missed it at the time, but I think I've heard excerpts  
27 of it since.

28 Q. So was that what provoked your telephone call - that is,  
29 'The great lie of Hindmarsh Island' article in the  
30 Advertiser of 7 May, Exhibit 24 - to the Mileras again.

31 MR ABBOTT: 7 June.

32 XN

33 Q. 7 June 1995, sorry, 'The great lie of Hindmarsh Island'  
34 article.

35 A. It was part of what dictated my actions the following  
36 day, remembering that I broadcast the Doug Milera story  
37 the previous evening, so whatever happened that  
38 following day, I was going to be following the issue

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- 1 again and looking for the next development. This, I  
2 suppose, increased that when I saw the `Advertiser' in  
3 the morning, and one of the first things I wanted to do,  
4 apart from, as I said, try again to speak to Doreen  
5 Kartinyeri, was to speak to Doug, because I knew that he  
6 would be fascinated by these statements from Sarah.
- 7 Q. At about what time was it that you contacted Doug  
8 Milera.
- 9 A. I got to the place he was staying at Wellington by about  
10 10 o'clock in the morning.
- 11 Q. Whose place was that.
- 12 A. It was Johnny Campbell's place, the brother of Allan  
13 Campbell. It is a farm just outside Wellington.
- 14 Q. Did you take notes of that conversation.
- 15 A. I recorded a conversation on video tape. I don't have  
16 any notes of it though.
- 17 Q. In the course of the conversation which was videoed, the  
18 gist of what he did was what.
- 19 A. Doug reaffirmed what he had said to me two days  
20 previously at Victor Harbor, and I questioned him along  
21 those lines, and I also questioned him about his  
22 drinking and the veracity of his statements, et cetera.
- 23 Q. On that same day, you have just told us you also spoke  
24 with Dorothy Wilson.
- 25 A. Yes, I was keen to get Dorothy's reactions to these  
26 latest developments given that she was the person whose  
27 version of events had been verified by Doug. I wanted  
28 to get her reaction as part of my follow-up report.
- 29 Q. I think again the raw footage tape shows that interview  
30 with Doug Milera and the follow-up interview with  
31 Dorothy Wilson.
- 32 A. And the follow-up interview with Dorothy Wilson in which  
33 I also spoke with her in some detail about two other  
34 issues, one being the extent to which she was being  
35 vilified in the local Murray Bridge Nunga community, and  
36 also I went back with her over some of the detail of the  
37 shack meeting and the letter that was drafted that  
38 night.

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1 Q. On the following day, 8 June 1995, I think you also  
2 spoke with Bertha Gollan and Betty Tatt again. Is that  
3 correct.

4 A. Yes, that would have been once there had been an  
5 announcement about an inquiry being appointed, a State  
6 inquiry, Bertha and Betty were available just to get  
7 reactions to that, the inquiry had been announced and I  
8 wanted to get the reaction from the women who had  
9 essentially sparked it. Bertha and Betty are nice and  
10 close and handy living up in the city.

11 Q. Am I right about the date for that though, was that 8  
12 June.

13 A. I thought it might have been the 9th to be honest, but  
14 we could easily check that.

15 Q. Just check that.

16 A. It says the 8th here. I think that must be right, yes.

17 VIDEO TAPE MARKED CKK4 PLAYED

18 Q. This is you visiting Allan Campbell's house not Allan  
19 Campbell's house.

20 A. This is the raw footage of me visiting the address on  
21 Valiant Road, which I referred to I think in earlier  
22 evidence, when I was trying to catch up with Doreen  
23 Kartinyeri.

24 CONTINUED

1 Q. These are just editing shorts, are they.

2 A. Yes. Just some shots that happened to be there. It's  
3 a very long shot.

4 TAPE PAUSED

5 Q. Interrupting there for the moment, I think on 8 June,  
6 the following day, you also interviewed or caused to be  
7 interviewed Bertha Gollan.

8 A. Yes.

9 Q. Was that you, yourself.

10 A. This is me interviewing Bertha Gollan and Betty Tatt and  
11 their response to the announcement of the inquiry.

12 Q. I think there was a subsequent interview with Bertha  
13 Gollan on 19 June, was there.

14 A. Yes, that's some weeks later, I think, when the issue of  
15 intimidation and curses had been raised a number of  
16 times with me.

17 Q. Finally, and we will see it to the end, there was an  
18 interview with Matt Rigney.

19 A. Yes. That was not conducted by me. That was the result  
20 of an extensive conversation I had with Matt Rigney  
21 which I took some detailed notes on.

22 Q. I'll come back to that.

23 A. Yes.

24 Q. But it may be shown on this tape. That is just to  
25 explain what is to come.

26 A. Yes.

27 TAPE CONTINUES

28 CONTINUED

1 EXHIBIT 150 Video tape marked CKK4, including  
2 raw footage, commencing with Doug Milera  
3 interview on 7 June and concluding with  
4 Matt Rigney interview on 28 June 1995  
5 tendered by Mr Smith. Admitted.

