

1 COMSR STEVENS

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4 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

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7 THURSDAY, 21 SEPTEMBER 1995

8

9 RESUMING 10.28 A.M.

10 MR SMITH: The programme for today is, first of
11 all, I am seeking leave to interpose a scientific
12 witness, if I can call him that, an engineering witness,
13 Dr David John Walker. His evidence will be brief. He
14 will tender a report and explain it. And I can't
15 imagine that anything he says will provoke any
16 contention at all. And then the hearing will resume
17 with the cross-examination of Mr Kenny.

18 COMSR: There is some reason for interposing the
19 witness, is there?

20 MR SMITH: Mr Walker is not available any other day
21 but today in the next period. And, unless there is some
22 reason why that couldn't be done now, to suit his
23 convenience, I would like to call him.

24 MR ABBOTT: I am in all in favour of suiting Mr
25 Walker's convenience. May I point out we weren't told
26 that he would be interposed. That is a mild criticism.
27 We do have a lot of material on this issue, most of
28 which we have given to the Royal Commission. I haven't
29 brought my folder down because I thought we were going
30 on with Mr Kenny. I haven't read this paper and I am
31 not sure that I wouldn't want to ask any questions, but
32 I am certainly not in a position do so. I may be able
33 to ask some questions, but I would like to reserve my
34 decision until I have finished it.

35 COMSR: Perhaps at the end of this evidence we
36 might release the witness on the understanding that he
37 will be recalled if required.

38 MR ABBOTT: Is that convenient?

D.J. WALKER XN (MR SMITH)

- 1 MR SMITH: Yes, and that can be extended to every
2 other counsel.
- 3 COMSR: Yes, I think it is always a bit unwise
4 to assume that the witness won't be contentious, Mr
5 Smith.
- 6 MR SMITH CALLS
7 DAVID JOHN WALKER SWORN
8 EXAMINATION BY MR SMITH
- 9 Q. I think you hold and your primary degree you have is one
10 of an honours degree in Bachelor of Engineering, which
11 you obtained from the Adelaide University in 1976, is
12 that correct.
- 13 A. That's correct, yes.
- 14 Q. And you have a Masters in Engineering Science, which you
15 obtained from the Adelaide University in 1981.
- 16 A. Yes.
- 17 Q. And your PhD you obtained in London in 1987, is that so.
- 18 A. That's correct, yes.
- 19 Q. And your PhD was on the topic of erosion on sandy
20 beaches.
- 21 A. That's right, yes.
- 22 Q. Looking at this document produced to you and headed
23 'Curriculum Vitae', I think that is your extensive
24 curriculum vitae, is it not.
- 25 A. Yes, it is.
- 26 EXHIBIT 151 Curriculum vitae of witness, Dr D.J.
27 Walker, tendered by Mr Smith. Admitted.
- 28 Q. Over the past ten years or so in your work and studies,
29 in particular, I think you have developed a numerical
30 model to assist in solving two-dimensional water flow
31 problems, is that right.
- 32 A. Yes, I have, yes.
- 33 Q. And that is, of course, a computerised model, is it not.
- 34 A. Yes.
- 35 Q. And its facility is to predict flow patterns, for
36 instance, in an area like the Murray Mouth and the area
37 of Hindmarsh Island, is that right.
- 38 A. Yes, that's correct.

- 1 Q. I think all that needs to be done is that you need to
2 feed into the computer, as it were, a physical layout,
3 shape, geography, depth of water and the like.
4 A. Yes.
- 5 Q. And some boundary or preconditional information about a
6 flow of water entering the model, is that right.
7 A. That's correct, yes.
- 8 Q. And the computer will therefore work out for you the, if
9 you like, speed and direction of water flow.
10 A. Throughout the rest of the area defined in the model,
11 yes.
- 12 Q. On that topic, I think you have provided some assistance
13 to the Commission in terms of what water flow could be
14 expected in and about the area of Hindmarsh Island and
15 the Murray Mouth bearing in mind a number of
16 permutations and combinations of, if you like,
17 blockages, etc., in the area.
18 A. Yes.
- 19 Q. You have provided I think a report to the Commission
20 setting all that out. Looking at the report produced to
21 you, do you recognise that as your report.
22 A. Yes, that's my report.
- 23 EXHIBIT 152 Report from witness, Dr D.J. Walker,
24 dated 18 September 1995, headed 'River
25 Murray Lower Lakes Modelling', tendered
26 by Mr Smith. Admitted.
- 27 Q. Do you have a copy of that report.
28 A. Yes.
- 29 Q. I would like you just to explain it to us. Just one
30 introductory matter: the computer actually grapples with
31 a number of equations to come up with its graphic
32 illustration, does it not.
33 A. Yes.
- 34 Q. They are equations relating to what topics.
35 A. Equations relating to the flow of fluid. I guess
36 hydrodynamics is the technical term. Essentially, it is
37 solving the continuity of flow and the continuity of
38 momentum.

- 1 Q. I think in your, report under the heading
2 `Introduction', you set out what, in effect, was your
3 brief in this matter.
- 4 A. Yes.
- 5 Q. If I can just summarise it, your brief was to
6 investigate the flow patterns in the vicinity of
7 Hindmarsh Island, with particular reference to the
8 proposed bridge site.
- 9 A. Yes.
- 10 Q. On a number of bases, and they are set out there in the
11 introduction, aren't they.
- 12 A. Yes.
- 13 Q. First of all, in respect of the channel at the bridge
14 site, without the causeway.
- 15 A. Yes, that's right. That gives the initial conditions
16 before any works were carried out at the site.
- 17 Q. Then the channel at the bridge site, with the present
18 causeway.
- 19 A. Yes.
- 20 Q. Then tidal flow through the Mouth and lakes area,
21 without the barrages in place.
- 22 A. Yes.
- 23 Q. Tidal flow through the Mouth, with the barrages in place
24 and closed.
- 25 A. Yes.
- 26 Q. And then, finally, river flow through the lakes and out
27 of the Mouth.
- 28 A. Yes.
- 29 Q. Can I take you, first of all, to figure 1 in your
30 report, and that is a general representation of
31 Hindmarsh Island and Mundoo Island, the Murray Mouth and
32 the Goolwa area.
- 33 A. Yes, that's right.
- 34 Q. You have there isolated what you have called the model
35 area as embracing the causeway and the Goolwa township
36 area.
- 37 A. That's correct. That was the first part of the
38 modelling to look particularly at that area where the

- 1 proposed bridge site is.
- 2 Q. I take you to figure 2: figure 2 shows the geography of
- 3 the channel in the area of the causeway of the ferry.
- 4 A. Yes.
- 5 Q. The small arrows there, can you tell us what they
- 6 represent.
- 7 A. Essentially the arrows in the channel show the flow
- 8 speed and also the flow direction. So, the direction of
- 9 the arrow shows the way - the direction that the flow
- 10 would be travelling. And the length and the size of the
- 11 arrow gives an indication of the speed.
- 12 Q. We pick up the scale from the bottom there. There is a
- 13 small arrow and '.5 metres per second'.
- 14 A. That's correct.
- 15 Q. As one would expect, as the channel widens, the arrows
- 16 became smaller and therefore the speed of the water is
- 17 reduced.
- 18 A. Yes.
- 19 Q. Am I correct, looking at that figure, that most of the
- 20 flow rate is about 1 metre per second.
- 21 A. It is of that order, given the particular input
- 22 conditions that I gave. And it was really just to
- 23 illustrate a typical flow pattern under a particular
- 24 condition.
- 25 Q. The fixed information that you fed into the computer, as
- 26 it were, what you have called boundary information.
- 27 A. Yes.
- 28 Q. Was what.
- 29 A. It was an input flow of a certain volume of water
- 30 passing the start of the channel at the boundary.
- 31 Q. I think your report then falls into four sections,
- 32 figures 2 to 5, figures 6 to 9, figures 10 to 11 and
- 33 figures 13 and 14.
- 34 A. Yes.
- 35 Q. I ask you then to deal with those. I take you now to
- 36 figures 2 to 5. We are at figure 2 and that is the
- 37 primary model area there, isn't it.
- 38 A. Yes, it is.

- 1 Q. Broadly speaking, what does that show us.
2 A. Specifically on figure 2?
3 Q. Yes, figure 2.
4 A. On figure 2 we have the part of the Goolwa channel, the
5 land area on the right is part of Hindmarsh Island, and
6 what we see is a fairly regular flow pattern around that
7 channel. There are no major obstacles, and the flow is
8 progressing in a fairly even and a fairly uniform
9 fashion.
10 Q. Of course, that is without the causeway.
11 A. Yes. So, that is showing the flow pattern that you
12 might expect, before there had been any construction at
13 all down in the area.
14 Q. One of the boundary preconditions, apart from a flow
15 into the system to get your computer starting its work,
16 one of the boundary conditions had to be a depth of
17 water, as well.
18 A. Yes, it was. I used, in this particular - in all of
19 these particular simulations, a constant depth based on
20 the average depth in the area, as a whole.
21 Q. Do you remember what that was.
22 A. It was 3 metres.
23 Q. As a whole, you took into account the river channel, the
24 lakes.
25 A. Yes.
26 Q. And the Coorong area.
27 A. And the Coorong area. Although, for figures 2 to 5, we
28 are only concentrating just on that particular channel
29 area.
30 Q. Figure 2 is the channel. It shows the flows, without
31 the present causeway in place.
32 A. That's right.
33 Q. Going to figure 3, it is reverse flow.
34 A. Yes, this was just to illustrate the sort of situation
35 you might get in the case where tidal flows were
36 entering the Mouth and flowing in the opposite direction
37 of the Goolwa channel and again just to show the steady
38 flow patterns that you might expect.

- 1 Q. Unless there was some rare storm or tidal wave
2 conditions prevailing, that would never be the case in
3 the Goolwa area, would it.
- 4 A. That would be unlikely, given that the barrages are
5 basically there to prevent that happening.
- 6 Q. Figure 4 shows the influence of the causeway.
7 A. Yes, the difference between figure 4 and figure 2 is
8 that the causeway has been modelled by an extra couple
9 of barriers in the correct position. The scale that the
10 modelling has been done at means that, in fact, the
11 causeway is not represented in fine detail, but for the
12 gross picture that we are looking at here just the
13 overall view I believe that it is a reasonable
14 representation. And the effect is obvious in the
15 influence on the uniform flow. It has now been changed
16 reasonably dramatically. There is a concentration of
17 flow past the causeway and quite a disruption of the
18 flow directions.
- 19 Q. So, the causeway that facilitates the ferry system that
20 operates there is a considerable interference to water
21 flow.
- 22 A. Yes, it is, yes.
- 23 Q. You have done the reverse situation in figure 5, haven't
24 you.
- 25 A. Again, just to complete the picture, yes.
- 26 Q. The next section deals with figures 6 to 9 and I think
27 figures 6 to 9 deal with the situation without the
28 barrages. That is, what the river flow situation would
29 have been prior to the construction of the barrages, is
30 that right.
- 31 A. River and tidal flows. We are talking now about the
32 total flow conditions in the area in general.
- 33 Q. The boundary or the preconditions that you had to build
34 into the exercise had to be variable here, did they, to
35 account for the tide.
- 36 A. That's correct. In figures 2 to 5, where we are
37 essentially looking at a steady flow, a steady situation
38 that is not changing. In the figures from 6 to 9, we

- 1 are looking at the tidal flows and this changes
2 throughout the day. So, it is necessary to look at a
3 number of different points in time, if you want to see
4 how the flows are going to be changing, because they
5 will be changing all the time as the tide goes in and as
6 the tide comes out again.
- 7 Q. We then move to figures 6 to 9: and could you, looking
8 at figure 6, would you just tell us what that depicts.
- 9 A. Figure 6 is an indication of the general flow pattern
10 around the islands, around Hindmarsh Island, around
11 Mundoo Island, given a particular point in the tide.
12 And, for example, if you have a look at the situation in
13 the channel leading to Lake Albert, you can see the
14 arrows there, although quite small, indicate flow
15 leaving Lake Albert. So, this is at a time in the tide
16 cycle when the flows are draining from that particular
17 lake.
- 18 Q. And towards the Murray Mouth.
- 19 A. And towards the Murray Mouth.
- 20 Q. Then we turn to figure 7.
- 21 A. In figure 7, we are slightly later in the day. For
22 example, the flows are still leaving Lake Albert,
23 although the flows throughout the rest of the area have
24 been reduced slightly.
- 25 Q. So, the tide is starting to change in the Murray Mouth
26 area, but there is still a flow out of the lakes system
27 towards the Murray Mouth.
- 28 A. Yes, because a lot of these channels are very narrow,
29 you tend to get a delay in time with the tide rising and
30 falling. The tide will rise and fall inside the Murray
31 Mouth at a different time than it would outside the
32 Murray Mouth.
- 33 Q. And figure 8.
- 34 A. Figure 8 I think is - it shows much higher velocities
35 coming into the Murray Mouth. And you can see
36 velocities and therefore flow progressing into Lake
37 Alexandrina and flowing around all the islands near the
38 Mouth.

- 1 Q. Is Lake Albert still however discharging slightly into
2 Lake Alexandrina.
- 3 A. Yes, it is. So, the constriction there has meant that
4 it is, in fact, quite a way behind what is happening in
5 the rest of the area. Although, by figure 9, Lake
6 Albert has stopped draining and would be in the process
7 of starting to fill up again.
- 8 Q. Is this almost at the time of a peak tide entering in
9 through the Murray Mouth.
- 10 A. Lake Albert has probably been - has lagged behind so
11 much, it would be a little bit hard to be able to tell
12 that.
- 13 Q. The smaller lake is Lake Albert, just to spell it out,
14 isn't it.
- 15 A. Yes, it is.
- 16 Q. And the bigger lake is Lake Alexandrina.
- 17 A. Lake Alexandrina.
- 18 Q. Figure 10, figures 10 and 11 show dramatically the
19 situation, don't they, with the barrages in operation
20 and in place.
- 21 A. Yes, they do. Essentially the barrages were put in
22 place to reduce the tidal flows that we have seen in the
23 previous figures. The tidal flows coming into Lake
24 Alexandrina and to Lake Albert. And, so, this shows
25 that the influence of the tide now is only at the Mouth
26 and in the Coorong area and in the small part of the
27 Goolwa channel and that there are no tidal flows at all
28 in the rest of the lakes area. So that all the flows
29 around the islands, Hindmarsh Island, Mundoo Island and
30 all the tidal flows in and out of the lakes has now
31 ceased completely. And this would have been the
32 situation from the time that the barrages were
33 constructed.
- 34 Q. Figure 11 shows that again.
- 35 A. It is just a different point in the tidal cycle.
- 36 Q. Your final contribution at our request I think was just
37 to show the river flows into the lakes system generally
38 and I think it is such a large scale depiction that it

- 1 almost - the causeway and the barrages don't have a
- 2 major influence, is that the position.
- 3 CONTINUED

- 1 A. It is in this particular situation, we have river flows
2 coming down the Murray, and I have assumed in this
3 particular case either that the barrages are not there,
4 or, if they are there, then they are open to allow this
5 river flow to exit from the system out the Murray Mouth.
- 6 Q. What would be the situation, although you haven't
7 depicted it, to close the barrages with the river flow.
- 8 A. If you close the barrages while the river was flowing
9 down?
- 10 Q. Yes.
- 11 A. It would flood the lakes area, it would flood Goolwa and
12 the flow would eventually have to flow over the
13 barrages.
- 14 Q. So, figures 13 and 14 just show the river flow on that
15 basis; that is, with the barrages open to allow the
16 river flow to go through.
- 17 A. That's correct. Figure 14 is just an enlargement of one
18 particular area of figure 13.
- 19 Q. To turn back then to your brief and your conclusion, I
20 think that's your conclusion which is set out at .2
21 of your report, is it.
- 22 A. Yes.
- 23 Q. As to the barrages, your position is made clear by your
24 report that the barrages have then had a massive
25 influence on the water levels and the flow in the river
26 system and the Murray Mouth area.
- 27 A. Yes. The construction of the barrages would have had a
28 dramatic effect in changing the flows and the water
29 level in the area.
- 30 Q. And the ferry causeway which protrudes out into the
31 channel from the island side across to Goolwa has had
32 another considerable influence.
- 33 A. Yes, it has. In a much more localised sense, but, yes.
- 34 Q. I think you have seen diagrams of the Hindmarsh Island
35 Bridge planned construction.
- 36 A. Yes, I have, yes. I've got a copy, yes.
- 37 Q. I will just make sure I have the same one. Looking at
38 the document produced, you are looking at a set of four

1 plans.

2 A. Yes.

3 Q. From the bridge construction.

4 A. Yes, I am.

5 Q. I want to ask you some questions about that.

6 A. Yes.

7 BUNDLE OF FOUR PLANS TENDERED TO BECOME PART OF EXHIBIT 152

8 Q. The bridge in part, at least, it was planned to be built
9 on the causeway as the plan shows.

10 A. Yes.

11 Q. From your expertise's point of view, would you
12 anticipate that bridge piers, as shown in the plan,
13 would have any - would have what, if any, effect on the
14 overall water flow of the river.

15 A. They would have a negligible effect on the flow from the
16 channel in general. There would be some small localised
17 effect; although, from the design and construction point
18 of view, this could be limited because any interference
19 with the flow would tend to cause local erosion. Part
20 of the design would minimise any effect on the flows
21 passing by the pier in any way.

22 NO FURTHER QUESTIONS

23 MR SMITH: I indicate to counsel that if they want
24 to reserve their position.

25 MR ABBOTT: We would like to reserve our position.

26 COMSR: Does anyone else want to put anything to
27 me at this stage? Otherwise, I propose to release the
28 witness on the understanding that he may be required to
29 be recalled at a later stage by any of the parties with
30 a particular interest in this matter of your report Mr
31 Walker.

32 WITNESS RELEASED

C.K. KENNY XXN (MR TILMOUTH)

1 WITNESS CHRISTOPHER KEVIN KENNY CONTINUING

2 MR SMITH: I think the one outstanding matter is
3 that we intimated that we would obtain copies of Mr
4 Kenny's notes to which he refreshed his memory from in
5 the course of his evidence. I have done that and I hand
6 those out to counsel, although I need to obtain some
7 more copies. So perhaps people with the most vigorous
8 interest I will give the first copies to them and copy
9 some more immediately.

10 COMSR: Which parties are most concerned with
11 this witness?

12 MR TILMOUTH: I am.

13 COMSR: Mr Tilmouth, you are acting for the four
14 men who are witnesses?

15 MR TILMOUTH: Yes, for Victor Wilson, who was
16 mentioned quite a few times and to a much lesser extent
17 George Trevorrow. I act for both of those men.

18 CROSS-EXAMINATION BY MR TILMOUTH

19 Q. Your statement says that you commenced with Channel 10
20 since 1989.

21 A. That's correct.

22 Q. I understand you're currently, am I right, State
23 political reporter for Channel 10.

24 A. That's correct.

25 Q. Was that a position you have always held since 1989.

26 A. Since - no, would have been early 1990 I assumed that
27 position.

28 Q. Obviously, at the first step, this is Channel 10 based
29 in Adelaide.

30 A. Yes.

31 Q. Is that part of a commonwealth network as well.

32 A. Not entirely. The Adelaide, Perth and Canberra stations
33 are owned by a separate company from the Brisbane,
34 Sydney and Melbourne stations, but we co-operate as a
35 network and as a news organisation swapping stories.