6 Q. Can I take you back in time a little bit in terms of  
7 those videos we have just seen. We had reached the  
8 stage where you had interviewed Doug Milera at  
9 Wellington on 7 June and we saw that tape.

10 A. Yes.

11 Q. During the weeks following 7 June, you had conversations  
12 with Doug Milera and his wife, I think, did you not.

13 A. Yes, I did. I spoke to Doug and Sarah a number of  
14 times.

15 CONTINUED

16

## C.K. KENNY XN (MR SMITH)

1 Q. By reference to notes, can you tell us the first time,  
2 following 7 June, that you spoke to Sarah Milera.

3 A. I have a note here from 14 June.

4 Q. Was that on the phone, first of all.

5 A. This was on the phone speaking to Doug - sorry, speaking  
6 to Sarah Milera at Doug and Sarah Milera's home at  
7 Sexton Street Goolwa.

8 Q. Did anything in particular provoke that call or was it  
9 just -

10 A. I'm just trying to refresh my memory. It was 14 June -  
11 do we know what day that was? I was in constant  
12 contact, as you may appreciate, with all number of  
13 people involved in this issue for a long period of time,  
14 and during this particular period, after the initial  
15 Doug Milera interview, there was quite a bit of contact  
16 with Doug and, in particular, Sarah, so I can't recall  
17 exactly what would have prompted this call or this  
18 conversation.

19 Q. But tell us what then passed between the two of you.

20 A. Well, I have my notes here, and this is again a  
21 conversation with Sarah about the island and the secret  
22 women's business issue. Sarah says that the idea that  
23 the island looks like a woman, that is wrong. She has  
24 always been very clear and unwavering about that, but  
25 Sarah also has been very steadfast to me at least in her  
26 support for Doreen and the others. She has been alone  
27 with them, and when she tells me that the island looking  
28 like a woman is wrong, and if I then suggested to her  
29 'Well, then, there's been a fabrication here, has  
30 there', or 'Are they telling lies', she says 'No, it's  
31 not a lie, it just shouldn't have been put down on  
32 paper, that they have mucked up the issue by bringing  
33 this stuff in', so she's been, I suppose, a little bit  
34 contradictory. Although the contradiction has been  
35 there all along, she always wanted to tell me that the  
36 island is sacred, that there is legitimate claims there,  
37 I don't think that's ever been dispute. She insists on  
38 saying the stuff with the aerial view is wrong. It was



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1 never suggested to me that she had crossed the Rubicon,  
2 that she had turned her back on Doreen Kartinyeri, she  
3 had tried to stay allied with them even though she says  
4 what they say is wrong.

5 Q. I think you also had a conversation with Sarah which has  
6 been the subject of some noting on 19 June, is that  
7 right.

8 A. Yes. I made notes of it on the 19th, which is a day I  
9 was at work, and there were quite a few significant  
10 phone calls going on that day. The actual call from  
11 Sarah had come to my home on Saturday afternoon, the  
12 17th. As I recall, she called while I was out playing  
13 football, and she called back later on when I got back  
14 home. Again, the island is sacred, the last bit, the  
15 sacred women's business, is rubbish, and I make the note  
16 that it's the same as she said to me on the phone from  
17 Goolwa the day before the Colin James' front page, and  
18 the same as she said the previous week. I just have a  
19 note here myself of calls - this explains, sorry, why I  
20 was speaking to her the week before. I have just got a  
21 note here that I was calling the previous week about how  
22 Doug was. I was getting a bit of feedback around the  
23 traps of what Doug was up to, that he was drinking, that  
24 there was a bit of pressure applied to him, and I called  
25 their home to check up on him and see how he was.

26 Q. The indications of him being put under pressure had been  
27 communicated to you by whom. How did that get to you.

28 A. They had come to me from a number of sources. Kym  
29 Denver rang me and told me about it. I have a note here  
30 on that, 19th of the 6th, and he rang me and told me  
31 that there were Aboriginal groups moving around the  
32 area, George Trevor and others meeting people around  
33 the area, and they were trying to get their story  
34 straight. He told me a story which I have heard from a  
35 number of other sources as well; that when Sarah went on  
36 a radio station and tried to backtrack from her  
37 Advertiser interview, that Victor Wilson was standing  
38 alongside of her to make sure that she said the right

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1 thing, and that there had been threats made that Sarah  
2 and Doug's adopted son, Alan Clarke, would lose his job  
3 if Sarah didn't say the right thing, and I have a note  
4 here that co-relates with what Dorothy had told me and  
5 what Doug had told me.

6 Q. Did you continue to seek an interview with ALRM or  
7 Sandra Saunders at around about this time.

8 A. Yes, I was still persisting with my efforts to interview  
9 Sandra Saunders or Doreen, I can't recollect. There  
10 were a number of issues that I wanted to raise with  
11 Doreen in particular, given the interviews with Bertha,  
12 in particular about threats that were around the place,  
13 given the feedback that I was getting about pressure  
14 being applied on to Doug Milera, and I wanted to discuss  
15 some of these with Sandra Saunders, because it had been  
16 suggested that the Aboriginal Legal Rights Movement was  
17 involved in this.

18 Q. I think you telephoned Sandra Saunders on Monday 19 June  
19 1995.

20 A. That's the day I spoke to her. It was quite a busy day  
21 on the phone. As I recall, she called me, she would  
22 have been returning a call. I was probably calling and  
23 leaving messages for her daily. I spoke with her on the  
24 phone on 19 June, and I raised with her a number of  
25 issues. My first note from that conversation is that  
26 no, she won't speak to me on camera, 'We're not talking  
27 to you'. We then went on to discuss this issue of  
28 Doreen and others going up to the Pitjantjatjara Lands  
29 to garner support and possibly discuss the idea of  
30 threats. Sandra Saunders confirmed that yes, a group  
31 had gone up there, including Doreen, and that nothing  
32 should be misread into that. She said 'All them on  
33 their own, it's their own paranoia', she is referring to  
34 the dissident women, 'If they think there are threats,  
35 that's their own paranoia. Maybe people misunderstand  
36 the trip up to the Pitjantjatjara Lands'.

37 Q. Was there raised with her the question of whether Doug  
38 Milera had been in to ALRM for a meeting.

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- 1 A. Yes, I also raised with her the allegations of pressure  
2 on Doug, and I would have been told that Doug was at the  
3 Aboriginal Legal Rights Movement premises the Friday  
4 night preceding for a meeting. Sandra Saunders  
5 confirmed in fact that Doug had been there for a  
6 meeting, and I asked her then about financial support  
7 and accommodation being supplied to Doug, whether the  
8 ALRM had done so. She got very angry with me. She said  
9 'You can say what you like, you just want a pick up a  
10 story' and she hung up the phone on me.
- 11 Q. Was that followed by another telephone call, that  
12 particular call.
- 13 A. Within about an hour, a gentleman by the name of Richard  
14 Bradshaw, a lawyer representing the ALRM, called. He  
15 rang up effectively to warn me off. He said that the  
16 ALRM denies they are buying Doug off, and I said 'Well,  
17 I've never made any such suggestion. Can you tell me  
18 whether they are providing him with any financial or  
19 accommodation support'. He couldn't answer that  
20 question, so I asked him to provide me with an answer.  
21 He then returned my call at perhaps another half hour  
22 down the track and said that no, there is no financial  
23 or accommodation, no financial assistance or  
24 accommodation being provided for Doug Milera by the  
25 Aboriginal Legal Rights Movement.
- 26 Q. I think later, you received a telephone call, or you  
27 spoke to John Campbell, is that right.
- 28 A. Yes. John Campbell was a person I'd spoken to a couple  
29 of times during this period, and he was another person  
30 who was telling me about pressure being applied to Doug.  
31 Doug had been in contact with him a couple of times. If  
32 you remember, it was John Campbell's house that Doug  
33 ended up at after he first made his public comments. I  
34 think Johnny Campbell was trying to keep tabs on him,  
35 trying to make sure that he had a roof over his head  
36 etc., and in the couple of times that he had spoken to  
37 Doug, there had been inferences made about pressure  
38 being applied, people trying to get Doug to change his

1 story.

2 Q. There was a press conference scheduled at the offices of  
3 the ALRM on 23 June 1995, is that correct.

4 A. Yes. This was billed as the press conference to reveal  
5 the truth about the Hindmarsh Island issue. It was  
6 widely promoted in the media, although there were great  
7 lengths, the Aboriginal Legal Rights Movement went to  
8 considerable lengths to make sure that Channel 10 didn't  
9 find out about it. We did find out about it, and on  
10 Friday, 23 June, we were doing, I and a number of other  
11 reporters at Channel 10 were doing two things; one, we  
12 wanted to make sure that we could get to the press  
13 conference, secondly, we were making enquiries as to  
14 what it would be about. We managed to uncover the fact  
15 that it was to do with the so-called tapes that we now  
16 know about as the Betty Fisher tapes, that there would  
17 be an amateur historian who was going to provide some  
18 sort of evidence to the public.

19 Q. Did you attempt to attend that conference.

20 A. We were doing everything we could to try and work out  
21 whether or not we could get in and, as apart of that, I  
22 went and spoke to Matt Rigney at ATSIC. I'd had a  
23 couple of - I think I'd spoken to him a day or two  
24 previously about this whole issue, and we agreed that we  
25 should sit down at some stage at have a chat about what  
26 is going on. I thought it would be a good time to speak  
27 to him, talk to him in a sensible fashion, and one of  
28 the things on my agenda then was I was going to ask him  
29 if he could perhaps convince Sandra Saunders to allow a  
30 Channel 10 crew and journalist, other than me, into this  
31 press conference, given that it was supposed to be so  
32 important, whether we could come to that arrangement. I  
33 met with Matt Rigney at the North Adelaide Shopping  
34 Centre where ATSIC has its offices, and we sat down and  
35 had a lengthy conversation, which I found quite  
36 startling - which we can go into in a moment - but as  
37 regards the press conference, he did undertake to try  
38 and contact Saunders Saunders. He got on to her and

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1 came back with the news that the conference had been  
2 cancelled for no apparent reason, so that issue was dead  
3 for the time being.