36 Q. Syndicating stories and the like.

37 A. Indeed.

38 Q. To take it forward for the moment, the interview with

- 1 Doug Milera of 5 June 1995 at the Appollon at Victor
2 Harbor went to air the following day.
- 3 A. Yes, it did.
- 4 Q. Is it correct to say that it went to air on the
5 following day on the main 10 news broadcast in the late
6 afternoon, early evening.
- 7 A. 5 o'clock the next day.
- 8 Q. Which is the prime time news spot.
- 9 A. The major one hour news bulletin, yes.
- 10 Q. Can you help us whether it went to air only locally or
11 nationally.
- 12 A. It would have gone to air nationally, although each
13 individual station makes their own decision. I would
14 have to check back over records to see. Often what
15 happens is that some stations run stories and other
16 stations cut them back and run shortened versions, et
17 cetera.
- 18 Q. I will come to this in more detail later. I'm trying to
19 get the general picture. Obviously this went to air on
20 6 June. The raw interview was cut considerably, wasn't
21 it.
- 22 A. As all interviews are when they go to air.
- 23 Q. From reading the papers - you appreciate I didn't see
24 your evidence - am I right in thinking about a minute or
25 so ultimately went to air.
- 26 A. Of Doug Milera speaking, it would have been probably
27 close to a minute, perhaps less.
- 28 Q. I am only concerned with not precise details, but the
29 overall. About a minute, roughly anyway.
- 30 A. Yes.
- 31 Q. During the day, I suppose, you and those above you were
32 directly involved in making a selection of what would go
33 to air.
- 34 A. Yes.
- 35 Q. That was part of your task.
- 36 A. That is of any journalist's daily tasks, yes.
- 37 Q. In the end result, what went to air, was that something
38 that you were happy with.

C.K. KENNY XXN (MR TILMOUTH)

1 A. In the end result, what went to air was a true and
2 accurate reflection of what Doug Milera said he wanted
3 to say, and what he went on to say on camera that
4 evening and what he repeated subsequently.

5 Q. As you saw it, at that time anyway, you felt that what
6 went to air was -

7 A. As I saw it, as I still see it, as Doug Milera saw it -
8 and Doug Milera's never said otherwise since.

9 Q. What ultimately went to air on the 6th, although it might
10 have been subject to veto by your superiors,
11 nevertheless went to air with your full consent and
12 without any difficulty between you and them.

13 OBJECTION Mr Lovell objects.

14 MR LOVELL: What has this to do with Mr Tilmouth's
15 clients? What possible relevance has it and how is it
16 going to help you to know the decision-making process of
17 Channel 10?

18 COMSR: Yes, Mr Tilmouth.

19 MR TILMOUTH: I guess it is the witness's perspective
20 of the whole issue.

21 MR LOVELL: How is that relevant?

22 MR TILMOUTH: What what went to air was with his
23 consent or without his consent. It is the overall
24 perspective of the matter.

25 COMSR: I suppose I'm not really concerned with
26 his perspective of it.

27 MR TILMOUTH: His whole evidence is replete with his
28 perspective. All the evidence that he gave in the last
29 couple of days is full of his reflections and
30 perspectives.

31 MR LOVELL: That is not the case, what my friend is
32 referring to. This witness has interviewed people, come
33 along, and some of them had the courage to come along
34 and give evidence, others haven't. Christopher Kenny's
35 perception is not relevant to the Terms of Reference.

36 MR TILMOUTH: We can debate this endlessly. His whole
37 evidence is full of his opinion about the whole
38 question, and including the reliability and so on of the

- 1 interview, for example.
- 2 COMSR: Wouldn't it be a matter for me in the
3 final analysis, looking at the whole of the interview,
4 whatever might be the witness's opinion?
- 5 MR TILMOUTH: I agree with that. The fact of the
6 matter is his opinion and his views about things which
7 virtually dominate the whole of his evidence-in-chief.
- 8 COMSR: They may, and maybe to that extent they
9 won't be very useful to me in the final analysis.
- 10 MR TILMOUTH: I join with that. The fact of the
11 matter is that it's already in.
- 12 COMSR: That might be so. We are concerned with
13 the question of relevance as to the matters which touch
14 your clients.
- 15 MR TILMOUTH: That is true. That, in turn, turns upon
16 the interview, particularly of 5 June, and it turns upon
17 how one reads both the questions and the answers. Could
18 I help you in this? I have asked the question and, to
19 an extent, it has been answered by the previous question
20 and answer. For the moment, I don't intend to pursue it
21 any further than that.
- 22 COMSR: I think it will be a matter of
23 submission in the final analysis.
- 24 MR TILMOUTH: I repeat that a lot of this material is
25 impressions and views and reoccurs throughout his
26 evidence-in-chief. It is a question whether you will
27 allow the last question.
- 28 COMSR: Can we repeat the last question?
- 29 QUESTION REPHRASED
30 XXN
- 31 Q. You were happy with what went to air the following day.
- 32 A. I said in an answer the other day that I stand by
33 everything I have reported and said in this case.
- 34 Q. You're first contact in relation to this matter came
35 through a chance meeting with Mr Ian McLachlan.
- 36 A. Yes - no, my first, that was the first contact as far as
37 the episode that led me to make contacts with the
38 dissident women who had spoken out. If you look at the

- 1 evidence, I was investigationing the matter prior to
2 that with no success.
- 3 Q. In terms of chronology, the meeting with Mr McLachlan
4 led you to interview a number of Aboriginal women.
- 5 A. Eventually, the contact Mr McLachlan made with me put me
6 in contact with Sue Lawrie who put into contact with
7 Dorothy Wilson and Dulcie Wilson.
- 8 Q. And subsequently Bertha Gollan.
- 9 A. Subsequently another Channel 10 first made contact with
10 Bertha Gollan. I did later on.
- 11 Q. Up until the time that you were contacted on 5 June
12 1995, you had been pursuing this matter with a great
13 deal of interest, hadn't you.
- 14 A. Indeed.
- 15 Q. It was something that perhaps - 'dominate' is too
16 strong, it was a story that you were anxious to pursue
17 every impossible avenue.
- 18 A. It was a major story. I had - there were many avenues
19 that still needed investigation, there were many people
20 I still wanted to contact and follow up.
- 21 Q. Would it be fair to say that it was your number one item
22 in these months.
- 23 A. There was - it was a matter of a couple of weeks and
24 there was the small matter of a State budget which keep
25 me busy for a couple of days, but it was a primary focus
26 for my work, yes.
- 27 Q. As to the stories which had gone to air, stories
28 compiled by you before the 6 June interview with Mr
29 Milera, hadn't they gone to air.
- 30 A. Yes.
- 31 Q. I don't have the full details, but was there a story on
32 Channel 10 virtually every night about April or May
33 through to early June.
- 34 A. From May the 19th until early June, there would have
35 been a story on more than half the nights, so it would
36 be easy to count it out. I think it would be ten
37 stories in that period.
- 38 Q. Can you help us whether they are the main story of the

1 evening or an important story.

2 OBJECTION Mr Lovell objects.

3 MR LOVELL: We will be here for days. I fail to
4 see the relevance of this questioning. If Mr Tilmouth
5 would stop dancing around the edges and get to the
6 points of his cross-examination, otherwise we will be
7 here for days.

8 MR TILMOUTH: I can assure you I won't be here for
9 days because I catch a plane to Brisbane tomorrow.

10 COMSR: But, we don't wish to recapitulate
11 evidence that has been given - and, of course, your
12 cross-examination is supposed to be relevant to the
13 interests of the parties you represent and to the extent
14 that the evidence has touched upon those parties.
15 That's the ambit of the cross-examination. I don't
16 unduly restrict people, but it seems to me that this is
17 a little wide of the mark.

18 MR TILMOUTH: With respect, I haven't read - and if
19 I'm mistaken I stand corrected - anything in the papers
20 relating to this witness which talks about the
21 prominence of the earlier reports had been given as a
22 news item.

23 COMSR: That may be so. How is that relevant to
24 a matter of the evidence as it touches upon your
25 clients?

26 MR TILMOUTH: It shows the degree of interest and
27 involvement of this witness.

28 COMSR: That may well do so.

29 MR TILMOUTH: Perhaps if I recast the question this
30 way, it is only a short subject matter, and we can see
31 whether there is any objection.

32 QUESTION WITHDRAWN
33 XXN

34 Q. Can I ask you this: You interviewed Dorothy and Dulcie
35 Wilson on 16 May 1995.

36 A. Yes, I did.

37 Q. Obviously as a result of that, an item went to air.

38 A. On 19 May.

1 Q. Was that the first item in the news bulletin.

2 A. It was the lead story on the news bulletin, both in
3 Adelaide and around the rest of the country.

4 Q. Of the stories that you had been involved in putting to
5 air before 6 June 1995, can you help us how many of them
6 in relation to Hindmarsh Island were lead stories.

7 A. Probably most of them. It was a prominent story.

8 COMSR: I think you have established the point
9 of that.

10 MR TILMOUTH: I'm content with that.

11 Q. When the Doug Milera story went to air on 6 June, that
12 was the lead story too, wasn't it.

13 A. It was a lead story because he was the first person who
14 was at the crucial Mouth House meeting other than

15 Dorothy Wilson who confirmed her version of events.

16 There are now six people who confirmed that version of
17 events. Four of them were at that meeting.

18 CONTINUED

C.K. KENNY XXN (MR TILMOUTH)

1 Q. In relation to that interview, you were contacted, as I
2 understand it, by a person at your work.

3 A. Yes.

4 Q. The long and short of it was to obtain your mobile
5 number so that you could be contacted by Mr Denver.

6 A. Yes.

7 Q. Am I correct in understanding that you had not met Mr
8 Denver before.

9 A. I had not met Mr Denver before.

10 Q. You knew who he was beforehand, did you.

11 A. No, I didn't.

12 Q. You didn't know he was involved in the the pro-bridge
13 lobby, so to speak.

14 A. No, I didn't. I found out very quickly upon speaking to
15 him.

16 Q. He spoke to you and identified himself in that respect.

17 A. Yes.

18 Q. Did he say to you that he was the leader or
19 co-ordinator. What were his words exactly.

20 OBJECTION Mr Lovell objects.

21 MR LOVELL: How does this affect Mr Tilmouth's
22 client? Are we going to go through everything that Mr
23 Kenny has done?

24 MR TILMOUTH: He has already given evidence about this
25 conversation.

26 COMSR: We have covered this in evidence. I
27 appreciate that you weren't here the other day, but it
28 is a topic which has been covered.

29 MR TILMOUTH: The whole lead-up to this interview has
30 already been given in evidence by Mr Denver.

31 COMSR: That is right. That doesn't mean we
32 have to recapitulate it. All counsel who are
33 representing parties will be permitted to cross-examine
34 to the extent that the evidence affects the parties that
35 they represent.

36 MR TILMOUTH: That is true. But it is also relevant
37 to ascertain from this witness the key events which led

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- 1 up to the interviews which have been given by people
2 like Mr Denver.
- 3 COMSR: Yes, but that has been canvassed in
4 evidence already.
- 5 MR ABBOTT: Mr Denver wasn't cross-examined. All
6 this is designed to do is to give the 7.30 Report their
7 lead-in for tonight, and allege this witness is biased.
8 That is all it is designed to do.
- 9 MR TILMOUTH: I reserved the right to cross-examine Mr
10 Denver once this transcript of the interview was
11 revealed.
- 12 COMSR: No-one is questioning your right to
13 cross-examine the witness to the extent that the
14 evidence that he has given affects the interests of the
15 witnesses that you propose to call. I wonder if we
16 could perhaps get a little closer to those matters.
- 17 MR TILMOUTH: We can, but a cross-examination isn't
18 just `You mentioned this witness and that witness who
19 happens to be my client and I am only going to
20 cross-examine you about that'. A proper
21 cross-examination -
- 22 COMSR: It may be in a trial, but this is of
23 course an inquiry into -
- 24 MR TILMOUTH: A cross-examination must be allowed to
25 be fair and reasonable.
- 26 COMSR: Yes, you can cross-examine the witness
27 at length concerning the matters which touch upon the
28 interests of your clients.
- 29 MR TILMOUTH: But he has already given evidence
30 in-chief about this conversation.
- 31 COMSR: I know he has.
- 32 MR TILMOUTH: With respect, why cannot I canvass that?
- 33 COMSR: You do understand that in an inquiry the
34 parties who are represented are permitted to
35 cross-examine on those matters which touch the interests
36 of their client. It is not a trial.
- 37 MR TILMOUTH: I understand that, but with respect, the
38 perspective which the interview gives is partly

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1 determined by the perspective which the interviewer
2 brings into it beforehand. These events I'm talking
3 about now are immediately preceding events, including
4 the conversation with Mr Denver which gave rise to this
5 very interview, upon which this Royal Commission was
6 apparently called.

7 MR LOVELL: Is this the ALRM line coming here?

8 MR TILMOUTH: I object to my learned friend casting
9 aspersions upon me personally. I ask him to withdraw
10 that comment.

11 MR LOVELL: I will not withdraw it. My friend is
12 putting a position that he has no right to put, when he
13 is acting from for the men from the Lower Murray
14 Aboriginal Heritage Committee. If he wants to make a
15 political statement he should reserve it, like other
16 people have been doing, for outside the commission, not
17 inside.

18 COMSR: I have indicated that I think you have
19 explored these preliminary matters sufficiently, and if
20 we could now move to the question of cross-examination
21 on those matters which directly affect your clients,
22 that is, the area of cross-examination which is
23 appropriate for you and other counsel to pursue.

24 MR TILMOUTH: I will abide by that decision, but may I
25 protest at the ruling?

26 COMSR: We would have six counsel exploring
27 those preliminary issues which have already been aired.

28 MR TILMOUTH: I don't agree about that, with respect.

29 MR ABBOTT: You weren't here.

30 MR TILMOUTH: No, but I can read transcript, just like
31 you can.

32 MR TILMOUTH: Is the interview of 6 June available for
33 playing?

34 COMSR: What, in full? Are we talking about the
35 total?

36 MR TILMOUTH: Yes.

37 COMSR: Wasn't Mr Kenny provided with access to
38 that during the -

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- 1 MR TILMOUTH: Yes, and I saw it yesterday afternoon
2 but I would like to ask this witness some questions
3 about it.
- 4 MR SMITH: We have that tape.
- 5 COMSR: Have you marked those portions of the
6 tape which affect your clients' interests.
- 7 MR TILMOUTH: Only by the counter that I looked at the
8 tape on. We were given a transcript of it only this
9 morning, which I haven't had an opportunity to read or
10 correlate at all, still less check or correct.
- 11 MR SMITH: The transcript which I handed out this
12 morning, is the interview with Milera on 5 June only.
- 13 MR TILMOUTH: That is what I had in mind.
- 14 COMSR: If we spend a few moments trying to
15 identify the portions of the tape, it might save us
16 sitting through a fairly lengthy tape again.
- 17 MR TILMOUTH: As I said, the only notes I have are
18 from the counter on which I viewed the tape. I
19 understand there was no other reference which was
20 provided by the commission. I could only do the best I
21 could with the material I had.
- 22 MR SMITH: That won't provide any problems. CKK2,
23 which is Exhibit 149, is presently sitting right at the
24 beginning of the Milera interview of 5 June.
- 25 COMSR: How lengthy is this tape?
- 26 MR SMITH: It is 40 minutes to an hour.
- 27 COMSR: Is there any way of identifying those
28 sections of the tape which touch upon the interests of
29 Mr Tilmouth's clients?
- 30 MR SMITH: There are repeated references in the
31 tape to Mr Wilson, for instance, and I think the
32 references start fairly smartly into the tape.
- 33 COMSR: I think this witness is well acquainted
34 with what is on the tape. I wonder if we can see how
35 far we can get without having to sit through the 40
36 minute tape again.
- 37 MR TILMOUTH: I must say, I don't think I can
38 adequately cross-examine by just taking selected lines

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1 out of the tape. It is the whole content and sequence
2 which really matters. I can sit down and read the
3 transcript I have been given to try and help, but even
4 then I notice it is not correlated to any counter or
5 anything. Although, it may be the commission's staff
6 can -

7 COMSR: If each counsel is going to make a
8 similar request of the commission, I foresee that days
9 will be spent.

10 MR ABBOTT: Maybe we can all do it together. Mr
11 Tilmouth can go first and we can ask questions as we go,
12 follow up bit by bit.

13 MR SMITH: I think Mr Tilmouth is going to go to a
14 section on the tape and ask some questions about it.
15 That is what is going to happen.

16 MR TILMOUTH: That is partly true. It is difficult to
17 do without going into sequence and details. Just like
18 Mr Abbott did when he was cross-examining Mrs Betty
19 Fisher.

20 MR SMITH: I don't think it is proposed that we
21 just sit here dully for 40 minutes. Mr Tilmouth is
22 going to come to sections and ask some questions about
23 it.

24 MR TILMOUTH: That is true, but it is going to take
25 some time. It is half a dozen sections. Before I deal
26 with the tape, could I indicate I would like to ask some
27 questions about the notes which were made in the time
28 period beforehand, which are Exhibit 145.

29 XXN

30 Q. The notes that I have been provided with as Exhibit 145,
31 commence on the first page with the date 5 June 1995.

32 A. My original copy doesn't have the date on the top.

33 Q. Yours commences just with 'Doug Milera'.

34 A. 'Doug Milera' and 'Victor Wilson'.

35 Q. My copy is then marked sequentially in page numbers up
36 to p.5. Are those numberings on your original copies.

37 A. No, they're not.

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- 1 Q. I take it, however, that the relevant parts that you
2 referred to in your evidence this week are the five
3 pages commencing at 'Doug Milera, Victor Wilson', that
4 page and the next four immediately following.
- 5 A. Yes, that's right. I've seen those photocopies. That's
6 the same notes.
- 7 Q. Is it convenient if I refer to pp.1 through 5.
- 8 A. That's fine. I can handle that.
- 9 Q. The evidence you gave the other day in relation to these
10 notes, particularly as it affects Victor Wilson, am I
11 correct in saying related to a note which appears about
12 halfway down at p.4.
- 13 A. Yes.
- 14 Q. Is it true to say that that's the first mention of
15 Victor Wilson, other than the original note at the
16 beginning.
- 17 A. It's the first mention in these notes, I believe.
18 Although - no, hang on. On the first page 'The Lower
19 Murray Aboriginal Heritage Committee, one day in Murray
20 Bridge about Hindmarsh Island. Victor Wilson the
21 chairman and me the secretary.' Victor Wilson was
22 prominent in Doug's thinking right from the start.
- 23 Q. Staying with that p.1, you have obviously got 'Doug
24 Milera' there because you are interviewing him.
- 25 A. That's correct.
- 26 Q. What caused you to put the note 'Victor Wilson' under
27 it.
- 28 A. Because Doug had mentioned him to me as being a key
29 character in this.
- 30 Q. Can you remember, in terms of this interview before the
31 filming commenced, when it was mentioned by Milera and
32 in what context Victor Wilson came up.
- 33 A. He came up in the context of this original meeting that
34 Doug talks about at Murray Bridge where Victor Wilson
35 pointed at a map.
- 36 Q. Would you have, in the early stages, been trying just to
37 identify a few names that might be relevant for
38 follow-up.

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- 1 A. As I have explained earlier, there were lots of things I
2 was trying to do in the early stages, and I began taking
3 down notes only when Doug requested that I do so.
- 4 Q. So how long were you speaking with Doug before you
5 started actually commencing the notes.
- 6 A. I would suggest 20 minutes to half an hour.
- 7 Q. Your evidence was, I think, that you were with Doug
8 about four hours in all.
- 9 A. Yes.
- 10 Q. Your best estimate is that these five pages of notes
11 relate to a period of approximately two and a half,
12 three hours.
- 13 A. Yes.
- 14 Q. On that evidence you have just given, about a half hour
15 approximately beforehand was note free, so to speak.
- 16 A. Yes.
- 17 Q. Is it the position then that the note `Doug Milera' and
18 `Victor Wilson' were the first notes you put after the
19 note-free period.
- 20 A. Yes.
- 21 Q. Your note continues on p.1, as you have indicated, that
22 Victor Wilson was identified as Chairman of the Lower
23 Murray Aboriginal Heritage Committee.
- 24 A. That's correct.
- 25 Q. Please check, because I may be wrong and it is difficult
26 to read the photocopy of your notes, but are we at one
27 in thinking that the next mention of Victor Wilson is
28 that reference we talked about earlier at p.4.
- 29 A. Yes, that would seem the case.
- 30 Q. My Meyer has just asked me to check something with you.
31 Going back to p.1, can you see the words, about two
32 thirds of the way down, `so did.'
- 33 A. `I remember that VW and I said that they can take care
34 of that'.
- 35 Q. `VW'.
- 36 A. Yes.
- 37 Q. Being.
- 38 A. Victor Wilson.

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- 1 Q. Can you then go to p.4. Would you read your notes
2 without any comment or adornment, as they are word for
3 word in that paragraph which refers to Victor Wilson.
- 4 A. `One day Vic Wilson, the Chairman of the Lower Murray
5 Aboriginal Heritage Committee, called me in his office
6 and showed me an aerial photo of Hindmarsh Island and
7 said this (is a woman) is the creation of the
8 Ngarrindjeri people and I am going to ring Doreen
9 Kartinyeri to explain it to find out about it.'
- 10 Q. Can you read the next note, or does that go onto some
11 other subject matter.
- 12 A. This is Doug speaking directly `I am convinced that
13 business - blow all wide open because it needs to be
14 done'.
- 15 Q. The note that you have just read is the note in relation
16 to Victor Wilson, if I can put it that way -
- 17 A. Yes.
- 18 Q. Before the blowing up.
- 19 A. Yes.
- 20 Q. Obviously that is a note, I would assume, of a longer
21 conversation.
- 22 A. Yes, much longer.
- 23 Q. Are you able to help the commissioner at all in relation
24 to that note as to when it was that Victor Wilson showed
25 Milera the photograph in Wilson's office.
- 26 A. I can't help with a precise date. It was before the
27 meeting at the Mouth House, as I understand it, and my
28 impression was that it was in the not to distant past
29 before that. Perhaps in the area of weeks or months
30 before that meeting.
- 31 Q. So we can try and assess that impression, are you able
32 to assist the commissioner with what words that
33 impression was gained by you.
- 34 A. Just by talking to Doug and asking him when it happened,
35 and he said earlier at Murray Bridge.
- 36 Q. At Murray Bridge. Apparently at Victor Wilson's office
37 at Murray Bridge.
- 38 A. Yes, I understand at Kalparran.

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1 Q. But you are unable to help the commissioner, if we use,
2 for example, the meeting at Mouth House as the reference
3 because you have just chosen it, whether Milera was
4 talking days, weeks or even months.

5 A. I can't give you any assistance as far as defining a
6 specific date.

7 Q. So far as you knew, it may well have been on the day of
8 the Mouth House meeting or shortly beforehand.

9 A. I didn't get the impression it was on the same day, but,
10 in reality, I suppose it could have been.

11 Q. To come back to it again, can you give the commissioner
12 any of the direct speech upon which the impression you
13 speak of was based.

14 A. I don't - I have my notes and I have the 40 minutes of
15 Doug on tape.

16 Q. So you are dependent on your impression now of your
17 notes and the interview that you speak about, the 40
18 minute interview.

19 A. And my broad recollections of that meeting and those
20 discussions, and I recall coming away from that meeting
21 and those discussions without a specific date for that
22 alleged meeting.

23 Q. Perhaps I might be able to indicate, for those concerned
24 about it, what I want to put to you in relation to the
25 interview. I am trying to be fair, but I have also been
26 told I have to pick spots. Can I suggest to you, first
27 of all, that in that 40 minute interview, nowhere did
28 Doug Milera volunteer the name of Victor Wilson, and
29 that it was always, if at all, at an express mention of
30 that name by you.

31 A. Doug Milera contacted me for that interview through Kym
32 Denver. He got me down to Victor Harbor. He sat down
33 for two and a half hours and spoke to me in great detail
34 about what he wanted to tell me. When the light was
35 switched on and the camera was rolling on Doug Milera,
36 he was nervous. He told me he was worried about losing
37 all his friends, his wife, being exiled. In particular,
38 he was worried about Victor Wilson who was a very very

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1 close friend of his. And I found that during the
2 interview, Doug was reticent to volunteer Victor's name
3 again, and I indeed wanted to press him about where he
4 got his information from. It was my impression that
5 Doug was actually fudging at times to protect Victor
6 Wilson.

7 Q. Putting aside the interview at the moment, is there
8 anything in your notes that you can point to which
9 supports the last answer you've given.

10 MR ABBOTT: P.8 Doug mentions it.

11 MR TILMOUTH: Excuse me. May the witness answer?

12 CONTINUED

13

- 1 A. I would have thought all of it. That all of this
2 details exactly what Doug Milera wanted to say.
- 3 Q. What I am really putting to you is that what, if
4 anything, in the notes supports the view that Doug
5 Milera was reticent about mentioning Victor Wilson.
- 6 A. If you go over to page -
7 COMSR: I am sorry, I must have misunderstood
8 the witness's previous answer. I thought he said that,
9 once the cameras started rolling, he was reticent to
10 mention his name. That he thought he was fudging. I
11 may have misunderstood it.
- 12 MR TILMOUTH: Yes, I may have misunderstood it too.
13 XXN
- 14 Q. Perhaps I can ask you this, in your last few answers,
15 were you saying that that reticence was expressed only
16 in the recorded interview, or was it expressed earlier
17 as well in the time that you took notes.
- 18 A. I said that, once the cameras were rolling and the
19 lights were on Doug, he became reticent.
- 20 Q. There was nothing beforehand, so far as you can tell us
21 now, that indicated a reticence before the camera was
22 rolling to talk about Victor Wilson.
- 23 A. Not a - Doug was very well-aware of what he was doing.
24 He was worried sick about what he was doing. So, he was
25 nervous and apprehensive about the whole conversation.
- 26 Q. But perhaps I will come back and I think you agree with
27 this, if there was any degree of reticence by Doug
28 Milera in mentioning the name of Victor Wilson there, it
29 is evident for all to see on the tape, isn't it.
- 30 A. Yes.
- 31 Q. That is what you are saying. You are not supporting it
32 by any other earlier material.
- 33 A. No, I don't think so. I have one reference here in the
34 - in my notes, p.4 I think it is. The paragraph above
35 `Victor Wilson'. `I spoke to a person'. There is a
36 question mark. Obviously I have put a question mark to
37 satisfy myself who that person is. And that is
38 explained in the next paragraph. `It was Victor

- 1 Wilson.'
- 2 Q. Those notes you just referred to, are they the
3 prerecording notes, are they.
- 4 A. Yes.
- 5 Q. And that is the one on p.4, immediately before the
6 Victor Wilson paragraph.
- 7 A. Yes.
- 8 Q. Perhaps to make sure we all read it correctly, perhaps
9 you can just read it out.
- 10 A. 'I spoke to a person', question mark, 'who got in
11 contact with Doreen Kartinyeri and explained the
12 issues.'
- 13 Q. Can I go back then to where I started: the tape is now
14 rolling, the film is being made. Can I put it to you
15 that at no time did Doug Milera himself name Victor
16 Wilson.
- 17 MR ABBOTT: That is just wrong. At p.8 he did.
- 18 A. I haven't got the transcript -
- 19 MR TILMOUTH: I haven't got the transcript either.
- 20 A. But I am confident I think that he mentioned Victor
21 Wilson. I recall that he was reticent to do so, though.
- 22 MR ABBOTT: P.2, two-thirds of the way down.
- 23 MR TILMOUTH: I haven't had the opportunity to read
24 this transcript.
- 25 XXN
- 26 Q. Isn't it the position that, originally in an early part
27 of the interview, Milera said that he was told something
28 by a man in Murray Bridge.
- 29 A. He did, yes.
- 30 Q. Without naming anybody.
- 31 A. Yes, I think that is right.
- 32 MR LOVELL: It might be helpful if Mr Kenny has a
33 copy of the transcript of the interview in front of him.
- 34 COMSR: Yes, it might save time.
- 35 MR SMITH: Perhaps that then ought to be tendered.
36 I haven't tendered that.
- 37 MR ABBOTT: Yes.
- 38 MR SMITH: Could that be, we have been marking

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- 1 exhibits as A of the exhibit. Could you do that in this
2 case, so that the transcript goes with the particular
3 exhibit?
- 4 COMSR: That is with the video tape, is that
5 what you are suggesting?
- 6 MR SMITH: It is the video, yes, really it runs
7 with Exhibit 149, which is the raw footage of the
8 interview inter alia with Doug Milera CKK2.
9 So, could I suggest that the transcript then be
10 marked Exhibit 149A?
- 11 COMSR: No-one wants to be heard on that?
- 12 MR TILMOUTH: I don't mind that. I just repeat that I
13 haven't had the opportunity to read it. And it hasn't
14 been checked, either. So, subject to those comments.
- 15 COMSR: I don't have to deal with the issue of
16 whether it is included in that exhibit, at this stage,
17 if you want to reserve your right to object when you
18 have read the transcript.
- 19 MR TILMOUTH: Correct is probably the better word, if
20 Necessary.
- 21 COMSR: You are not asking me not to rule on it?
- 22 MR TILMOUTH: I am not objecting to its tender. I am
23 just asking for the opportunity to make submissions
24 about its correctness.
- 25 COMSR: The transcript of tape CKK2 will form
26 part of the Exhibit 149 and will be marked A.
- 27 MR MEYER: I just note, at the bottom of p.5, there
28 is a reference to 'Dorrie Winslow'. I have not heard
29 that. Is that on there?
- 30 MR LOVELL: Yes, that is on the tape.
- 31 MR TILMOUTH: If it is convenient, I will try and pick
32 it up from my notes and, when I saw the video yesterday,
33 where it appears in Exhibit 149, if you will be patient
34 with me.
- 35 COMSR: Perhaps you can tell me, what is the
36 particular reference you are looking for? It may be the
37 witness is a bit faster at picking it up.
- 38 MR TILMOUTH: That's right. I have got some notes of

- 1 my own and perhaps I will mention those and try and
2 locate it.
- 3 XXN
- 4 Q. It seemed evident, on looking at the video, that
5 occasionally there were cuts or breaks in the
6 questioning.
- 7 A. Yes.
- 8 Q. I think your evidence is that the whole conversation
9 took about an hour.
- 10 A. Yes.
- 11 Q. Of course, we don't know exactly how long it is, but it
12 is something shorter.
- 13 A. I have never timed what is on tape.
- 14 Q. Of those breaks, is there any recording, whether it is
15 by simple tape or anything else, about what took place
16 when the film was cut.
- 17 A. I can assure you that you have absolutely everything
18 with regards my interviews and discussions.
- 19 Q. I am not suggesting that. What I am suggesting is that,
20 in that hour, not the whole of it was actually filmed.
- 21 A. No, there are - batteries last about 20 minutes. Tapes
22 last slightly longer. There would have been at least
23 one tape change and probably a couple of battery
24 changes.
- 25 Q. At times, we can see that there are an apparently breaks
26 in the film.
- 27 A. Yes, you can see the camera shut down and start up
28 again.
- 29 Q. That is for technical reasons, is it.
- 30 A. That is for technical reasons as much as battery
31 changes.
- 32 Q. What are the notes of the conversation in the meantime,
33 have you got any notes of that at all.
- 34 A. No, the breaks were very minimal.
- 35 Q. Were they.
- 36 A. Yes.
- 37 Q. Did Doug say anything during those breaks at all.
- 38 A. We would have kept chatting, but I don't recall it

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1 exactly. We would have resumed our conversation in a
2 similar manner. I think one of the tape changes is when
3 some food arrived.

4 Q. The point is, during the breaks, we have got no note or
5 recording of what took place at all.

6 A. No.

7 MR TILMOUTH: My next note in relation to Mr Wilson is
8 there was a question commencing 'I want to get to the
9 crux of this', by Mr Kenny.

10 COMSR: What page are we looking at?

11 MR TILMOUTH: I don't know. That is what I am saying.

12 COMSR: It is p.7.

13 XXN

14 Q. Can I take you to that question, at about .8 of that
15 page.

16 A. Yes.

17 Q. Assuming, for the moment, the transcript is accurate -
18 by the way, have you seen this transcript before.

19 A. No, I haven't.

20 Q. So, we are all in the same position.

21 A. Yes, we are.

22 COMSR: Yes, it was prepared yesterday.

23 MR TILMOUTH: I am not being critical. I am just
24 establishing whether Mr Kenny has had an opportunity to
25 correct it, that's all.

26 MR SMITH: We don't need to really put that
27 reservation with every section. We can play that
28 section of the tape.

29 MR TILMOUTH: It is the overall effect I want.

30 XXN

31 Q. The question is, if this is accurate, 'I want to get to
32 the crux of the matter. Tell me - I want to you to
33 answer a very direct question. Do you believe the
34 secret women's business is true or is it something that
35 has been fabricated in the past year or so? A. I
36 believe that the women's story is true.' And then your
37 question is 'How can it be true, if Victor Wilson told
38 you about it?' So, clearly, there in that context you

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- 1 are introducing Victor Wilson, are you not.
- 2 A. No, Victor Wilson has been introduced previously by Doug
3 Milera.
- 4 Q. No, but in that context did -
- 5 A. I am repeating information that Doug Milera has given
6 me.
- 7 Q. But you are getting to, to use your own words, the crux
8 of the matter and you introduce, or, if you like,
9 reintroduce, Victor Wilson.
- 10 A. Yes, I reintroduce Victor Wilson.
- 11 Q. But the point is, to this point anyway, apart from the
12 reference we have had already on p.5, is that you
13 introduced, at this stage, Victor Wilson's name, did you
14 not.
- 15 MR LOVELL: Isn't that the same question again? We
16 Have had `introduced' or `reintroduced'.
- 17 A. Where is the reference on p.5?
- 18 XXN
- 19 Q. On p.5, there was a question about secret women's
20 business - sorry, I mentioned this to you earlier.
- 21 A. `I was told by a man'?
- 22 Q. `I was told by a man.'
- 23 A. Yes.
- 24 Q. No mention by Doug Milera of Victor Wilson.
- 25 MR LOVELL: At that time.
- 26 MR TILMOUTH: Of course.
- 27 A. But Doug had left me in no doubt as to who he was
28 referring to.
- 29 XXN
- 30 Q. You see, your evidence is that in this interview which
31 was being filmed, there was a reticence to mention
32 Victor Wilson's name.
- 33 A. Indeed, in the early part of the interview, I think
34 there was a reticence all around by Doug Milera. I
35 think it is plain to see.
- 36 Q. You see, what I am putting to you is it is an overall
37 thing in this interview that, when it comes to the crux
38 of the matter, to employ your phrase, that Victor Wilson

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1 is never mentioned by Doug. You are the one who comes
2 back to it and employs his name.

3 A. Victor Wilson is the - has been - it is a name given to
4 me by Doug. Victor Wilson has been introduced to me by
5 Doug.

6 COMSR

7 Q. I think that Mr Tilmouth wants you to draw a distinction
8 between what was taped and the note you took beforehand.

9 A. Of course he does.

10 Q. As I understand it, what you are saying is, well, he had
11 spoken to you previously -

12 A. I don't think that Mr Tilmouth can continue to try and
13 deliberately separate what is on tape and what occurred
14 in the meetings and what went on tape afterwards. He
15 wants to - of course he wants to separate all these
16 things. I am talking about my discussions with Doug
17 Milera, which have been consistent, to this day.

18 MR ABBOTT: At any event, the assumption behind the
19 question is untrue, because Mr Milera mentions Victor
20 Wilson on more than one occasion. On p.8 -

21 MR TILMOUTH: I haven't got to those yet.

22 COMSR: No, we haven't.

23 MR ABBOTT: And at p.20.

24 COMSR: That may well be so, Mr Abbott, but I
25 think Mr Tilmouth wants the witness to concentrate
26 purely on the taped record of interview for these
27 questions.

28 MR TILMOUTH: I am sorry it has to happen in this way,
29 but, as I keep saying, we hadn't had the transcript. I
30 only have handwritten notes.

31 XXN

32 Q. Can I deal with it this way: you will see, at the bottom
33 of p.7 -

34 A. Yes.

35 Q. The reference to Victor Wilson in relation to the
36 women's business. As I understand your evidence, what
37 you say to the Commissioner is that the whole tenor of
38 the interview was that Doug Milera adopted or agreed

1 with the fact that Victor Wilson was involved.

2 A. He didn't agree with it, he told me.

3 Q. Part of the evidence for that, so to speak, would - no
4 doubt you would say - would be the very exchange at the
5 bottom of p.7 and over to p.8, for example, you say `How
6 can it be true, if Victor Wilson told you about it?
7 `DM', Doug Milera, `Now, all I am saying, I'm saying I
8 believe it is true.'

9 A. I would say that is evidence of his reluctance to talk
10 about Victor Wilson. My question shows that I have been
11 introduced to this information about Victor Wilson and,
12 where I am putting it here to Doug, Doug is obviously
13 reluctant to buy into it.

14 Q. Can I see if I understand your evidence correctly:
15 Subject to the reluctance that you speak of, you would
16 have the Commissioner believe that, in the end result,
17 Doug Milera was clearly naming Victor Wilson as being
18 involved.

19 A. I would have the Commissioner believe whatever she wants
20 to believe from a fair viewing of the tapes, but it is
21 my contention that Doug Milera named Victor Wilson
22 clearly and precisely and of his own free will.

23 MR TILMOUTH: I wonder if we could play that section,
24 at this stage, from the `I want to get to the crux of
25 the matter'?

26 COMSR: Yes.

27 VIDEO PLAYED

28 CONTINUED

1 TAPE PAUSED

2 XXN

3 MR TILMOUTH: Have we got a counter on that?

4 MR MEYER: It's about 7.20 through the interview.

5 COMSR: We have no reliable way of recording

6 that.