4 Q. So was that on the 23rd that you were up in conference,  
5 as it were, with Matt Rigney.

6 A. Yes, it was.

7 Q. Now this was with a view to setting up a formal filmed  
8 interview of Matt Rigney, was it.

9 A. Very early into the conversation I wanted to have a  
10 filmed interview with Matt. I didn't know that we were  
11 going to get into these issues. We started to discuss  
12 the women's issues - and we've just seen the sorts of  
13 views he expressed - now he expressed these views to me.  
14 I found them quite startling because they were verifying  
15 what Dorothy Wilson and Doug Milera had told me and I  
16 wanted to speak to him on camera about all of this. He  
17 said he didn't have a problem; he didn't appreciate the  
18 way I covered the issue, and he wouldn't grant me an  
19 interview, but he would consider giving an interview  
20 with someone else from Channel 10. I went back to the  
21 newsroom, made some detailed notes about what he told  
22 me, and eventually, a few days later, as you saw, he  
23 granted an interview to Leslie Johns, and said pretty  
24 much the same things that he said to you.

25 Q. You made notes of this conference, did you.

26 A. Yes.

27 Q. Would you tell us what he said to you, by reference to  
28 the notes.

29 A. I will just refer to the notes. I have a note `12.30 on  
30 23 June. I've returned from an hour long meeting at  
31 North Adelaide Village with Matt Rigney. It followed  
32 earlier meetings were lawyers where I was told that it's  
33 likely I will be called as a Royal Commission witness.  
34 Therefore it appears, it seems I won't really be able to  
35 report further on the Commission. Matt Rigney says I've  
36 been biased and I rejected that claim to him. I suggest  
37 to him that maybe Channel 10 should be allowed into the  
38 news conference etc. from now on in the interests of

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- 1 fairness, especially given that the reporter would not  
2 be me. He didn't find the idea, and he phoned it  
3 through to Sandra Saunders. She said it was up to the  
4 women and, anyway, today's news conference had been  
5 cancelled. Matt Rigney said people are saying I  
6 supplied Doug Milera with grog to get him to say what I  
7 wanted. I told him that was crap. Matt says Doug,  
8 George, Victor etc.', and I've got in brackets, 'Maybe  
9 even Matt himself, were involved. He says they knew a  
10 little bit about women's business, and kept it up their  
11 sleeve until they needed it. Doug would have, with  
12 others, told women to look at the map, and asked them to  
13 use that, and their other women's business, to stop the  
14 project. He questions whether this is a fabrication.  
15 It's still true, he says'. That's the end of it.
- 16 Q. So you organised your colleague to do the interview with  
17 Matt Rigney.
- 18 A. Yes.
- 19 Q. On 28 June.
- 20 A. Yes.
- 21 Q. Can I take you to 28 June.
- 22 A. Yes.
- 23 Q. On 28 June, I think you had a telephone call from the  
24 land owner down at Hindmarsh Island, Kym Denver is that  
25 right.
- 26 A. That's correct.
- 27 Q. Tell us what was said.
- 28 A. Essentially I was home in bed, and got a call from Kym  
29 Denver. He said that Doug Milera had been speaking to  
30 him on the phone, and Doug was keen to speak to me,  
31 could I call him at the Milera's Goolwa home. I jumped  
32 off the phone with Kym Denver fairly quickly, given what  
33 I'd been hearing about Doug, and gave him a call.
- 34 Q. So on 28 June you had that conversation with Doug Milera  
35 which you tape-recorded with his knowledge.
- 36 A. Yes. I asked for his permission and tape-recorded it.
- 37 Q. I think the tape's been tendered, as has the transcript  
38 prepared by yourself.

1 A. That's correct.

2 Q. That's Exhibit 146.

3 A. That's the one, yes.

4 Q. That's the tape and the transcript prepared by you,  
5 isn't it.

6 A. Yes.

7 Q. You were aware, I think, that Doug, and he makes it  
8 clear to you in that telephone conversation of 28 June,  
9 that he is represented by a lawyer.

10 A. It's an issue that we discussed. He wanted to get some  
11 independent legal representation, and I suggested to him  
12 that would be a good idea but, in the end, the  
13 Aboriginal Legal Rights Movement organised someone for  
14 him.