7 XXN

8 Q. Proceeding from there. You can see the transcript at
9 the bottom of p.7.

10 A. Yes.

11 Q. That you asked the question, the crux question, and he
12 replies 'I believe that the women's story is true'.

13 Correct.

14 A. Yes.

15 Q. Then, you say 'How can it be true if Victor Wilson told
16 you about it?'.

17 A. Yes.

18 Q. Of course, it's evident, isn't it, that you introduced
19 Victor Wilson's name.

20 A. On that occasion, I introduced Victor Wilson's name.

21 Q. Is it true or fair to say that you're getting that
22 question not from anything that has arisen out of the
23 film, but arose out of what you were told by Doug Milera
24 earlier.

25 A. And what happened was when he said, Doug said that he
26 was a man who was told by a man, he told me in the
27 earlier part of the interview that he was told -

28 Q. And when Doug was asked as to what he was saying, he put
29 a hand up to the camera and said that the women's story
30 is true. He put a hand up to the camera in a stop
31 motion after you asked the crux question.

32 A. It's a stop, a recognition of the camera, a shouldering
33 of the camera. It was an interesting hand gesture, I
34 thought.

35 Q. He then said, without any reference to any men or women
36 or any persona 'I believe the women's story is true'.

37 A. The women's other story is true, yes. Interesting
38 choice of words. I asked him about secret women's

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- 1 business. He said `The women's story is true'.
2 Q. And you wanted to hear the opposite.
3 A. I wanted him to tell me what the truth was.
4 Q. You wanted to know the names of people involved.
5 A. I wanted to know what the truth was and the names, dates
6 any information - I would possibly get as much
7 information as possible.
8 Q. Let's go back to the question: How can it be true if
9 Victor Wilson told you about it all'. What you were
10 told on record was that another man had told him about
11 it.
12 A. No, my conversation with Doug Milera prior to the
13 interview was very much on the record. He sat with me
14 while I took notes. That is on the record.
15 Q. With respect, that is what I put to you when all of this
16 line of questioning commenced some minutes ago, was that
17 you framed that question naming Victor Wilson, not from
18 anything that arose out of your recorded interview, but
19 what was in your notes that you had taken.
20 A. Yes. You said `not on the record'. He spoken to me
21 clearly on the record.
22 Q. Then his response is `Eh?'. You said `How can it be
23 true if Victor Wilson told you about it?', and the
24 response is `Eh?'. That's right, isn't it. Do you
25 want to see it again.
26 A. I can watch it as many times that you'd like. I'll
27 watch the whole interview as many times as you like.
28 Q. Let's try and answer the question. He seemed surprised
29 and certainly did not assent to the proposition pregnant
30 in your questioning, did he.
31 OBJECTION Mr Lovell objects.
32 MR LOVELL: That is asking for a conclusion from
33 him. Mr Kenny may have his own view. The person to ask
34 that question of is Mr Milera, if he has the courage to
35 come along. My friend could ask him exactly what he did
36 mean by this particular hand gesture and movement. It
37 is not for Mr Kenny to speculate what was in the mind of
38 Mr Milera.

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- 1 COMSR: I suppose that is so. What someone else
2 might have in their mind -
- 3 MR TILMOUTH: What he is saying throughout this
4 evidence and throughout the threads of his evidence is
5 that Victor Wilson was named by Doug Milera involved in
6 the fabrication of the women's business.
- 7 COMSR: It is clear the witness said that.
- 8 MR TILMOUTH: I want to say at the end of this inquiry
9 that the record shows no such thing at all, and I'm
10 putting this to him. In my submission, what happens
11 here, amongst other passages, is important. Could we
12 show the gesticulations -
- 13 COMSR: I don't know that you can ask one person
14 what might be in another person's mind without that
15 other person having said that.
- 16 MR TILMOUTH: This witness said it throughout the
17 whole of his evidence that he saw Doug, he was all right
18 and not affected by alcohol and this, that and the
19 other. You can't say that that can be permitted in
20 evidence and not be able to cross-examine on it.
- 21 MR ABBOTT: That doesn't say what's in his mind.
- 22 COMSR: What he said is he wasn't affected by
23 the alcohol, which was his personal assessment of his
24 state of sobriety.
- 25 MR TILMOUTH: Could we show that response again?
- 26 COMSR: You can ask me to draw the inferences.
- 27 MR TILMOUTH: I would be asking you to say that not
28 only was there not a sense of proportion, there was a
29 negative, there was a matter of surprise and a negative.
- 30 COMSR: I think that that is a matter that
31 undoubtedly you will be putting to me at some stage, but
32 you cannot ask one witness to say what was in another
33 witness's mind, unless the other witness has given an
34 indication of that himself said something about it.
- 35 MR TILMOUTH: I can repeat: This witness has been
36 saying that all along.
- 37 MR LOVELL: I can respond to that - obviously my
38 friend hasn't read the transcript. If he had, he would

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1 have known that that is not the submission. He has made
2 a bald allegation from the bar table and it has no basis
3 in fact.

4 MR TILMOUTH: Could we replay the segment?

5 COMSR: We can re-operate it.

6 TAPE PLAYED

7 TAPE PAUSED

8 XXN

9 Q. We will try and deal with this quickly. You asked the
10 question at the bottom of p.7 about Victor Wilson and I
11 put it to you that in your perspective, you got no
12 response that involved Victor Wilson and, in fact, Doug
13 Milera went off to talk about fairy stories, Hansel and
14 Gretal and Jack and the Bean Stalk.

15 A. Yes. You have the transcript.

16 Q. Then, you came back to Wilson and asked the question
17 that has just been played.

18 A. Of course I'm going to come back to Victor Wilson.
19 Victor Wilson was explained to me by Doug as having a
20 central role. I had it that Victor Wilson had
21 fabricated the story from Dorothy Wilson and her version
22 of what happened in the Mouth House. These events have
23 now been verified by six people, and Doug himself has
24 gone on to repeat it time and time again and has yet to
25 come up with another version of events.

26 Q. I put to you that what happened on this night in terms
27 of the interview - and what I'm putting to you is that
28 you started off by mentioning Victor Wilson, you got to
29 this point and you came back to it again in the middle
30 of p.8.

31 A. I came back to Victor Wilson and at the middle of p.8.

32 Q. To try and save everybody time and trouble, it's
33 patently obvious that you got the story about that, he
34 started to talk about Victor being a Christian and that
35 is not an answer to the question.

36 A. It's more of Doug's explanation of what is going on.

37 Q. The question was: 'I want to know' - to paraphrase -

38 MR LOVELL: Don't paraphrase.

1 XXN

2 Q. `I want to know whether it goes back a long way or
3 whether it's something that Victor Wilson or someone
4 else might have made up or got from another tribe',
5 answer `Victor Wilson is a Christian and so is his wife
6 ...' et cetera. There is no direct answer to the
7 question.

8 A. It's not a direct answer. Doug is going on to give a
9 more involved answer. This is a complicated and
10 sensitive matter.

11 Q. You continue coming back to it for a third time at the
12 bottom of p.8, don't you: `How can it be, if there is
13 secret women's business and you and Victor Wilson know
14 about it, men aren't supposed to know about it'.

15 A. Precisely. It's the question which was raised during
16 the first story on 19 May, why would it be sacred secret
17 business if men are listening to it and talking about it
18 in the presence of a white lawyer? That question
19 remains the crux of the matter.

20 Q. What I put to you is that on these occasions, you are
21 asking questions that you are not getting what you
22 consider responsive answers to.

23 A. In the early part of the interview, I think Doug Milera
24 was quite reticent to repeat what he made clear
25 previously.

26 Q. The dominating feature on the bottom of p.7 through to
27 p.8 and in the answer to p.9 is you coming back
28 repeatedly to the question of Victor Wilson and getting
29 non-responsive answers.

30 A. I would have thought the dominating feature was me
31 coming back to the main issue, and Victor Wilson happens
32 to be a name involved in that.

33 Q. It's the only time that you are willing to put up at
34 that stage, isn't it.

35 A. He is the key name and remains the key name, which is
36 why you are here.

37 Q. What I put it to you is that it is not at all evident
38 what we can actually know and verify on the video.

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1 A. It's evident from Dorothy Wilson's evidence and what
2 Doug Milera said many times.

3 Q. Sticking to the intrinsic evidence that the video is.
4 That is not evidence of the video at all, is it.

5 OBJECTION Mr Abbott objects.

6 MR ABBOTT: I have one issue. I think in view of
7 this cross-examination, the time has come for my learned
8 friend Mr Tilmouth to tell us whether or not his
9 instructions from Mr Wilson are what he is putting, the
10 essence of what he is putting; namely, that Victor
11 Wilson never said this to Doug Milera. If his
12 instructions are that Victor Wilson did say that to Mr
13 Milera, then this whole line of cross-examination is a
14 waste of time. I think the time has come to him to nail
15 his colours to the mast.

16 COMSR: We don't, as yet, have copies of witness
17 statements, do we?

18 MR TILMOUTH: My instructions are privileged to Mr
19 Abbott.

20 MR ABBOTT: I bet we never get one - and I'm
21 prepared to put money on it, and I'm prepared to bet
22 that Mr Wilson will never turn up.

23 MR TILMOUTH: I've been stopped from making speeches
24 and everybody else has made speeches about that. The
25 fact of the matter is that this Royal Commission was
26 called on this basis and you couldn't hang a dead cat on
27 the evidence.

28 MR LOVELL: Where is the evidence?

29 MR TILMOUTH: That is the whole purpose of my
30 cross-examination to show that it is not two bob.

31 MR LOVELL: What are your instructions?

32 MR ABBOTT: It has been to be related to what he
33 says Wilson says 'Yes, I did tell Doug Milera', and this
34 is a waste of time.

35 MR LOVELL: My friend is willing to go around the
36 outside and he is too afraid to strike. He is not
37 willing to put his instructions that they agree with
38 what Mr Kenny says.

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- 1 COMSR: Perhaps it would assist if I were to
2 know when we might have statements from your witnesses?
- 3 MR TILMOUTH: I'm not involved in this process and I
4 give no undertaking about that. At the moment my
5 submission - I will be frank, my submission to you would
6 be that if this was a court of law, I would say I have
7 no case to answer.
- 8 COMSR: It is not a court of law.
- 9 MR TILMOUTH: I understand that. I would say that I
10 have no cross-examination and I would be submitting no
11 case to answer.
- 12 COMSR: Yes. We are not - in this situation,
13 this is an inquiry where persons are involved and we are
14 looking at them giving evidence as to what occurred.
15 No-one is charged here. There is no suggestion that
16 your clients are charged with anything.
- 17 MR TILMOUTH: That has been said and I acknowledge and
18 understand that. The question here is the weight to be
19 attributed to what is said by Milera in this interview.
20 Plainly, in my submission, no weight can be attributed
21 to it at all.
- 22 MR LOVELL: That is a matter of submission in due
23 course.
- 24 MR TILMOUTH: Maybe in order to put the submissions
25 and in order to be fair, I should, as your Honour would
26 know and Mr Lovell knows and Mr Abbott knows, I'm
27 obliged, out of fairness, to put the key passages.
- 28 COMSR: You are obliged to put the case.
- 29 MR ABBOTT: Put the case. Is your case that Mr
30 Wilson didn't say this to Mr Milera?
- 31 MR TILMOUTH: My friends know well that the rule of
32 Brown v Dunn not only involves putting the case, and
33 this is not a situation of adversity and is irrelevant,
34 it involves the principles of fairness. That if you
35 intend to conduct or make adverse submissions about a
36 witness on a particular subject matter, you're
37 duty-bound to confront him with those materials so that
38 he has an opportunity to answer and to know full well

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1 that is precisely what he is doing.

2 MR LOVELL: There is no evidence to the contrary.

3 COMSR: Mr Kenny keeps talking about the
4 statements being forthcoming at some time and not having
5 enough time to prepare them. I haven't forced the issue
6 terribly much at this stage, Mr Tilmouth, but some more
7 definite indication I think is called for at this stage.

8 MR KENNY: Perhaps I can answer that. The
9 situation is that we have not been given a statement of
10 a witness, except - I think with one exception, when
11 there was a noncontroversial witness. We have not been
12 given a copy of any witness statements until the witness
13 is in the box and the witness has tendered the
14 statement, then we get a copy. I don't see that there
15 should be any different rule for my clients in terms of
16 providing statements when we are expected to provide
17 them earlier.

18 MR SMITH: That is another topic. The question is:
19 We have statements from witnesses which we have been
20 holding for a long period of time. They say to us `You
21 are not to release those to people who have not provided
22 statements until our witnesses get in the witness box'.
23 So, this is no different from Mr Kenny. Anybody - Mr
24 Kenny's clients have not provided statements to the
25 Commission. Anyone else who has not provided a
26 statement to the Commission did not get the statement of
27 evidence until the witness was in the box. That's the
28 rule we have been following on the basis - that is the
29 rule that has been imposed upon us by the people who -
30 it hasn't been imposed upon us, the people provided the
31 statements willingly to assist the Commission and do not
32 want their statements released to people who haven't
33 provided the Commission with the same courtesy.

34 COMSR: Not only that, but the Commission has
35 said, in effect, that the confidentiality of the
36 statements will be maintained until such times as the
37 evidence is given. There is no guarantee that the
38 confidentiality can be maintained unless people have

1 given undertakings as to the confidentiality.

2 MR KENNY: I have given undertakings as to
3 confidentiality. If there is any suggestion that I
4 haven't, I would like to make it clear that I have.

5 MR ABBOTT: When are we going to get the clients'
6 statements?

7 MR KENNY: I don't think that that is a question
8 for Mr Abbott to ask.

9 MR MEYER: I have missed the point whilst listening
10 to all of this. My client, the Chapmans, gave
11 statements to counsel assisting, I think, before the
12 evidence started by whatever was the due date or the
13 amended due date. We haven't been in the position, just
14 in case people think we have, of receiving any
15 statements before any witnesses give their evidence. My
16 position simply is that about the other relevant parties
17 in this matter who have pinned their colours to the
18 mast, Mr Tilmouth and Mr Kenny have said lots of words
19 about fair play in these proceedings.

20 CONTINUED

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1 The other parties have pinned their colours to the mast
2 before they have heard any of the evidence. The matters
3 which are within the knowledge of Mr Wilson should be
4 pinned to the mast. If he talks about fairness, that's
5 the fair thing to do.

6 His client is obviously very apprehensive about
7 pinning his colours to the mast, because I cannot
8 believe that somebody can cross-examine without getting
9 instructions. If you get instructions, the most obvious
10 thing that you must get instructions on is whether or
11 not there was a discussion at Murray Bridge in the terms
12 that Milera has said. That information must be in the
13 possession of Mr Tilmouth or Mr Kenny, because if it is
14 not, he hasn't got the instructions upon which to
15 cross-examine.

16 So there cannot be a difficulty in him pinning his
17 colours to the mast and saying 'No, my client never
18 spoke with Milera, it is rubbish' or alternatively 'My
19 instructions are he did talk with Milera, and it is not
20 rubbish'. Surely he can tell us.

21 MR TILMOUTH: How can that be put to Mr Kenny what he
22 doesn't know. As I have said, and repeat it, the
23 evidence of this interview is worthless.

24 MR LOVELL: Here we go again. Who is he acting for?

25 MR TILMOUTH: It has nothing to do with who I am
26 acting for. In a primary sense.

27 COMSR: If you are going to make submissions,
28 you can make those at the end.

29 MR TILMOUTH: If people aren't going to jump up at the
30 end and say 'You didn't put that to Kenny'.

31 COMSR: As I have said, I have had indications
32 from Mr Kenny that he is having problems getting in
33 touch with his witnesses, that there is a difficulty
34 about getting instructions for various reasons, that it
35 is difficult for him to produce the statements. It
36 seems to me though that, given the lapse of time, that
37 must have surely cured the problem to some extent.

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1 MR TILMOUTH: I am only concerned about
2 cross-examining to establish the weight or lack of
3 weight of what is said to be drawn from this interview.
4 It has got nothing to do with my instructions. There is
5 nothing I can put to Mr Kenny on instructions that he
6 would know about.

7 MR ABBOTT: I renew my objection. We must look at
8 what Mr Tilmouth is doing. He is cross-examining Mr
9 Chris Kenny about an interview he had with Doug Milera,
10 and the clear thrust of the cross-examination is to
11 suggest that Mr Milera did not volunteer the name of his
12 client, Victor Wilson, and that it had to be suggested
13 by Mr Kenny before Mr Milera would adopt or support the
14 view that Victor Wilson gave him, Milera, the
15 information.

16 That line of cross-examination can only be
17 legitimate if my learned friend's instructions are that
18 Mr Wilson did not give Mr Milera that information. If
19 my learned friend has no instructions, he should not be
20 asking the question. If his instructions are that Mr
21 Wilson did give Mr Milera that information, then he is
22 acting improperly. If his instructions are that Mr
23 Wilson did not give Mr Milera that information at Murray
24 Bridge, then where is the statement that says so?

25 MR TILMOUTH: I am afraid Mr Abbott hasn't been
26 listening to me, and I resent the aspersion on my
27 professional responsibilities. I fully know what they
28 are. It doesn't become Mr Abbott to make that kind of
29 aspersion in a place like this, especially as he is
30 President of the Bar Association. The point I am making
31 is that the reliability of this interview is entirely
32 free of any instructions that I may or may not have.

33 COMSR: It seems to me that logically it must
34 be. It doesn't necessarily follow that there must be
35 instructions one way or the other to be able to put to
36 the witness that there are, as it were, problems with
37 the tape in itself, problems of consistency or any other
38 problems. I think that you are entitled to

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1 cross-examine the witness on these matters, that is,
2 whether the name was volunteered, or whether he pushed
3 the name, or suggested the name.

4 MR ABBOTT: What would be the purpose for getting
5 out of this witness that Mr Milera reluctantly divulged
6 that Victor Wilson was the author of the secret sacred
7 women's business when Mr Tilmouth's instructions were
8 that it was?

9 MR LOVELL: Particularly when it involves an
10 aspersion on Mr Kenny's character and his journalistic
11 ethics. What he is attempting to do is willing to wound
12 but afraid to strike. He is throwing insinuations at Mr
13 Kenny when, for all we know, his client might be
14 agreeing that, yes, that's exactly what did happen. How
15 is attacking the credit of Mr Kenny going to help this
16 commission, when Mr Tilmouth will not nail his colours
17 to the mast about what the true position is? That is
18 what this commission is actually about.

19 COMSR: Of course there is a difficulty in the
20 absence of these statements from your witnesses.

21 MR TILMOUTH: This debate is going around in circles.
22 My friends aren't listening to me.

23 COMSR: I still think that you are entitled to,
24 as it were, test the witness on the interview.

25 MR TILMOUTH: All I am doing is testing what this
26 document means intrinsically. I will try to ask an
27 omnibus question, and try to bring together what I am
28 putting. To a great extent, I agree with your comments
29 earlier, this interview must speak for itself.

30 XXN

31 Q. I want to be fair, and if you want to go back and look
32 and check please do. Looking at p.20 of the transcript,
33 such as we have it, can I suggest that in connection
34 with the secret women's business and Victor Wilson's
35 involvement or lack of it, the only time in this
36 interview that Douglas Milera specifically adopted
37 anything that you put to him in relation to Victor
38 Wilson occurs at p.20, in the middle of the page.

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1 A. I haven't looked through the transcript, but -

2 Q. I was hoping to avoid that.

3 A. I won't take exception to the fact that that's where he
4 volunteers Victor Wilson's name. It is pretty clear at
5 other times when he is talking about being a man told by
6 a man, he knows I know who that man is. He told me who
7 that man is.

8 Q. All I am looking at is the intrinsic material in the
9 interview. Can I quickly try to point you to passages
10 that I had in mind. I have already showed you the
11 bottom of pp.8 and 9, have I not.

12 A. 7 and 8, wasn't it?

13 Q. Yes, and over to the top of p.9. You agree with that.

14 A. Yes.

15 Q. You mention again Victor Wilson in the middle of p.10.

16 A. Yes.

17 Q. You mention him again at p.13, about a third of the way
18 down, in relation to fabrication of women's business.
19 You see that long question `Doug you said a moment ago
20 you believe the women's business was a fabrication', et
21 cetera.

22 A. Yes.

23 Q. In the context of that `Now you say that you first heard
24 about it from Victor Wilson', et cetera, and the answer
25 was `Me. I am the sole publicator of the whole issue',
26 et cetera.

27 A. Yes.

28 Q. Again, patently obvious you introduced Victor Wilson's
29 name.

30 OBJECTION Mr Lovell objects.

31 MR LOVELL: In the previous passage that my friend
32 referred to where Victor Wilson's name was mentioned, Mr
33 Milera specifically assented to the proposition that he
34 had been told by Victor Wilson. `You told her after
35 Victor Wilson told you?' Answer `Yes, I did'.

36 MR TILMOUTH: It is a matter for argument.

37 COMSR: I think what Mr Tilmouth is saying is
38 that on each occasion that Victor Wilson's name was

C.K. KENNY XXN (MR TILMOUTH)

- 1 introduced, that it was introduced by Mr Kenny.
- 2 MR TILMOUTH: That's right.
- 3 XXN
- 4 A. Are you suggesting I should be referring to him as 'that
5 man' or - I've been told his name is Victor Wilson.
- 6 Q. You know that I am suggesting to you that you are
7 repeatedly bringing back to Mr Milera, Victor Wilson's
8 name, and can I suggest to you the next reference is
9 p.17, at the bottom.
- 10 A. That's a matter for the public record that these people
11 were at that meeting.
- 12 Q. P.20, as I said earlier, and this is the long and short
13 of all of it, I suggest to you, in this interview, is
14 the only specific occasion upon which Doug Milera
15 actually himself volunteers Victor Wilson's name in the
16 context of the women's business.
- 17 A. On video tape, after explaining Victor Wilson's intimate
18 involvement in the whole process to me for hours
19 beforehand.
- 20 Q. At the end of that interview, the letter which had been
21 composed, as I understand it, by Mr Denver, with a large
22 degree of input by Mr Milera, was apparently typed up by
23 a receptionist.
- 24 A. Written by Mr Denver, I would have said, composed by Mr
25 Milera.
- 26 Q. That has been submitted through you I think, or you've
27 seen it, Exhibit 61. Did you see it that night.
- 28 A. I saw it that night, the typewritten version, and I saw
29 it as an Exhibit the other day.
- 30 Q. Did you retain a copy of it that evening.
- 31 A. No, I didn't.
- 32 Q. Would you agree that that contained no express statement
33 in relation to what I would call fabrication itself.
- 34 A. I don't have it in front of me. I think most of us have
35 seen it. I point out to you that my initial story, when
36 I broke this story on 19 May, had no reference to the
37 word 'fabrication' either.

C.K. KENNY XXN (MR TILMOUTH)

- 1 Q. Did you question Doug at all about the content of this
2 letter. Did you put something to him, and say `How come
3 you are not saying what you have just told me and I have
4 recorded?'
- 5 A. As I have said before, I was not particularly interested
6 in the letter. Doug was keen to fax it off. Kym Denver
7 seemed keen that it would be faxed off. I was more
8 interested in what Doug was saying to me both on and off
9 camera.
- 10 Q. At all events, you read it and raised no issue with him
11 about it.
- 12 A. No.
- 13 Q. You read it at the time.
- 14 A. Yes.
- 15 Q. You raised no issue, as you told us.
- 16 A. No. This letter was obviously going to be made public.
17 As a journalist, I was happy to have much more
18 information than what would be in any letter that would
19 end up in the `Advertiser' or elsewhere.
- 20 Q. Your evidence is that, in the end result, Doug Milera
21 was given, that evening, \$200, all up.
- 22 A. Yes.
- 23 Q. As I understand the effect of your evidence, simply for
24 overnight accommodation.
- 25 A. No. I said I gave him \$100 which I thought would be
26 adequate for food and transport the following day. I
27 tried to arrange accommodation which wouldn't involve
28 any more cash. When I couldn't do that, I gave him
29 another \$100 which would suffice for accommodation.
- 30 Q. All of that was obtained from the automatic teller
31 machine at Victor Harbor.
- 32 A. Yes.
- 33 Q. Have you retained the receipt with respect to that.
- 34 OBJECTION Mr Lovell objects on the ground of
35 relevance.
- 36 MR LOVELL: How could this now relate to Mr
37 Tilmouth's client, really? Is my friend just being a
38 friend of the court and testing the evidence, or has he

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- 1 got some specific instructions about this particular
2 matter?
- 3 MR TILMOUTH: I have a good faith basis for asking the
4 questions. I have a proper basis to ask the questions
5 within the meaning of the appropriate rules.
- 6 COMSR: What is that?
- 7 MR TILMOUTH: I am entitled to ask these questions.
- 8 COMSR: On the face of it, it is a little
9 difficult to see how they relate to the parties you
10 represent, Mr Tilmouth.
- 11 MR TILMOUTH: Again, they relate to the reliability of
12 this evidence.
- 13 MR LOVELL: The reliability of what evidence? The
14 tape speaks for itself. If my friend has a problem with
15 Mr Milera, his client is the chairman of the same
16 committee that Mr Milera sits on as a secretary, he can
17 ask him. Really, how is it relevant to Mr Tilmouth's
18 client to cross-examine Mr Kenny about the automatic
19 teller machine?
- 20 COMSR: As I say, I can't, on the face of it,
21 see the relevance, but you say you have the basis.
- 22 MR TILMOUTH: Yes, I do. It was a very inoffensive
23 question too, by the way, whether he simply kept a
24 record of the transaction.
- 25 QUESTION ALLOWED
26 XXN
- 27 Q. Did you keep the record of the ATM receipt.
- 28 A. I don't have any record of it. But I imagine it would
29 be easy to get hold of through the Commonwealth Bank.
- 30 Q. You haven't tried to do that at any time.
- 31 A. I have no reason to do so. I have been very upfront
32 about what occurred that night.
- 33 Q. You realised, of course, as is evident from what you
34 have said to the commissioner in days past, that the
35 question of offering any money to Mr Milera had
36 significant problems for you as a journalist.
- 37 A. What question of - there was no question of offering any
38 money.

C.K. KENNY XXN (MR TILMOUTH)

1 Q. Let me put it this way.

2 COMSR: I must say, Mr Tilmouth, I am still not
3 sure of the basis. You say you have a basis on which to
4 pursue this line of questioning.

5 MR TILMOUTH: In my submission, it is very odd that
6 money was provided after this interview.

7 COMSR: I am sure you can submit that to me.

8 MR TILMOUTH: Again, I understand I am being fair. It
9 would be quite wrong to make a comment at the end of
10 this commission without having put it to the witness.

11 MR ABBOTT: Ask him 'Do you agree?' Put the
12 question 'It is very odd that you should supply money'.

13 MR TILMOUTH: I am entitled to cross-examine as I see
14 fit, subject to your ruling.

15 COMSR: Yes, but, I must say that, on the face
16 of it, it doesn't appear to be directly related. If you
17 want to make a suggestion to the witness along those
18 lines, but that is as far as it can go.

19 XXN

20 Q. You realise that any suggestion of offering money for
21 this interview would be unacceptable in journalistic
22 terms.

23 A. That - your choice of words there is very strange: I
24 realise any offer. Who has made an offer? I told you
25 that the matter was raised with me before the interview
26 and I closed it off. There is no concern of offer, and
27 no suggestion of any payment for anything. The issue of
28 money was raised for the interview, and I closed it off.
29 Nobody was paid anything for any favours or any duties
30 and nobody was offered anything. I made an arbitrary
31 decision. I said 'Here is what I'm giving you so that
32 you don't sleep in the gutter tonight'. I'd do the same
33 thing tomorrow for anybody. I am not in the habit of
34 interviewing people at midnight, in strange towns,
35 leaving them homeless and penniless on the street.

36 Q. I tried to ask you that earlier, but I was prevented.
37 The point is here that the question of payment of money
38 was raised by Milera early on, wasn't it.

C.K. KENNY XXN (MR TILMOUTH)

- 1 A. It was raised by Milera and Denver. It was raised, as I
2 concur, through Denver by Milera.
- 3 Q. You dismissed it out of hand.
- 4 A. I said `I won't talk about this until the end of the
5 evening'.
- 6 Q. So you put the question of payment to one side.
- 7 A. No, it wasn't a question of payment. It was a question
8 of money.
- 9 Q. What was there, if there wasn't to be a payment.
- 10 A. It was a gift. It was a gift at the end of the night to
11 prevent a man sleeping in the gutter on an empty
12 stomach.
- 13 Q. Did you make any inquiry as to whether there was some
14 place or some relative or friend you could take him to
15 at the end -
- 16 OBJECTION Mr Lovell objects.
- 17 MR LOVELL: Where is this going? I have yet to see
18 a proper basis for it. My friend assured it is in good
19 faith. It is not in good faith. And where is he
20 getting those instructions from?
- 21 MR TILMOUTH: It is not a question of instructions.
22 It is a question of comment.
- 23 COMSR: Yes, it is a question of comment.
- 24 MR TILMOUTH: I have made it perfectly clear where I
25 am coming from and on what basis I am putting it.
- 26 MR LOVELL: It is not clear to me.
- 27 MR TILMOUTH: You listen to what I am saying.
- 28 MR LOVELL: I have, and it is still not.
- 29 COMSR: I think it is as far as you can take it.
- 30 MR TILMOUTH: I would like to take it further, but I
31 abide your ruling. I take it that would preclude me
32 from asking him questions about what he understood the
33 ethics of the profession were at that time?
- 34 COMSR: Again, it is hard to see how it is
35 directly relevant to the evidence he is giving
36 concerning your clients, but I would be interested to
37 hear what you say the basis of it would be.

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- 1 MR ABBOTT: I am happy for him to ask that question.
2 When we get to the 7.30 Report, we can ask them the same
3 question.
- 4 MR LOVELL: We are salivating for the rest of the
5 media. Just salivatng.
- 6 MR ABBOTT: I wouldn't want to close off the issue
7 of ethics.
- 8 COMSR: It has been suggested you should have an
9 open hand in respect of this. Do you wish to ask some
10 questions relating to selectivity of reporting, whether
11 or not that is frowned upon in general, and is a
12 practice that shouldn't be followed; questions along
13 those lines?
- 14 CONTINUED

C.K. KENNY XXN (MR TILMOUTH)

1 MR TILMOUTH: Mainly just on the question of the money
2 and also on the question of the selective nature of what
3 went to air the following day.

4 COMSR: Are you going to suggest that is
5 unusual, Mr Tilmouth?

6 MR TILMOUTH: I am suggesting selective and that the
7 money was unusual.

8 COMSR: All right.

9 XXN

10 Q. Can I come back to where we started -

11 MR MEYER: I have a difficulty with that and my
12 difficulty is this: is Mr Tilmouth suggesting that as a
13 result somehow or other by the payment of the sum of
14 \$200 the information that Mr Kenny has obtained from Mr
15 Milera is false? Because, if it is not, this Royal
16 Commission is not into journalists' ethics and it is
17 wildly irrelevant. If Mr Tilmouth is going to say
18 Milera made up a false story in the hope of a
19 substantial payment of money, \$200, then let him put it,
20 otherwise it is just irrelevant. And I object, even if
21 my friends don't. I don't want to keep repeating
22 myself, but he can pin his colours to the mast and say
23 is it rubbish or not, what they say.

24 MR TILMOUTH: I have made my point.

25 COMSR: Yes, I don't know whether or not the
26 witness wants the opportunity now, all of this having
27 been -

28 WITNESS: I would very much love the opportunity
29 to speak, given Mr Tilmouth is making these bald
30 assertions, without putting direct questions to me.

31 MR TILMOUTH: I haven't even put a bald assertion,
32 because I haven't been allowed to yet.

33 WITNESS: With respect, you said you were here to
34 dispute the interview.

35 MR TILMOUTH: I don't want to get into a debate
36 either. This is idle.

37 COMSR: I think it is not going to assist me on
38 the main issue at all.

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(MS PYKE)

- 1 MR TILMOUTH: I am going to leave it there, in view of
2 what has taken place.
- 3 MR SMITH: I think that is very unsatisfactory.
- 4 MR TILMOUTH: I raised it, you want to stop me. Now
5 you are blowing hot and cold.
- 6 MR SMITH: I will clear it up.
- 7 COMSR: You will have an opportunity to ask
8 questions at the end.
- 9 MR SMITH: Yes, what has been done is raised the
10 flag and left in argument. I will leave it until the
11 end.
- 12 COMSR: Is there any other party who wishes to
13 cross-examine?
- 14 MS PYKE: Yes, I do.
- 15 CROSS-EXAMINATION BY MS PYKE
- 16 Q. You have some academic qualifications.
- 17 A. No, I have never completed either of the two academic
18 courses I set out to complete.
- 19 Q. But you studied at university for -
- 20 A. I studied at the College of Advanced Education in
21 Wildlife and Park Management and I studied at the
22 University of South Australia for a Bachelor of Arts and
23 Journalism.
- 24 Q. Did you know Philip Jones or become connected with him
25 during the period of time you were at university.
- 26 A. No.
- 27 Q. When did you first meet Philip Jones.
- 28 MR MEYER: What is the relevance of that?
- 29 COMSR: Who is Mr Jones? is that relevant?
- 30 MS PYKE: He has interviewed Mr Jones and we have
31 - there have been some references to Mr Jones in
32 articles, which I will get to, in due course.
- 33 COMSR: This effects the interests of your
34 party, does it?
- 35 MS PYKE: Yes, this witness has made some comments
36 and allegations about Dr Fergie.
- 37 COMSR: Yes, I appreciate that.
- 38 MS PYKE: And made some other comments and

C.K. KENNY XXN (MS PYKE)

1 observations about Dr Philip Jones. I just want to know
2 when he met Mr Philip Jones, whether he is a friend or
3 an acquaintance or met him at university. I think they
4 are quite proper questions.

5 COMSR: Who is Mr Philip Jones?

6 MS PYKE: He is a museum anthropologist and he has
7 given an interview.

8 COMSR: You want to know about this?

9 XXN

10 Q. Would you answer the question now.

11 A. I can answer the question now? I met Philip Jones
12 probably 18 months, two years ago. I think I met him at
13 an Adelaide Review magazine launch.

14 Q. After that time, would you put him in the category of
15 friend or acquaintance.

16 A. Acquaintance would be stretching it. I have probably
17 seen him - would have bumped into him maybe three times
18 in that two year period, until this - until, of course,
19 I started seeing him in the Commission and interviewed
20 him a couple of weeks before the Commission.

21 Q. When you say you saw him three times, were they on
22 social occasions.

23 A. I think so, yes.

24 Q. And Austin Gough, do you know him as a friend or
25 acquaintance.

26 A. Austin Gough. I have never met him. I rang him once.

27 Q. Have you interviewed Austin Gough.

28 A. I spoke to him on the phone about Deane Fergie.

29 Q. When was that.

30 A. It was around the period that Austin Gough published a
31 piece in the Adelaide Review.

32 Q. Do you have any notes of that conversation with Austin
33 Gough.

34 A. I don't think I do, no. It was very much a casual
35 conversation. As I recall, I think it was an attempt to
36 get an interview with him, given what he had written in
37 the Adelaide Review, but I don't think he was
38 forthcoming.

C.K. KENNY XXN (MS PYKE)

1 Q. Do you have any recollection of what the conversation
2 with Austin Gough was about, as it related to Deane
3 Fergie.

4 A. He told me about Deane Fergie's background at the
5 Adelaide University and her special interest in secret
6 women's matters. And he told me that her original
7 thesis in 1985 caused a lot of controversy at the
8 university, because she asked that no men be allowed to
9 read it.

10 Q. Doing the best you can, that is the conversation with
11 Austin Gough.

12 A. I was very much interested in that. In fact, that's why
13 I wanted to interview him. And it is a matter I did
14 quite a bit of checking on, because I thought it pointed
15 to where Deane Fergie might be coming from.

16 Q. Let me get this clear, he told you that there had been
17 some controversy about Deane Fergie's thesis back in
18 1985.

19 A. As I understand it, she submitted a thesis in 1985 which
20 dealt with secret women's matters in a Polynesian
21 community. I will have written somewhere the name that
22 of thesis. Now, recalling broadly the issues, it did
23 cause some concern for the university with either its
24 assessment or its lodgement with the library, because
25 there was the precondition supposedly or, as I
26 understand it, Dr Fergie asked for the precondition that
27 men should not be allowed to read this thesis. Have
28 access to it.

29 Q. What, have access to the whole thesis, or just part of
30 it.

31 A. As I said, I am speaking in broad terms. I never ended
32 up doing a story on the issue.

33 Q. What else did Austin Gough say to you about Deane
34 Fergie.

35 A. That's about it, actually. That he recalled this had
36 caused a bit of a stir at the university at the time.
37 That it raised some issues for them about just how they
38 should treat such matters.