15 CONTINUED

1 Q. You were aware that he made a statement to the media  
2 retracting the statement he had made to you on 5 June.

3 A. Yes.

4 Q. Saying he was drunk at the time.

5 A. Yes.

6 Q. You became aware of that.

7 A. Yes.

8 Q. Did you, at around about that time, have any contact  
9 with either one of the Mileras.

10 A. The day before the retraction, I spoke to Doug and Sarah  
11 on the street outside the Royal Commission here as they  
12 were leaving the building. We wandered 20 yards up the  
13 street and had a bit of a chat.

14 Q. All three of you.

15 A. All three of us. And another gentleman was listening  
16 in, a younger Aboriginal gentleman, who I'm not certain  
17 who he is. He may be Alan Clarke. I have never been  
18 introduced to Alan Clarke in the flesh, I have only  
19 spoken to him on the phone.

20 Q. Did you take a note of the conversation.

21 A. I didn't make handwritten notes at the time, but I made  
22 computer entries that night at home that I had forgotten  
23 about and found a week or two later.

24 Q. Tell us what was said by reference to that document.

25 A. I suppose I could read what I wrote that night might be  
26 the easiest thing. `After the hearing with the envelope  
27 matter left unresolved, I had a quick chat with Doug and  
28 Sarah Milera as they left. It was the first time I had  
29 spoken to them for some time, the first time I had  
30 spoken to Sarah in the flesh. On the busy footpath 10  
31 metres away from a group of journalists and cameramen,  
32 six floors beneath the Commission, they both confirmed  
33 the fabrication claims. They appeared to be suffering  
34 from stress, a little lost and confused. Sarah said she  
35 wouldn't be saying anything to the Commission  
36 "Everybody's getting it wrong", she said. I told her  
37 she was important because she opposed the bridge and  
38 believed the island was sacred, yet knew the secret



1 business was made up. I know she agreed. I know. They  
2 took my phone numbers again and they said they wanted to  
3 talk. It seemed to me that Doug was under pressure to  
4 change his story.' Then, I go on with when they were at  
5 the centre of an enormous power struggle and go on to  
6 make comments about some of the players involved.

7 Q. Nothing to do with the conversation, but just your own  
8 comments.

9 A. Well, my own comments. I'm quoting this stuff to sort  
10 of - in case I write something about this at a later  
11 date.

12 Q. Was that your - that wasn't exactly your last contact  
13 with the Mileras, was it. There was a contact in  
14 August, wasn't there.

15 A. Actually, the following day there was some contact with  
16 Doug after the statement had been issued by his lawyer.  
17 I tried to speak to Doug, and his lawyer intercepted the  
18 conversation and turned Doug away from me. And - sorry,  
19 again that night before I put my story to air, when I  
20 got back to the news room on the day of the retraction,  
21 Doug was on the phone wanting to speak to me, sounding a  
22 bit upset, and he asked me to come around and see him at  
23 his house at Gilberton. I said I was a little bit busy  
24 at the time and decided it was better not to go and see  
25 him.

26 Q. So you have not interviewed him or anything since.

27 A. No.

28 Q. There was some contact, was there, between you and the  
29 Mileras, or one of the Mileras in August.

30 A. I had contact from somebody closely associated with the  
31 Mileras who phoned me at home, apologised to me for the  
32 trauma I had been subjected to and said - suggested that  
33 maybe Doug and Sarah could turn up at the Commission  
34 some time. I said that because of the way events have  
35 turned out, I couldn't become involved in trying to  
36 catch up with people. My suggestion would be they  
37 shouldn't contact me. If they want to say something,  
38 come in here and speak directly with the Commission.

- 1 Q. Did you have occasion in August to speak to your  
2 journalist colleague Colin James.
- 3 A. I have spoken to him a couple of times.
- 4 Q. In connection with this matter.
- 5 A. Yes. Sorry, yes. I did get a call from Sarah Milera as  
6 well - the date I could work out. Again, a call at  
7 home. Sarah Milera called me and she told me she was in  
8 the company of Dorothy Wilson and Jenny Grace. I  
9 immediately recognised the significance of this  
10 particular gathering of people and was a bit  
11 disappointed when Sarah said she wanted to speak to  
12 Colin James. I said to her 'If there is a story if she  
13 wants to get published and say something publicly,  
14 please, I'm the man to speak to'. But Sarah said 'No,  
15 there are personal things I want to sort out with Colin  
16 James'. I told her I'm not in the practice of handing  
17 out good stories to my colleagues, but, on the advice  
18 that it was a personal matter, I would endeavour to  
19 contact Colin and get him to go around there. And I  
20 eventually tracked Colin down and gave him the Mileras'  
21 Gilberton address and said he should get around there.
- 22 Q. He told us that it was 14 August.
- 23 A. That would be right, yes.
- 24 Q. In substance, that is the end of your direct contact  
25 with the actors in this particular bridge drama; is that  
26 right.
- 27 A. Yes. But things change quickly and I could get a phone  
28 call tonight, I suppose.
- 29 Q. I think your part in this has attracted some adverse  
30 personal publicity for you.
- 31 A. Just a tad, yes.
- 32 Q. You have been - you were criticised for interviewing  
33 Doug Milera on 5 June on the basis of him being drunk.
- 34 A. Yes. Well, I think -
- 35 Q. What do you say about that.
- 36 A. Well, you know, I think I might see a bit more of that  
37 criticism tonight, I dare say. I think that the  
38 Commission can make up its own mind as to the state of

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1 Doug Milera. I have been open and forthright in my  
2 dealings with Doug, as you can see from the interviews,  
3 and I have been well aware of the pressures on him, the  
4 weaknesses in his makeup. I think it's very evident  
5 from the interviews when I contacted with Doug that he  
6 was very well aware of what he was saying to me at all  
7 times and that he was looking at me right in the eye,  
8 giving every indication that he was speaking the truth  
9 and the fact that he mentioned things were stacked up  
10 against the known facts. There are certain media  
11 organisations that have tended to overlook the facts and  
12 tried to beat up that certain aspect of the case to try  
13 and keep the facts out of it.

14 Q. One of the other criticisms levelled at you was that the  
15 interview was doctored in some way, I think.

16 A. Well, I think Mr Stuart Littlemore of 'Media Watch' is  
17 very good in taking out little bits of tape and  
18 suggesting that I might have done the same. I have  
19 given you here every frame of video tape we'd shot with,  
20 all the uncomfortable bits of me adjusting my tie and  
21 whatever, in the interests of giving a complete and  
22 honest and fair view of what has gone on. And Doug was  
23 coherent throughout that interview. He, at times,  
24 contradicted himself and at times tried to protect  
25 Victor Wilson. On balance, that is clearly exactly what  
26 he wanted to say and why he wanted to say it.

27 Q. Then, you have covered this, but the very criticism of  
28 you was that there was some money inducement involved.

29 A. Well, I looked after Doug after the interview. I would  
30 do the same tomorrow. I was not going to leave someone  
31 homeless and penniless. You actually saw it on the  
32 video that I asked a couple of times if anyone had  
33 offered money to him or offered inducements to speak.  
34 And Doug Milera, I know for a fact from what has gone on  
35 that over this time he has never said anything critical  
36 of me over the last few months.

37 Q. The last matter is if you look at Exhibit 26, produced.  
38 In one of the early interviews, I think that document

1 was featured, wasn't it.

2 A. Yes, in the very first story I believe.

3 Q. That was a letter jointly signed by, shall we say, the  
4 dissident ladies on 1 May 1995.

5 A. Yes.

6 Q. That was provided, that was shown to you by Dorothy  
7 Wilson, was it.

8 A. It would have been with Dorothy Wilson and Sue Lawrie  
9 and Dulcie Wilson at the first meeting, yes.

10 MR SMITH: I have nothing further at this stage of  
11 Mr Kenny, save that I need to show, to complete the  
12 exhibit and tender it, the balance of the news items  
13 which incorporated the raw footage, which was the last  
14 exhibit tendered, Exhibit 150. There are some Channel  
15 10 news items which are part of Exhibit 147 which the  
16 Commission hasn't seen because I interrupted it.  
17 They're a combination of all of the raw footage that we  
18 have seen in that last exhibit.

19 MR MEYER: There is at least Matt Rigney.

20 MR SMITH: Including Matt Rigney and the people  
21 like that. This is the to-air section and that would  
22 dispose of Exhibit 147. Where it is stopped at the  
23 moment is where, if it's played from this point on, it  
24 should complete the news items. There are some news  
25 items there that don't incorporate anything that this  
26 witness has said about it.

27 EXHIBIT 147 PLAYED

28 CONTINUED

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1 VIDEO CONCLUDES

2 COMSR: What is the relevance of most of that  
3 that we have seen? I know it is for the sake of  
4 completeness just to show what is on the tapes.

5 MR SMITH: A lot of that you can ignore. I am sure  
6 you would want to ignore some parts of it, but some of  
7 it picks up the raw footage. I think that people who  
8 want to put some position to Mr Kenny about what goes to  
9 air and what doesn't, have to see that, and you have to  
10 see, it seems to me, the wider news as part of the  
11 material which has fermented this dispute. That is  
12 already an exhibit.

13 That concludes Mr Kenny's evidence. Although it  
14 might require sitting for a few minutes more, there is  
15 this problem of the release of the Doug Milera  
16 interviews to be resolved.

17 COMSR: As I understand it, those tapes belong  
18 to Channel 10, and they have been released to the Royal  
19 Commission for the purposes of the vision. What is the  
20 situation? I understand that Channel 10 is not agreeing  
21 to the duplication of those tapes.

22 MR LOVELL: Yes, the position hasn't changed from  
23 what I put to you before lunch. They were given to the  
24 commission on a certain basis as outlined by Ms Pyke.  
25 There are confidentiality agreements. Provided they are  
26 agreed to, there is no problem about the exhibit being  
27 shown to various clients, but that is the extent of it.