- 1 Q. Did he tell you whether that had been resolved
2 satisfactorily, at that time.
- 3 A. I don't think he knew in the long-term whether it had
4 been resolved, but I checked with the Barr Smith Library
5 and they said there was a copy of the thesis lodged with
6 the library, but I think it was out at the time.
- 7 Q. Is it fair to say that you haven't yourself looked at
8 the thesis.
- 9 A. No, I haven't, no. It was just one of the many avenues
10 of enquiries I was adopting back in the days when I was
11 investigating this matter.
- 12 Q. You say that that was at around about the time that
13 Austin Gough's article appeared in the Adelaide Review.
- 14 A. Yes.
- 15 Q. You have seen various tapes here of the actual items
16 that went to air.
- 17 A. Yes.
- 18 Q. The to-air tapes. I just want to ask you a couple of
19 questions generally so that I understand what happens
20 with those items. You were the journalist who had the
21 principal responsibility for investigating and reporting
22 on Hindmarsh Island.
- 23 A. That's correct.
- 24 Q. We know - and I don't want to go through more, at this
25 stage - that there were numerous news items that went to
26 air.
- 27 A. That's correct.
- 28 Q. You have seen them on the video tape.
- 29 A. Yes.
- 30 Q. There is what I might call editorial comment by the
31 newsreader, from time to time. A headline, if I might
32 put it that way. I don't know what they call it in the
33 television business. You know what I mean.
- 34 A. Give me an example, then I will know what you mean.
- 35 Q. Things like 'The Hindmarsh Island bridge debacle
36 continues today', and a bit of a summary of what is
37 coming in the news.
- 38 A. I wouldn't have thought that was comment. I would have

- 1 thought that was demonstrable.
- 2 Q. What, you think it is a debacle, do you.
- 3 A. I think most people would agree there has been a debacle
- 4 going on here for a long while.
- 5 Q. All I am asking you is this, is there a script provided
- 6 to the newsreader.
- 7 A. Yes, indeed.
- 8 Q. Who writes the script, that is what I am asking you, for
- 9 those sorts of comments.
- 10 A. Okay, okay. Ordinarily the journalist writing a story
- 11 would write the intro, that is the piece that the
- 12 newsreader reads leading into the story. That, of
- 13 course, would be subject to normal subeditorial
- 14 refinement. A rewrite person, a subeditor, may change
- 15 words or change paragraphs around, often with the
- 16 consent of the reporter. There are, as you say, little
- 17 headlines and updates and promo lines that might have
- 18 been given by a producer or a subeditor in the newsroom
- 19 relying on the reporter's raw information.
- 20 Q. The item that went to air on 19 -
- 21 A. 19 May?
- 22 Q. Yes, there was a comment - and I am trying to avoid
- 23 having to play all of this and let's see how we go.
- 24 And I don't have a transcript, which may make it a
- 25 difficulty - there was a statement made that 'Secret
- 26 women's business which stopped the bridge was first
- 27 raised by men.' Do you recall that being in the news
- 28 item.
- 29 A. I do.
- 30 Q. Were you responsible for that.
- 31 A. I was, indeed.
- 32 Q. I just want to get this clear, because this is the note
- 33 that I have tried to transcribe. That that was a
- 34 specific note 'Secret women's business which stopped the
- 35 bridge was first raised by men.'
- 36 A. I mean, why don't we read the whole sentence? I think
- 37 you will find it says 'Claims tonight that the secret
- 38 women's business that stopped the bridge was first

1 raised by men.'

2 Q. In that, were you endeavouring to give a very short
3 synopsis of what you understood the women, that is,
4 Dorothy and - I think it was you had interviewed -

5 A. Dorothy and Dulcie.

6 Q. Dorothy and Dulcie.

7 A. In that original story I put to air essentially two
8 claims that were being made by Dulcie Wilson and Dorothy
9 Wilson. They were claims that I had checked out
10 thoroughly through a number of sources, both to make
11 sure that those women were credible and were speaking
12 what they believed to be the truth, and to convince
13 myself that what they were saying could actually have
14 occurred. Both of those chief allegations made in that
15 original report I believe have now been proven, beyond
16 reasonable doubt, through public information. If you
17 want me to go on, I will go on.

18 Q. On 20 May 1995, there was a comment - and, to be fair to
19 you, I don't know whether it is something that you said
20 or the newsreader said - and it says this 'Now,
21 Aboriginal women allege that Aboriginal men coerced them
22 to lie and fabricate the secret women's business to
23 block the bridge.'

24 A. Where was this from and what date?

25 Q. 20 May 1995.

26 A. On 20 May 1995 it could not have been my report. My
27 initial story mentioned neither the words 'lie',
28 'fabrication', 'hoax', 'scandal', 'conspiracy'. No such
29 words were used by me. I can't be responsible for what
30 other journalists have chosen to call this affair in the
31 ensuing days and weeks.

32 Q. Let me ask you this, and I put it to you - and again we
33 will play it, if you want to - that was a clear
34 statement made on the Channel 10 News, 'Now Aboriginal
35 women allege that Aboriginal men coerced them to lie and
36 fabricate the secret women's business to block the
37 bridge.'

38 A. Are you asking me to comment on that?

C.K. KENNY XXN (MS PYKE)

- 1 Q. Yes, do you think that that, on 20 May 1995, was in
2 anyway an accurate synopsis of what the two women that
3 you had interviewed had told you.
- 4 A. I would never have used those words. Those women did
5 not make those allegations.
- 6 Q. Were you ever shown that video tape of that news, or did
7 you see it.
- 8 A. I have seen, since my original story went to air, I have
9 seen many stories go to air which have got - have made
10 many mistakes, both about the original allegations and
11 about the investigations behind them. It continues to
12 this day almost nightly. I can't be held responsible
13 for that, I am afraid, but I will be held responsible
14 for what I have done.
- 15 Q. I just want to deal with Channel 10. Have I understood
16 you correctly, are you saying there have been mistakes
17 made by Channel 10 in its reporting of this issue.
- 18 MR LOVELL: Before Mr Kenny answers that question,
19 would my friend like me to list the mistakes by the 7.30
20 Report and Channel 7? I mean, what is the relevance of
21 this questioning to her client, really?
- 22 MS PYKE: It is highly relevant, because Mr Kenny
23 has made, in print media and, indeed, as we have seen on
24 the video tapes, serious allegations about Dr Fergie and
25 her role in this.
- 26 MR LOVELL: I might have missed something. I
27 thought he put some questions to Dr Fergie, but there
28 you go. And, in any event, what he said in print has
29 not been a matter of evidence before this Commission.
- 30 MS PYKE: It is. It has been tendered and I will
31 be cross-examining on it. The Adelaide Review and other
32 articles have been tendered.
- 33 COMSR: That can be ascribed to this witness?
- 34 MS PYKE: Yes.
- 35 MR LOVELL: If my friend wants to enter a debate
36 with Mr Kenny about his client, I am not going to
37 interrupt, but, really, where is that going to get this
38 Royal Commission? It really is a pointless exercise,

C.K. KENNY XXN (MS PYKE)

1 but, if she wishes to go down that path, then she bears
2 the consequences of the answers.

3 MS PYKE: I am quite happy to bear the
4 consequences of the answers and pursue them as I see
5 fit.

6 COMSR: Yes, but they still have to be of some
7 assistance to me in the questions that I have to decide,
8 Ms Pyke.

9 You say that this is a necessary foundation, do you,
10 for you to get to ask them?

11 MS PYKE: Yes, because, in due course, I want to
12 ask some very specific questions about what this witness
13 is alleging, whether there are distortions in what he is
14 alleging, because he has, this witness has very clearly
15 criticised and called into question my client's
16 professional integrity and her findings. I am just
17 wanting to find out from him what he is really saying.
18 And, one of the ways to find out what he is really
19 saying is to look at what has been said and look at the
20 interview to see what this witness is saying. And then
21 I have got some basis to put to him questions in
22 relation to my client.

23 COMSR: About your client, I take it?

24 MS PYKE: Yes.

25 COMSR: I don't understand that the witness has
26 admitted saying anything other than that - he hasn't
27 even admitted saying it was a fabrication, at this
28 stage, I don't think.

29 CONTINUED

Closed

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C.K. KENNY XXN (MS PYKE)

1 RESUMING 2.21 P.M.

2 COMSR: Before we begin there are a couple of
3 matters I would like to draw to your attention. The
4 first is that counsel should refrain from making
5 comments to one another or making statements during the
6 course of the evidence of the witnesses as it is very
7 confusing to say the least. If counsel have something
8 to say, would you address the matter to me, and not have
9 exchanges between one another.

10 There appear to me to be a number of recurring
11 occasions on which various counsel have had something to
12 say concerning the issue of media reporting. Those
13 matters are not issues that I can deal with. If any
14 counsel has a problem with those matters, I am not the
15 appropriate person to hear of it.

16 I am seeking your co-operation in these matters as
17 it appears to me the taking of the evidence will be
18 expedited if it is not subject to the interruptions of
19 this nature from time to time.

20 Ms Pyke, I think you were going to specify the
21 documents or sources or items to which you wish to refer
22 or draw to the attention of this witness.

23 MS PYKE: When I say specify, there is obviously
24 the bit on the tape. There are also a number of
25 newspaper reports that are Exhibit 67, the bundle of
26 media reports. The reality is that yours may not be
27 numbered, but the one that I will be referring to is a
28 Canberra Times report of Mr Kenny dated 10 June 1995.
29 That is actually the same as an Adelaide Review article.

30 In that article, Mr Kenny has put things critical of
31 Dr Fergie, and makes comments and observations about
32 her. There is an article in the Adelaide Review
33 entitled 'White lies' in which there is reference to the
34 matters. And there are another couple of articles that
35 aren't part of that document, but they are dated August
36 1995 and September 1995, again in the Adelaide Review.

37 COMSR: I am trying to find the material which
38 you say is critical of your client. Did you say the

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1 Adelaide Review of July 1995?

2 MS PYKE: Yes. I can give you my page number. I
3 have numbered it p.14. There is not quite so much in
4 that. The main one is the 10 June Canberra Times
5 article, which is the same as the Adelaide Review
6 article.

7 COMSR: I am trying to find the material that
8 you put to the witness before lunch.

9 MS PYKE: What I put before lunch was from the
10 transcript, from the video tape, and the reference I
11 gave you to that was the interview with Mr Jones in the
12 raw footage, Exhibit 148. There is no transcript of
13 that. That was the portion that I read out to you,
14 doing the best that I could with what I had noted
15 myself. It is again mainly that Adelaide Review article
16 that I have just referred to of July. I think where we
17 stopped was that I was asking the witness what he meant
18 by the word 'fabricate'.

19 COMSR: Yes, I think he had answered that.

20 WITNESS: Yes.

21 XXN

22 Q. I think you said that that was a term that you'd picked
23 up from other sources, if I can put it that way.

24 A. It was a term that I didn't - wasn't the first to use.
25 It was a term that seemed to encapsulate what the
26 allegations amounted to.

27 Q. It is not a term, I suggest to you, that the women
28 themselves have used to you.

29 A. It is a term that many Ngarrindjeri people have used to
30 me.

31 Q. Since 19 May.

32 A. Yes.

33 Q. Perhaps I should be a bit more specific. It wasn't a
34 term that either Dorothy or Dulcie used to you in that
35 first interview.

36 A. I can't recall precisely without going back to those
37 tapes, but it may well be that it's not there.

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- 1 Q. But I suggest to you that in your conversations with
2 Dorothy on that first interview, you in fact used the
3 term 'fabrication', that's on 19 May. Do you recall
4 that.
- 5 A. I don't recall it, but it's quite likely.
- 6 Q. I don't have the transcript so I will have to paraphrase
7 it. You said something along these lines 'For us to be
8 able to convince that there has been a fabrication, we
9 need to establish it was suggested by men that there was
10 secret women's business'.
- 11 A. I don't recall that. That's from what, the video tape
12 of the raw footage of the Dorothy -
- 13 Q. Raw footage tape, yes. So you have got no recollection.
- 14 A. I can't agree to a specific form of words unless I can
15 see them before me or recall them precisely, but I mean
16 it is all there, it is all in evidence.
- 17 Q. I am putting to you that is the first suggestion as it
18 related to fabrication that came from you, and it was
19 directed to Dorothy and Dulcie in your interview of 19
20 May.
- 21 A. That may well be the case. As I say, I think it is an
22 adequate word to describe what the allegations amount
23 to, and I have used it extensively in the media. I
24 pointed out to you that I was not the first person to
25 use it in the media. I pointed out it was not used in
26 my original report.
- 27 Q. You have written several newspaper articles in addition
28 to your reporting on Channel 10.
- 29 A. Yes.
- 30 Q. One of those newspaper articles was in the Canberra
31 Times.
- 32 A. I write a monthly column for the Adelaide Review, and
33 that column in June this year was then on-sold to the
34 Canberra Times and the Brisbane Courier Mail. The
35 article was my monthly column for the Adelaide Review.
- 36 Q. I will be looking at the Canberra Times article of 10
37 June 1995 contained in Exhibit 67. Am I right it is the
38 identical article.

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- 1 A. It is not identical. It is almost identical.
- 2 Q. A bit of editing and paragraphing.
- 3 A. Well, yes, in both the reprints there are a couple of
- 4 issues that aren't identical to the issue.
- 5 Q. Have you got the Canberra Times with you.
- 6 A. I've got them all here. Refer to whichever you like.
- 7 Q. Referring to the Canberra Times, it is hard to know what
- 8 you have got, but in my copy there is a column that
- 9 stands on its own, it is the first column. You are
- 10 referring to the so-called dissident women and you say
- 11 this 'These are respectable, credible women, whose
- 12 historical and genealogical links to the Ngarrindjeri
- 13 community are stronger than those of the sacred secrets
- 14 promoters'. What was the basis of that.
- 15 A. That was the basis of my reaction to the criticism that
- 16 they had received in the media. They were being
- 17 portrayed by Sandra Saunders and others as women off the
- 18 street, as dogs, as traitors. I was very keen to
- 19 impress upon those people who perhaps have been
- 20 listening to these comments on the ABC and other media
- 21 organisations, that that was not necessarily the case.
- 22 That these women were actually reasonable, credible
- 23 women.
- 24 Q. You go on, don't you, though to say that their links to
- 25 the Ngarrindjeri community are stronger than those of
- 26 the sacred secrets promoters.
- 27 A. Yes, I did.
- 28 Q. What is the basis of that assertion.
- 29 A. That's on the basis of where they were born, where they
- 30 were raised, where they spent most of their lives, and
- 31 what they are doing with their lives at the current
- 32 time.
- 33 Q. Are you saying that Dorothy and Dulcie, for example, had
- 34 stronger links than Connie Roberts, Maggie Jacobs.
- 35 A. I am not - I was not interested in making very specific
- 36 comparisons about individual people. But, as a group,
- 37 these people were being portrayed by Sandra Saunders and
- 38 others as outcasts, as outsiders. They most definitely

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1 are not. They have been born and raised in that
2 community, and have been active in it throughout. In
3 fact, some of the more prominent people in the camp that
4 are promoting the secrets, such as Doreen Kartinyeri,
5 have experienced extended periods away from the
6 Ngarrindjeri community.

7 Q. I simply put to you that in that description there you
8 are endeavouring to establish that the so-called
9 dissident women were more credible and had more
10 connection than the proponent women -

11 A. No. What I was doing -

12 Q. Became their advocate.

13 A. I was impressing a perception that was put by the media
14 that they were less credible than the promoters of the
15 secrets and were outsiders of the Ngarrindjeri
16 community, which is patently not the case and can be
17 demonstrated.

18 Q. I am simply putting to you you went to the other
19 extreme, didn't you.

20 A. No, I did not. I do not accept that. I put some
21 matters on the record that needed to be put on the
22 record. If you take exception to them, I would like to
23 hear about it.

24 Q. Just going back to that, I simply suggest to you you
25 have no idea who is more genealogically, more
26 historically connected with the Ngarrindjeri community
27 amongst the proponents and the dissidents.

28 A. Some of the key people - I have seen the work of Doreen
29 Kartinyeri and others, just to see where they fit into
30 the whole community. That was a part of my research in
31 the early days.

32 Q. You don't have any qualification with genealogy or
33 anthropology or -

34 A. No, and neither does Doreen Kartinyeri.

35 Q. The article goes on to say this, about the second column
36 'It was through her genealogy work based at the South
37 Australian Museum that Ms Kartinyeri developed a
38 friendship with an anthropologist, Deane Fergie'.

1 A. That is correct.

2 Q. What is your source of information about that.

3 A. Source of my information that they were friends?

4 Q. Yes, developed friendship at the South Australian
5 Museum.

6 A. I know it to be a fact probably from a number of
7 sources.

8 Q. Not the least of which is Dr Fergie's own report.

9 A. Probably. I have certainly read Dr Fergie's report.

10 Q. When did you read Dr Fergie's report for the first time.

11 A. I read it for the first time at around about the time I
12 aired my first story. I read the Saunders and Fergie

13 report as part of my preparation for that first story.

14 It was very important for me to understand that what the

15 so-called dissident women were alleging could actually

16 possibly have happened, and it wasn't until I read the

17 Saunders and Fergie report that I'd realised how in fact

18 this series of events could have actually occurred.

19 CONTINUED

20

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- 1 Q. In your article in the next column you say this 'If all
2 of this were based on a fabrication, the win can only be
3 political'.
4 A. You are going to have to help me out finding this
5 passage. You don't have the complete article there, do
6 you? You have it cut into sections, do you?
7 Q. No, I have just got photocopies of columns. I don't
8 know whether it is actually photocopies of a page or
9 not, I am afraid. On mine it seems to be the third
10 column of the article, if I can put it that way.
11 COMSR: In what publication, Ms Pyke?
12 MS PYKE: The Canberra Times.
13 XXN
14 Q. I am only the referring to the Canberra Times article.
15 A. I have found the paragraph you are referring to, yes, it
16 is in the second column, if anyone else has the same.
17 Q. Yes, 'If all this were based on a fabrication'. You
18 then go on to say that 'Those who have a stake in
19 stopping the bridge, those who want to be politically
20 correct and those who are just too lazy to properly
21 consider the matter, have been keen to dismiss the
22 latest controversy.' Were you purporting to make any
23 reference to Dr Fergie in that.
24 A. I am not purporting to have any reference to any people
25 except those that I make reference to.
26 Q. So, there -
27 A. There is a fairly broad sample of people, I would have
28 thought, covered in that sentence.
29 Q. Were you intending to include Dr Fergie in that, is she
30 one of those people.
31 A. When I sat down and wrote this in June? Was I thinking
32 of Deane Fergie, when I wrote this?
33 Q. Yes.
34 A. I can't sensibly answer that. I have mentioned Deane
35 Fergie by name where I wanted to mention Deane Fergie.
36 Q. You have referred to 'The best starting point is the
37 anthropological literature', further down that column.
38 A. Yes.

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1 Q. In your researching of your story, before 19 May, had
2 you - this is before 19 May, had you consulted any
3 anthropologist yourself.

4 A. I had had some off-the-record discussions with a - with
5 some - with an anthropologist, just to - confirming that
6 there may be some substance to this story and I had read
7 up some of the literature.

8 Q. Are you able to tell us who you -

9 A. Because it was off-the-record, I don't feel at liberty
10 to say who it was, but it was an anthropologist.

11 Q. Are you able to tell us, is it someone that you are
12 aware is going to give evidence in these proceedings.

13 A. I am not going to -

14 MR LOVELL: I think the answer has been given. I
15 don't think my friend can fairly take it any further,
16 because we might get into a physical description next.
17 Is it a he or she, tall or short? The answer has been
18 given.

19 XXN

20 Q. Before 19 May, you had spoken to some anthropologist.

21 A. I wanted to make sure, as I have said, many times, that
22 my research into this matter was very thorough, before I
23 aired the first story. And I wanted to make sure that
24 there was, in fact, some anthropological credibility to
25 what was being put forward. And I did at least get that
26 assurance from at least one source, off-the-record. It
27 is a very sensitive matter, as you would understand, and
28 I think that that information has been vindicated since
29 in the public stance as we have seen from a number of
30 anthropologists before this Commission.

31 Q. Before 19 May, did you make any attempt to speak to Dr
32 Deane Fergie.

33 A. No, I did not.

34 Q. Any reason for that.

35 A. Because, firstly, I was working on this story and I
36 wanted to put this story together. And I was very well
37 aware that the women I was dealing with were quite
38 concerned about the treatment they may get from the rest

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1 of their community, if it were known that they were
2 about to speak out. So, I was trying to treat their
3 information in great confidence. And I was leaving my
4 attempt to get responses, both from the Aboriginal Legal
5 Rights Movement, Doreen Kartinyeri and Deane Fergie,
6 until very much at the last minute.