28 MR KENNY: There is another issue I also wish to  
29 flag. It appears that Mr Kenny has had written notes of  
30 various telephone conversations. I would seek access to  
31 those notes. I don't at this stage seek copies of them  
32 or seek to tender them or seek to show them to anyone  
33 else, but simply as he has referred to them and read  
34 from them today, I would seek the opportunity to be able  
35 to inspect those notes. Perhaps they can be marked for  
36 identification.

37 COMSR

38 Q. There are several notebooks there.

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1 A. I would prefer not to hand over the whole notebooks, but  
2 I am more than happy to let you photocopy the particular  
3 notes I've referred to.

4 MR LOVELL: There could be references to sources and  
5 other matters inside those notebooks. There is no  
6 objection to Mr Kenny having a look at the relevant  
7 pages.

8 COMSR: Perhaps if the relevant pages are  
9 photocopied, and then all counsel can have access to  
10 those pages.

11 MR KENNY: I would ask that the witness supplies,  
12 with photocopies of all notes he has made in relation to  
13 the matters before this Royal Commission - there may be  
14 other notes in there, and I suspect there may be other  
15 notes because he has referred to other conversations he  
16 has had with other people, so I presume he has made  
17 notes of it, and I would seek to inspect those notes as  
18 well.

19 COMSR: Do you think they may have something to  
20 say concerning your clients?

21 MR KENNY: Yes, or matters indeed that are  
22 generally relevant to the issues before this Royal  
23 Commission. It appears that - and I am not suggesting  
24 there is anything underhand about this - there has been  
25 a selected reading. I suspect they have not all been  
26 read.

27 MR SMITH: Can I suggest a way around this? All  
28 the notes to which Mr Kenny has referred to so far in  
29 evidence have been marked by him. I will copy them and  
30 they will be available to counsel. If Mr Kenny wants to  
31 explore other areas, he has to do it in  
32 cross-examination, where the protections can be called  
33 upon and a debate taken at each time if there is some  
34 sensitivity about other areas of the notes.

35 MR KENNY: I am happy with that course. I just  
36 thought it might be quicker if I read them outside of  
37 the commission rather than reading them as we go  
38 through, but I am happy to follow that course of action.

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- 1 COMSR: I do not think it appropriate that there  
2 be copies made of the tapes that you requested, Mr  
3 Kenny. There are copyrights on the tapes that are made  
4 by the various television stations. They do belong to  
5 them. These tapes, as I understand it, were supplied on  
6 a basis as to confidentiality. You can view them, make  
7 arrangements -
- 8 MR KENNY: Before you complete your ruling, there  
9 is something that I wish to add that I haven't said  
10 before, and I had reasons for not saying that. One of  
11 the things that I want to do with the tape is to take it  
12 and present it to an expert, a medical expert, and show  
13 the tape to the expert so that I may seek an opinion on  
14 the state of Mr Milera's health, if I can put it in that  
15 way.
- 16 COMSR: We can make arrangements for the medical  
17 expert to view it, I take it.
- 18 MR SMITH: Yes.
- 19 MR KENNY: I suspect that would involve, rather  
20 than the expert coming here -
- 21 COMSR: It may well do so.
- 22 MR SMITH: It certainly will do so.
- 23 COMSR: Arrangements can be made for a time  
24 suitable. If the press want to view the tapes again,  
25 arrangements can also be made for that to take place.
- 26 MR KENNY: The other point was I did wish to take  
27 the tapes to show that interview to individuals who  
28 perhaps are not my clients who know Mr Milera, to seek  
29 their reaction to his demeanour at the time of the  
30 interview. That would be far more convenient for me to  
31 take that with me.
- 32 COMSR: No doubt it would be. However, we are  
33 prepared to make arrangements for those people to come  
34 and view the tapes, if that is what you are seeking, but  
35 you are seeking for people you don't represent -
- 36 MR KENNY: Certainly I am seeking to take it to  
37 other parties whom I do not represent to seek their  
38 opinion and reaction. If there is something useful that

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- 1 comes out of that, then I would seek statements from  
2 them and supply them to counsel assisting the  
3 commission.
- 4 MR MEYER: There is a difficulty with the  
5 definition of 'useful' out of that.
- 6 MR LOVELL: Is this the Kenny inquiry?
- 7 COMSR: I was wondering just how Mr Kenny was  
8 justifying this.
- 9 MR LOVELL: The names could be given to Mr Smith and  
10 the Royal Commission could perform exactly that  
11 function.
- 12 COMSR: Yes, that is so.
- 13 MR KENNY: There are some difficulties with that.  
14 I don't think some of the people -
- 15 COMSR: I don't see any difficulty at all with  
16 it. If you think that there is some useful purpose to  
17 be served by that, I am sure Mr Smith will be prepared  
18 to follow that up.
- 19 MR SMITH: Certainly.
- 20 CONTINUED



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- 1 COMSR: I think it would be inappropriate for  
2 you to be carrying out that enquiry yourself. The tapes  
3 can be made available to your clients to come and view,  
4 as I've said, and we'll try to meet your convenience in  
5 that respect, but remember you will be having to  
6 cross-examine on this matter within a day or so, and you  
7 will, of course, have to get your instructions,  
8 meanwhile.
- 9 MR KENNY: Certainly. As I pointed out earlier,  
10 one of my client's, when I last spoke to him on Monday,  
11 was in fact in Meningie Hospital.
- 12 COMSR: That would present a difficulty in any  
13 case.
- 14 MR KENNY: Yes, it certainly does.
- 15 COMSR: However, what is the situation in  
16 respect of the transcript of the -
- 17 MR SMITH: Of that interview?
- 18 COMSR: Yes.
- 19 MR SMITH: We're going to do one, but one is not  
20 done at the moment, but the Commission will certainly  
21 undertake to do a transcript.
- 22 I am obliged also to put the position of the media.  
23 They have not sent anyone down, but have asked me as  
24 counsel assisting to convey their - I'm not sure if it  
25 is the universal submission of the media, perhaps only  
26 Channel 7, although -
- 27 COMSR: I think the same thing applies.
- 28 MR SMITH: Perhaps I better honour my undertaking  
29 to them, I better articulate what they want me to put to  
30 you. They request a ruling on the transcript, a ruling  
31 by you, as to, in particular, the video, and ask why it  
32 differs from a normal court which is, as they contend, a  
33 situation in which an exhibit would be freely available  
34 to the public. Why is the video in a different -
- 35 COMSR: I've never heard of copies of the  
36 exhibits, such as tapes, being duplicated and handed out  
37 to the press in a court situation.
- 38 MR SMITH: No.

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1 COMSR: As I've indicated, arrangements can be  
2 made.

3 MRS SHAW: Perhaps I can offer this; I was involved  
4 in a case before his Honour DeBelle J when the media  
5 made a request for the video from the Adelaide  
6 Children's Hospital, as it turned out, to be released.  
7 In particular, under Supreme Court rules, his Honour  
8 DeBelle J refused to release that to the media. I don't  
9 know that they even came within documents under the  
10 rules, but he certainly considered he had discretion.

11 COMSR: This is not the same. Mr Kenny  
12 wants it for what might be said to be a co-lateral  
13 purpose, if this were court proceedings. I don't think  
14 it is appropriate to release copies of a tape in which,  
15 as I say, one channel has a copyright. I mean the  
16 situation could arise with all of the other channels  
17 that might be called upon to produce tapes but, in any  
18 event, that's my ruling.

19 The press can view the tape again, arrangements can  
20 be made, and Mr Kenny can view it again, and have his  
21 clients view it, and any other counsel, too, who wishes  
22 to do so, but as far as providing a duplicate tape, I  
23 don't think that's appropriate.

24 MR SMITH: Perhaps I could indicate to you, and for  
25 Mr Kenny's purposes, that Mr Lovell does not object to  
26 the Commission releasing to Mr Kenny a copy of the tape,  
27 subject to the confidentiality undertaking that he  
28 retain possession of it and take instructions on it and  
29 return it.

30 MR LOVELL: From clients.

31 MR SMITH: From his clients.

32 COMSR: Without making any copies of it, nor  
33 showing it to anyone else.

34 MR SMITH: We have made arrangements, with Mr  
35 Lovell's consent, to do that in relation to Ms Pike's  
36 client, for instance, so would you accommodate that  
37 within your ruling?

38 COMSR: Release the actual tape to -

## C.K. KENNY XN (MR SMITH)

- 1 MR SMITH: Yes.  
2 COMSR: You're prepared to give those  
3 undertakings as to confidentiality, are you?  
4 MR KENNY: I will. I don't seek the actual tape, I  
5 think it might be safer if I'm simply given a copy, but  
6 I will give the undertaking that if a copy of the tape,  
7 or even if the original, is provided to me, that I will  
8 show it only to my clients, and perhaps I might also  
9 expand that slightly and add counsel, Mr Tilmouth, if I  
10 can include him.  
11 MR SMITH: Yes, certainly.  
12 COMSR: You can make those arrangements.  
13 MR SMITH: You'd be happy with that, because that's  
14 an accommodation we have reached.  
15 MR LOVELL: I'm happy with that.  
16 COMSR: Yes, if we get those undertakings then.  
17 I don't know if you can give the undertaking on behalf  
18 of Mr Tilmouth, of course.  
19 MR KENNY: I will only show it to him, and won't  
20 allow him to do anything else with it. I'm sure that Mr  
21 Tilmouth will have regard to the undertaking.  
22 COMSR: I'm just aware of the fact that he is  
23 not here.  
24 ADJOURNED 4.50 P.M. TO THURSDAY, 20 SEPTEMBER 1995 AT 10.15

A.M.