7 Q. I suggest to you that you didn't endeavour to get any
8 response, certainly from Dr Fergie, until after you put
9 the story to air.

10 A. I went straight to the source. I went to Doreen
11 Kartinyeri and Sandra Saunders, before I put the story
12 to air.

13 Q. I am speaking about Dr Fergie.

14 A. I know you are speaking about Dr Fergie, but I am
15 telling you that I wanted to get a response from the
16 source of the issue. That is, Doreen Kartinyeri and the
17 Aboriginal Legal Rights Movement. Deane Fergie wasn't
18 then and isn't now prominent, when it comes to the
19 actual matter. It is a matter of Aboriginal beliefs,
20 not Dean Fergie's beliefs.

21 Q. You have been critical, in your statement, of what you
22 say has been Dr Fergie's unwillingness to speak to you.

23 A. Indeed, she -

24 Q. After the story went to air.

25 A. Indeed, I was very keen to speak to her, after the story
26 went to air.

27 Q. What I am simply putting to you is that, if, for
28 example, your aim was to present a balanced story, why
29 didn't you endeavour to speak to Dr Fergie, before it
30 went to air. If it was important afterwards, surely it
31 was important before.

32 A. No, my aim was to present a correct story. I wanted to
33 make sure I had all the relevant facts and I consulted
34 Dr Deane Fergie's report in detail.

35 Q. But you certainly didn't give her an opportunity to
36 express a view, or to consider, before the story went to
37 air.

38 A. I gave her ample opportunity afterwards to express her

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1 view and she went running at a million miles an hour.

2 Q. I think that really what was happening was that you
3 thought you were on to a good story and I didn't want to
4 get any information from someone who might spoil it.

5 A. No, that is ridiculous. The point is that, in dealing
6 with a story like this where there are people with very
7 sensitive and very explosive, I suppose, allegations to
8 be made, then their sensibilities need to be taken into
9 account. They were not in a position where they wanted
10 Sandra Saunders, Doreen Kartinyeri and others arriving
11 on their doorstep, before the story even went to air.

12 It was my duty to make sure that what they were telling
13 me, to the best of my ability, was credible and was, in
14 fact, feasible. And I went to great lengths to do that.

15 I don't think calling Deane Fergie would have been of
16 any assistance, given what she has said to me, since.

17 Q. But you say that you had the Fergie report.

18 A. Yes.

19 Q. You had that, before 19 May, or it is 20 May I think it
20 actually went to air, didn't it.

21 A. No, it went to air on 19 May. I am not certain when I
22 came into possession of the Fergie report, but it was
23 around that time.

24 Q. Where did you get it from.

25 A. It was faxed to me by a contact.

26 Q. Who.

27 A. I get a lot of information from a lot of people. I
28 don't feel comfortable about divulging who gives it to
29 me, until I get their consent. I am not certain whether
30 this person would want the information divulged, but the
31 point is, it was Dr Fergie's report and I have read it.
32 Any journalist who was interested in the case could get
33 a hold of the Fergie report.

34 Q. Before it goes to air, you have consulted with an
35 anthropologist you don't wish to name. You have looked
36 at the Fergie report you have obtained from a source
37 that you don't remember or don't want to name. This
38 anthropologist that you consulted, was it the

- 1 anthropologist that put you on to the literature,
2 including Berndt and Berndt.
- 3 A. No, I was already aware of the Berndt and Berndt work,
4 but the anthropologist gave me a bit more background
5 that there was other literature around, which I would
6 find had similar holes in it.
- 7 Q. When your article has the paragraphs continuing 'The
8 best starting point is the anthropological literature',
9 down to 'The possibility of any secret women's
10 business', was that information you got from your
11 anthropological source, or is that -
- 12 A. That is a combination of the information from my
13 anthropological source and from my own reading of the
14 literature. Are you telling me that is incorrect?
- 15 Q. I am just asking you whether that was your conclusion,
16 or from someone else.
- 17 A. My prime aim, when I am writing, or reporting, is to
18 make sure that what I am saying is correct.
- 19 Q. You go on and you say this about Dr Fergie, that she now
20 says that Catherine Berndt might have known about the
21 secrets, but decided not to make any reference to them.
- 22 A. Yes.
- 23 Q. 'Yet Dr Fergie has not taken the precaution of
24 consulting Catherine Berndt's field notes in Perth,
25 which could back up her argument, if it had any
26 substance.' What was your source of knowledge that Dr
27 Fergie hadn't looked at Catherine Berndt's field notes.
- 28 A. I think, by that time, I had actually managed to put it
29 to Dr Fergie.
- 30 Q. Do you think, or -
- 31 A. I think I did. I am certain I would have put it to her,
32 at some stage. Obviously I have received some
33 information that that may be the case, but I put it to
34 Dr Fergie. You will recall I said I had a very long
35 phone conversation with Dr Fergie, where we discussed a
36 range of issues.
- 37 Q. Are you saying that that information came from Dr
38 Fergie, or it might be someone else that offered the

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1 opinion that she hadn't.

2 A. I am saying - you are asking me to recall events, what,
3 three months ago? And I can't see specifically, but
4 what I am suggesting is, I would have been given some
5 information to lead me in pursuit of that matter. And,
6 by that stage, I imagine, I believe I would have raised
7 it directly with Deane Fergie.

8 Q. Have you got notes of your conversation with Dr Fergie.

9 A. I said before, I was standing outside the Aboriginal
10 Legal Rights Movement speaking on a mobile phone.

11 Q. You then go on to say that Dr Fergie - you again repeat,
12 or you say that she is a friend of Doreen Kartinyeri.
13 And you say she `was specially commissioned by the
14 Aboriginal Legal Rights Movement to co-ordinate the
15 sacred claim. In other words, she was an advocate
16 rather than an investigator.'

17 A. Yes, indeed.

18 Q. On what basis do you say that `she was an advocate'.

19 A. Because she was paid by the Aboriginal Legal Rights
20 Movement to put together their proposal regarding the
21 sacred secret women's business to go to the Federal
22 Government. It was another point that was being ignored
23 by the rest of the media. Dr Deane Fergie was being put
24 up on various television stations and the like and being
25 asked to comment on her view of the fabrication claims
26 and of the sacred secret women's business. She was
27 being put up as an independent anthropologist. I was
28 pointing out that she was not independent, she was paid
29 by the Aboriginal Legal Rights Movement to actually
30 co-ordinate the claim.

31 Q. That is your assessment of it.

32 A. I think that is a fact, is it not?

33 MS PYKE: Perhaps Mr Abbott has difficulty
34 understanding your direction earlier on, but it is not
35 actually helpful, nor, indeed, appropriate for sotto
36 voce evidence to be given by Mr Abbott.

37 MR LOVELL: I will make one that is not sotto voce.
38 My friend is falling into the error that people were

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1 falling into this morning. She has cross-examined Mr
2 Kenny about conversations that he may have had on a
3 mobile phone while he was standing outside the ALRM.
4 He was asked did he take any notes about it and she did
5 not put a contrary proposition. Is it my friend's
6 instructions that that bit of the telephone
7 conversation, or that piece of information that appears
8 in Mr Kenny's article is not the fact, or it was never
9 said to him? We are left again with no idea where this
10 cross-examination is going.

11 COMSR: Yes, Ms Pyke hasn't finished her
12 cross-examination.

13 MR LOVELL: But it is just being left. She has left
14 that topic and now she is going on to another one and we
15 have no direct challenge.

16 COMSR: Ms Pyke has her own method of
17 cross-examination and -

18 MS PYKE: I merely asked the witness in that topic
19 whether he had been told by by Dr Fergie, or from some
20 other source. It might be from several sources. I
21 don't know.

22 WITNESS: I told you I was put on to that
23 information by another source and I got that from Dr
24 Fergie.

25 XXN

26 Q. That other source, is that the same anthropologist that
27 you spoke to, before 19 May.

28 A. Probably.

29 COMSR: Of course, I suppose, if the witness is
30 not challenged, as to whether or not a conversation took
31 place, I can take it for granted that it is not in
32 issue, as far as you are concerned, Ms Pyke, can I?

33 MS PYKE: As you quite rightly say, I will get
34 back to certain things, in due course. I am just trying
35 to find out from this witness -

36 COMSR: Yes, I appreciate that.

37 MS PYKE: It just seems to me that, looking at his
38 article, that he is getting certain information that is,

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1 putting it bluntly, colouring his view of Dr Fergie as
2 he has written it. And it is - I think it is quite a
3 proper sequence of questions to put.

4 COMSR: I am not suggesting that. I am pointing
5 out, at the end of the day, if I am left in that
6 position, it might be left so that I have to assume it
7 is not under challenge.

8 XXN

9 Q. The basis of your claim that Dr Fergie was an advocate
10 was that she had been commissioned by ALRM to prepare a
11 report.

12 A. Indeed, she was paid by the ALRM, commissioned by them
13 to prepare the sacred secrets proposal.

14 Q. Are you suggesting by that, or are you seeking to
15 suggest that Dr Fergie somehow or other didn't, in a
16 professional way, form a view and express that view,
17 that, in that sense, she was an advocate.

18 A. No, I am suggesting it needed, at that time, to be
19 placed on the public record that the anthropologist we
20 were hearing from, about the sacred secrets business,
21 was, in fact, the anthropologist who put the claim
22 together, not an independent anthropological source, as
23 she was being referred to in the media. At that stage,
24 I felt what we needed was some independent scrutiny of
25 this issue. It was clear then and it is clear now.

26 Q. You are not alleging any impropriety on Dr Fergie's
27 part.

28 A. I have never alleged any impropriety on Dr Fergie's
29 part.

30 Q. You have referred to Neale Draper in that particular
31 paragraph. And I am backtracking a little bit there.
32 Had you spoken to Dr Draper, before the 10 June 1995
33 article.

34 A. No, I had not.

35 Q. You then go on and talk about the - at the foot of that
36 page, that you talk about Cheryl Saunders prepared the
37 report. Her report deals mainly with information
38 gained through a series of meetings that were organised

1 for her by two Aboriginal women who were campaigning to
2 stop the bridge. Doreen Kartinyeri and Sarah Milera.'

3 I ask you, what was your source of information that
4 Doreen Kartinyeri and Sarah Milera had organised the
5 meetings with Cheryl Saunders.

6 A. I believe the source is the report, itself.

7 Q. You say 'This group was taken to be representative of
8 Ngarrindjeri opinion and beliefs. There was no
9 substantial attempt to broaden the net.'

10 A. Yes, when I got around to reading the Saunders and
11 Fergie reports, what struck me most was the narrow
12 sampling of Ngarrindjeri opinion. Until this stage, I
13 had realised there was a lot of controversy and a lot of
14 doubts about the way this issue had arisen at the end of
15 the fight against the bridge. And I had assumed that
16 the so-called sacred secrets matter had been
17 investigated thoroughly. I had assumed that there was
18 an adequate assessment. When I read the Saunders report
19 and the Fergie report, I became - my views changed
20 dramatically. It confirmed to me that the sorts of
21 things that Dorothy Wilson and Dulcie Wilson were
22 telling me could, indeed, be true, because, if you read
23 the Saunders report and the Fergie report carefully, you
24 will see that there was an extremely narrow sample of
25 Ngarrindjeri opinion. Two women essentially got against
26 30 women and organised one woman to talk to Dr Fergie.

27 Q. Have you got any knowledge, yourself, as to whether
28 these 30 odd women were, indeed, people who were
29 representative of other women, if I can put it that way.

30 A. I think the very fact that we are here today proves they
31 weren't.

32 Q. Is that right.

33 A. There is a large body of Ngarrindjeri people, no doubt,
34 who dispute what they have to say.

35 Q. The ten dissident women.

36 MR LOVELL: It is an interesting debate, but where
37 is it getting us?

38 MS PYKE: It is the gentleman who has written the

1 report in the Canberra Times, not me. Surely, if he
2 wants to go on making the assertions there was no
3 attempt to broaden the net, that is a severe criticism
4 and I want to know on what basis he made that
5 allegation.

6 MR ABBOTT: I object to my clients being dismissed
7 by Ms Pyke in terms of 'the ten Ngarrindjeri women'.
8 The fact is, we acting for fourteen and they are
9 representatives, as I have also said on many occasions,
10 of a large number of others. There are fourteen, so
11 far, who have given evidence and statements have been
12 provided in respect of others. And others can be
13 called. So, it is not merely ten.

14 CONTINUED

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- 1 MS PYKE: I point out to the witness the somewhat
2 inconsistent approach that he is taking, that from his
3 perspective the dissident women are representative of
4 the 35 other women and were not -
- 5 WITNESS: Is that a question? Where have I said
6 that they are representative?
- 7 COMSR: I don't know whether that is a question
8 at this stage or not. Is that a question?
- 9 MS PYKE: No, the transcript will record the
10 witness's answer.
- 11 XXN
- 12 Q. You then go on and say that the group gathered by Miss
13 Kartinyeri - was that a different group. Did Miss
14 Kartinyeri gather a group herself, or is that the same
15 group you were talking about earlier that was gathered
16 by her and Sarah Milera.
- 17 A. This is, that is the same group.
- 18 Q. `Was allowed to endorse Sarah as a spokeswoman'. Were
19 you critical of that.
- 20 A. I think this is information which needs to be on the
21 public record and which wasn't. It's all gleaned
22 directly from the Saunders and Fergie reports which were
23 being portrayed in the media and had been portrayed as
24 other thorough investigations that were going on. I'm
25 pointing out here that you are talking about a small
26 group of 35 women endorsing one person as a
27 spokesperson, and I stand by it. Those are the facts.
28 That is what happened.
- 29 Q. At the time that you did your report on 19 May, how many
30 women had you spoken to.
- 31 A. I had spoken to at least five, which means five times
32 more than had spoken to Deane Fergie.
- 33 Q. How do you know that.
- 34 A. You were - you have just agreed that one was authorised
35 as a spokesperson.
- 36 Q. That doesn't mean she didn't speak to other people.
37 That is you how you interpret that, in fact, as one was
38 authorised as a spokesperson, she didn't speak to anyone

1 else.

2 A. I know she spoke to a number of people. The key source
3 is - the one key source is Doreen Kartinyeri.

4 Q. I am trying to clarify what has been your belief: that
5 she didn't speak to any of the other 35 women.

6 A. It's been my belief she didn't speak with them about the
7 sacred secret women's business.

8 Q. The five that you say you spoke to before the 19th was
9 Dorothy, Dulcie - this is before 19 May, not subsequent.

10 A. Dorothy, Dulcie, Rita, Audrey Dix, Bertha Gollan were on
11 the record. I had spoken directly to Dulcie and
12 Dorothy.

13 Q. You personally spoke to two, didn't you, before 19 May.

14 A. And I have written statements. I had written statements
15 from five and went on to speak to the others, yes.

16 Q. You refer to, you say 'In previous years, Aboriginal
17 interests, including women, had be consulted without any
18 women's business emerging'. At that stage, had you
19 informed yourself about what consultation there had been
20 with various women and groups previously.

21 A. Obviously, I had to some degree. Are you contesting
22 what I have written? I can go through the reports line
23 by line and line by line so that you can see where I got
24 every bit of information.

25 COMSR: I suppose the witness is saying has it
26 been challenged? Are you putting to him a contrary
27 version of -

28 MS PYKE: I'm simply saying that, asking him what
29 attempt he had made to establish whether that, in fact,
30 was drawn from his source.

31 COMSR: I understand that. I'm still not clear
32 whether the witness is being challenged as to the
33 accuracy?

34 XXN

35 Q. I suggest to you that as you read in the Fergie report
36 as to, indeed, one of the issues, there was proper
37 consultation.

38 A. There is a lot of information to me to suggest there has

- 1 been adequate consultation.
- 2 MR MEYER: Consultation of women's business or
3 what?
- 4 COMSR: Perhaps is there something you want to
5 put to me?
- 6 MR MEYER: I was trying to pick up the thread of
7 where we are at. If we are talking about consultation
8 into the subject of Professor Saunders' report, then the
9 women's business, I have no objection as that would be
10 proper. If talking about the other consultation, I'm
11 wondering where we are at with that?
- 12 COMSR: Could you be more specific as to the
13 consultation that you are referring to?
- 14 MS PYKE: I'm referring to the consultation he
15 refers to in his article: `In previous years, Aboriginal
16 interests, including women's, have been consulted
17 without any women's business emerging'. That is a
18 general statement.
- 19 WITNESS: That is a fact. That is on the public
20 record, is it not.
- 21 XXN
- 22 Q. I'm asking you the question.
- 23 A. I'm telling you it is a fact. It's a fact that was on
24 the public record at the time and remains on the public
25 record.
- 26 Q. What is your source of that bit of information.
- 27 A. What is my source? You want to ask me the source for
28 every bit of public information?
- 29 Q. It might speed things up if you answered the question
30 rather than to ask them.
- 31 MR LOVELL: Is my friend suggesting that that is not
32 the case?
- 33 MS PYKE: I went back and said to him earlier as
34 he read in the Fergie report, that was one of the
35 assertions in the Dr Fergie report that there hadn't
36 been proper consultation, certainly with women.
- 37 MR LOVELL: That is a different proposition. This
38 is an adjective here. We are simply talking about

1 apples and oranges.

2 COMSR: Is there a question that you have asked
3 that hasn't been answered?

4 MS PYKE: I'll move on.

5 XXN

6 Q. You go on in that article to say this - I don't know
7 which column, I lost the count on that. It is the same
8 article at column 8: 'There is no attempt in the Fergie
9 or Saunders reports to explain how Ngarrindjeri
10 ancestors could have worried about an artificial link
11 between the island and the mainland when they had no
12 knowledge of bridges'.

13 A. I can't find that here. That sounds familiar.

14 Q. That, presumably, is a criticism of Dr Fergie.

15 A. No, it's a discussion of the issue. It's a discussion
16 of some of the public issues involved in this, some of
17 the obvious questions that are raised.

18 Q. Are you saying that that is a criticism - you are saying
19 that there should be some attempt by Dr Fergie to -

20 A. I was observing that there was no attempt.

21 Q. You then go on and make claims in what is referred to as
22 your media footnote. You refer to the 7.30 Report 'Have
23 become emotional mouthpieces for the Aboriginal Legal
24 Rights Movement, Doreen Kartinyeri and Dr Deane Fergie'.

25 A. Yes.

26 Q. In what way do you suggest that the 7.30 Report is a
27 mouthpiece for Dr Fergie.

28 A. I believe that throughout the whole affair, the 7.30
29 Report has adopted the ALRM position since, indeed,
30 before my first piece went to air, and they haven't
31 waived from that and they had privileged access to
32 Doreen Kartinyeri, Deane Fergie and others and never
33 once have they asked these people any of the probing or
34 pertinent questions that I have been dying to ask them.

35 MS PYKE: It is an implication that there is some
36 suggestion that the 7.30 Report is a mouthpiece for Dr
37 Fergie and that is frankly not something that is - that
38 accusation is offensive to Dr Fergie, putting it

- 1 bluntly. She is quite able to speak for herself.
- 2 WITNESS: Do you want a response?
- 3 COMSR: No, that is just a statement. Unless it
- 4 is a question?
- 5 XXN
- 6 Q. You have made some criticism in your statement -
- 7 COMSR: I hope it's not being suggested that at
- 8 some stage I'm going to have to make some sort of a
- 9 judgment on that particular line of questioning?
- 10 MR MEYER: It would be wise.
- 11 MR ABBOTT: There are the Walkley Awards. There
- 12 could be the Stevens Awards.
- 13 MS PYKE: I'm afraid when its alleged by media
- 14 reporting, that lends itself to this sort of thing.
- 15 Certainly wouldn't have been the way that we would go
- 16 about it.
- 17 XXN
- 18 Q. One of your criticisms of Dr Fergie in your evidence
- 19 and, indeed, your statement was that she wouldn't, as
- 20 you saw it, give you an interview.
- 21 A. That's been my observation.
- 22 Q. It's a bit more than that. You have chosen to give
- 23 evidence about it in your statement and in your -
- 24 A. Precisely. I want to put it on the record the lengths I
- 25 have gone to to put this matter to these people who have
- 26 put it all together; the other side, as you say. I've
- 27 gone to great lengths to get detailed responses from
- 28 Deane Fergie on all of this and it proved very
- 29 difficult.
- 30 Q. I suggest to you that one of the concerns that Dr Fergie
- 31 had which she expressed to you was that she wanted to
- 32 make sure she got a fair go in the reporting. She had
- 33 some concerns about your editing, didn't she.
- 34 A. Well, I don't know. I didn't get to speak to her for a
- 35 week. She was on every other media in the town and I
- 36 thought that - I had some pertinent questions to ask
- 37 her.
- 38 Q. Is that why you were trying to interview her.

1 A. That's what I'm suggesting. It's usually the way that
2 when we don't get a break for an interview, it is
3 usual that the people fear speaking to you.

4 Q. It may have been that she didn't have the time.

5 A. She spoke to the 7.30 Report and the ABC Radio and
6 Channel 7.

7 Q. That's perhaps why she didn't have the time to speak to
8 you.

9 A. Precisely. She knew that I was the person that
10 uncovered the information and did the background work
11 and perhaps she knew that I was the first person to
12 speak up. She knew that I'd read her report and the
13 Saunders' report.

14 Q. Beg your pardon.

15 A. She knew that I had read the reports and I think she
16 knew that the other journalists that she spoke to
17 hadn't.

18 Q. Are you aware that any attempt had been made to speak to
19 Dr Fergie either on the weekend of 20 and 21 May.

20 A. I'm not certain.

21 Q. Are you aware that Kellie Sloane went to Dr Fergie's
22 office on 23 May.

23 A. Yes, I am.

24 Q. Have you had any conversation with Kellie Sloane about
25 her discussions with Dr Fergie that day.

26 A. Indeed. She went there because we were having trouble
27 securing an interview with Deane Fergie. I was busy on
28 a number of fronts and Kellie was asked to go and she
29 phoned her to see if she would talk to her and she
30 granted us an interview.

31 Q. Did Kellie Sloane tell you that Dr Fergie raised several
32 objections to the way in which Channel 10 had dealt with
33 the issue, and you in particular, up to that point.

34 A. I don't recall specifically. I know that she didn't
35 grant us an interview. It's more than likely she may
36 have said something along those lines.

37 Q. I will put to you particularly what Dr Fergie will say
38 she said when she had a conversation with Kellie Sloane.

1 She said that, put to her that the reason that she was
2 not happy to talk to Channel 10 was that it was her view
3 that they had schemed to get the most out of the story
4 by timing the release of the story for Friday at 5
5 o'clock and by not approaching her either before it was
6 released or, indeed, even on the weekend. And it was
7 her view that you were not interested in any balance in
8 the story.

9 OBJECTION Mr Lovell objects.

10 COMSR: Are you asking whether this witness
11 heard that?

12 MS PYKE: I'm putting that to him.

13 COMSR: That is not a conversation that he was
14 privy to.

15 XXN

16 Q. Did Kellie Sloane tell you that.

17 A. I don't recall in those terms.

18 Q. Along those lines.

19 A. She's got to make up an excuse for not speaking to us.

20 She can make up all the allegations she likes. I was
21 going to great lengths to speak to her and finding it
22 very hard to speak to her and get her side of the story.

23 Q. I put it to you - I'm not putting it as a criticism of
24 you, but I'm trying to gain from you what Kellie Sloane
25 said to you, this is what Dr Fergie was complaining
26 about and why she won't give us an interview.

27 A. As I said, I was extremely interested in interviewing Dr
28 Fergie and it wasn't as if we were pursuing Deane Fergie
29 for an interview, but we needed to get the answers as
30 there were many questions we needed to put to her.

31 Q. She also put to Kelly Sloane that they had not sought to
32 interview any of the opposing Aboriginal women over the
33 weekend and that again was another basis for her view
34 that Channel 10 was intent on sensationalising and why
35 she was reluctant to speak to you.

36 A. You can go on with the malarkey until the cows come
37 home. The point is that the story was put together
38 after considerable investigation. Doreen Kartinyeri,

- 1 Sandra Saunders and Deane Fergie are clearly on the
2 record where their views lie with the sacred secret
3 women's business. I was conducting an investigation
4 into a group of women who were contesting that view.
5 Once I satisfied myself that those allegations were
6 credible, we put them to air and went about methodically
7 trying to get considered responses from the Aboriginal
8 Legal Rights Movement, from Doreen Kartinyeri, from
9 Deane Fergie - none of whom wanted to speak to us and
10 answer any of questions raised in the story. I don't
11 know how, but we tried to get together the proponent
12 women on that weekend, but they were locked away with
13 the 7.30 Report. We saw that on the Monday night and
14 that was the pattern established on the Friday night and
15 has remained in place ever since.
- 16 Q. I simply was putting to you on the basis that whilst Dr
17 Fergie declined to be interviewed at that stage, she
18 offered, through Kellie Sloane, particular reasons for
19 her reluctance to be interviewed.
- 20 A. I have agreed with that three or four times.
- 21 Q. That is the only question asked of you. Dr Fergie then
22 had, indeed, a telephone call with you on the 25th.
- 23 COMSR
- 24 Q. Do you recall whether there was such a telephone call.
- 25 A. I certainly recall the telephone call and it was late in
26 that following week. The precise date I'm not certain
27 of. I think it was the Friday.
- 28 MR ABBOTT: It says Friday the 26th.
- 29 XXN
- 30 Q. I suggest to you in your statement you say Friday, 26th
31 but I suggest to you that it was, in fact, Thursday the
32 25th when Dr Fergie contacted you.
- 33 A. It could have been either, I can't really say, but that
34 is around the time. It was certainly late that week.
- 35 Q. That, I suggest to you, the conversation that Dr Fergie
36 had with you at that time, was quite an extensive one.
- 37 A. It was indeed.
- 38 Q. And that it covered the women that she had spoken to,

- 1 and she referred you to the appendix of her report of
2 the meeting at Graham's Castle.
- 3 A. It was an extensive, lively and interesting discussion;
4 exactly the sort of discussion that I wanted to have
5 with her on camera.
- 6 Q. I put it to you that when you telephoned Dr Fergie and
7 she talked to you about in that telephone call, that she
8 referred you to the appendix of her report which listed
9 not only the women at the Graham's Castle meeting, but
10 also the Ngarrindjeri Action Meeting and a number of the
11 others she spoke to by person or by phone.
- 12 A. Well, I have said a number of times I don't have notes
13 of that conversation and I can't talk about the
14 conversation in any detail. But we did discuss many of
15 the pertinent questions that I put to her and she'd
16 mounted her defence to some of the claims that I was
17 putting to her.
- 18 Q. You also asked her why it hadn't been recorded, the
19 issue of the secret women's business, why it hasn't been
20 recorded by other anthropologists, and she had a fairly
21 lengthy discussion with you about transmission of
22 knowledge; do you recall that.
- 23 A. That would be correct. Those are the sorts of things we
24 discussed, as I say, the things I would like to discuss
25 with her on camera, and eventually did in a very
26 shortened fashion a few days later.
- 27 Q. I suggest to you at the end of that telephone
28 conversation, Dr Fergie used words to the effect of 'You
29 see, none of that is amenable to a ten second grab'. Do
30 you recall her saying anything like that.
- 31 A. I recall her saying things along those lines. She's
32 interested in seeing, if she could grab a four or five
33 minute grab of the program to put her views across.
- 34 Q. You asked her whether she could suggest a different kind
35 of a format. She then put to you - indeed as you put in
36 your evidence - 'What about some unedited time?', and
37 you said that you would put it to Grant Hedding, your
38 boss and get back to her.

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1 A. It was left open. I told her it was unlikely, and it is
2 certainly something I would have enjoyed doing. It is
3 probably something we could have got away with doing on
4 the Monday after the story, but by this stage she had
5 given her 10 second grabs to Channel 7 and the ABC, and
6 it would have been very difficult for us to then come up
7 with her for 5 minutes a week later.

8 Q. I suggest to you what happened was there was a
9 discussion, she said it is not available for a 10 second
10 grab, put a suggestion to you, you said you would go to
11 your boss, Grant Hedding, and get back to her, and I
12 suggest what happened was that you never got back to her
13 until the event in the precincts of Doreen Kartinyeri's
14 doctorate.

15 A. Precisely. That's been my evidence in my statement,
16 that the matter was left open, and it happened a couple
17 of days later I saw her in the foyer and took the
18 opportunity to throw a couple of questions at her.

19 Q. I suggest to you that when you went up to Dr Fergie at
20 the ceremony at the university, that you went up to her
21 and said to her `Dr Fergie, why won't you speak to us?'
22 That doesn't appear on the raw footage.

23 A. We've got the raw footage. I'm happy to go with what's
24 on the raw footage. I don't know what happened in the
25 three seconds preceding that.

26 Q. Do you remember that after the interview that we saw on
27 the raw footage, Dr Fergie took you to task and alleged
28 that you'd been unethical.

29 A. Dr Fergie got very angry after that interview, yes, but,
30 you know, as well she might. She obviously didn't want
31 to be interviewed by me. She was trying to avoid it.
32 As a journalist, sometimes you need to be aggressive and
33 make sure you get to speak to the people you need to
34 speak to, and she was a key player. I needed to speak
35 to her. I needed to put those questions to her to be
36 fair, not only to the public, but to be fair to her.
37 There were criticisms of her work and they needed to be
38 put to her.

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1 Q. I suggest to you that Dr Fergie suggested to you that
2 you were unethical, when she'd last spoken to you she
3 had not refused to be interviewed by you, that you had
4 gone off to consult with your employer and you'd
5 undertaken to get back to her.

6 A. I'm not certain I undertook to get back to her or she
7 undertook to get back to me. The matter was left open.
8 It doesn't really matter. The point was she was there
9 and I was able to interview her. She did say she was in
10 a rip-roaring hurry to get off to a lecture, but I
11 noticed she hung around for about half an hour after the
12 interview then.

13 Q. I am simply putting to you the suggestion implicit in
14 your evidence and your statement that Dr Fergie wasn't
15 co-operating with you, is quite misleading and that
16 indeed she had spoken to you, she had spoken to Kellie,
17 she had expressed her concerns and was waiting to hear
18 from you.

19 A. I don't think it is misleading at all. I think that
20 Deane Fergie has been unco-operative since the story
21 went to air, and she is one of many. In my efforts to
22 go into detailed questioning with all those who have
23 been involved in this matter, they have, to a person,
24 been unco-operative.

25 Q. There was a conversation with Dr Fergie on 30 May, and
26 that, I think, you allude to in your interview with Mr
27 Philip Jones about Dr Fergie's thesis.

28 A. Yes.

29 Q. Where did your information come from about Dr Fergie's
30 thesis, having sealed parts of it.

31 A. I'm not certain. To be honest, so many pieces of
32 information, especially during this period, were coming
33 in to me. Some were being phoned through anonymously,
34 some were off the record, some were from people who I
35 knew and wanted to stay out of the issue. You know full
36 well that there are a lot of people involved in this
37 issue and a lot of people have small snippets of
38 knowledge concerning this issue. I don't know where

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1 that came from originally, but I did check it out and it
2 certainly checked out. As you say, I discussed it with
3 Deane Fergie herself. I mentioned in earlier evidence
4 that I discussed it with Austin Gough.

5 Q. Do you recall that Dr Fergie told you that there were
6 restrictions that she had requested in respect of the
7 lodgement of her thesis in the Barr Smith Library.

8 A. Yes.

9 Q. And she said because of the cultural sensitivity of the
10 material and the request of tabar women that she not
11 divulge the material, she asked that the thesis not be
12 on loan to men.

13 A. That is the sort of thing we discussed, yes.

14 Q. She told you she had had a male supervisor and that one
15 of her examiners had been a man.

16 A. She told me many things, yes, and other people were
17 telling me some things which were slightly
18 contradictory. It is an issue that I never really got
19 to the bottom of, that I never actually reported on for
20 television because other events took precedence. But it
21 was something I'd merely begun to investigate, and there
22 certainly was, as you say, some truth in what I was
23 hearing.

24 Q. Did she tell you that her request had been denied.

25 A. Yes, but I think - again, this is I matter I'd only
26 begun to investigate. When you say the request had been
27 denied, I think you are talking about an extended
28 period. I think this was a controversy, as I understand
29 it, that was kicked around university committees for
30 some time.

31 Q. In this article of the Canberra Times on 10 June 1995,
32 you said this about Dr Fergie in column 4 'Dr Fergie's
33 thesis was submitted at Adelaide University with the
34 instruction that it should be read by women only - so
35 she has staked her career on confidential female
36 matters'. What was the basis of that conclusion, that
37 Dr Fergie has staked her career on confidential female
38 matters.

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- 1 A. It is her expertise - it is the area of her expertise,
2 it is the area of her thesis, it is the area upon which
3 she has staked her claim in the anthropological world.
- 4 Q. Are you aware of any other work that Dr Fergie has done.
- 5 A. Not a great deal, no.
- 6 Q. So that comment is just based upon her thesis.
- 7 A. It is a comment, as you say. It is a comment about the
8 area of her expertise, and I believe that - unless you
9 can tell me otherwise, I believe it is an accurate
10 reflection of her work. It is where her particular area
11 of expertise lies, is it not?
- 12 Q. You are the one who made the comment in your article, Mr
13 Kenny. I am simply asking you whether the basis for
14 that comment, and you have answered the question, is Dr
15 Fergie's thesis, and that's the basis on which you've
16 been prepared to make that assertion.
- 17 A. That basis and, I think, if you add to that, the recent
18 Fergie report on the sacred secret business of Hindmarsh
19 Island. You have two fairly significant pieces of work
20 relating to secret women's business.
- 21 Q. That's a different thing to allege that she staked her
22 career on confidential female matters, isn't it.
- 23 A. I think, on balance, if you look at her career, I would
24 argue that it is a prominent feature of her career.
- 25 Q. You just told me that you really don't know much else
26 about her career, do you.
- 27 A. I know a little bit about it. I've tried to make myself
28 as aware of it as possible.
- 29 Q. Are you aware that she has done substantial work in
30 Northern communities with men and women.
- 31 A. Yes.
- 32 Q. In the raw footage, Exhibit 148, you talk about the
33 women's business. You remember the exchange that you
34 had with Philip Jones.
- 35 A. Yes.
- 36 Q. You say that Dr Fergie, in your belief, is central to
37 the way it all came up, that she didn't investigate
38 thoroughly. You also say this `She may have been

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1 central in shaping the way in which it arose'. What did
2 you mean by that.

3 A. I meant exactly what it says. I think she may be
4 central.

5 Q. Could you explain. Perhaps I am being a bit obtuse. I
6 don't really know what you mean by that.

7 A. What you are doing here is bringing up off-camera
8 conversations I have had with other people. They are
9 not for publication, they are not the sort of things I
10 would have written in television reports, would have
11 written in articles. You choose to bring them in the
12 public domain in this way, that's fine, but it is
13 definitely my personal opinion, given my viewing of all
14 the facts at the time, that there is a lot here to be
15 investigated, that is very interesting, and that, yes,
16 Deane Fergie appears to have been central in all of
17 this. The more I was checking the facts out, the more I
18 was speaking to people, I thought it was becoming clear
19 that perhaps Deane Fergie's involvement may not have
20 begun just as being brought in as an investigator of the
21 so-called sacred secrets business. She may have
22 actually discussed the matter previously with Doreen
23 Kartinyeri. It seemed to be a matter worth considering,
24 a matter worth checking out, a matter worth asking
25 questions about. As you can see, what you are talking
26 about though is my comments about that off camera, off
27 the record, if you like. I wasn't saying it publicly.

28 Q. Are you suggesting that anyone has told you that Dr
29 Fergie had discussions with Doreen Kartinyeri about
30 secret women's business prior to her meeting at the -

31 A. No. I am suggesting that this was an area at that stage
32 in my investigations that was intriguing, and that I
33 would like to check out just how far back her
34 involvement began. When did she become involved? When
35 was she first commissioned by the ALRM? There were
36 issues there that I wanted to continue to probe.

37 Q. You are not suggesting that anything has come to light

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1 indicating that Dr Fergie has some agenda preceding
2 her -

3 A. I am not suggesting that, because I never - I ceased my
4 investigations. The past couple of months I haven't
5 been probing this story any longer. I have been sitting
6 back waiting to give my evidence as a witness.

7 MR MEYER: I want to avoid some confusion that
8 might have arisen out of that question and answer
9 because of the culminating questions that my friend
10 asked. She inserted the word `agenda' and I think the
11 word `agenda' is a very different situation from the
12 previous line of questions which suggested some sort of
13 knowledge or speaking to Doreen Kartinyeri. I don't
14 know whether my friend intended to add the extra nuance
15 by inserting the word `agenda', or whether it is merely
16 a question of any previous discussion with Mrs
17 Kartinyeri.

18 COMSR: You are saying that it is ambiguous?

19 MR MEYER: Yes. It is not helpful in that it
20 suddenly changed emphasis. That is all.

21 MS PYKE: I used the word `agenda' and that's the
22 question I wanted to ask.

23 MR MEYER: If that was deliberately used, that is
24 all right.

25 XXN

26 Q. So you are not suggesting you found any information or
27 got any information that there was any other agenda of
28 Dr Fergie.

29 A. I'm suggesting that it is an area I was intrigued about
30 at the time, and I remain intrigued about, but I haven't
31 been investigating any more. The inquiry, this inquiry
32 is doing the investigating.

33 Q. I am trying to get to the basis of whether you are
34 suggesting that Dr Fergie has behaved, in any way, in an
35 improper way with some agenda or something hidden that
36 we don't know about that's coloured her report. Let me
37 put it bluntly to you.

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(MR MEYER)

1 A. In none of my reports, nor in any of my articles, have I
2 tried to suggest that Deane Fergie has done anything
3 improper. I have been critical of her report, I
4 suppose, in its thoroughness, but I have not suggested
5 any impropriety. What you are doing, as I said, you are
6 referring to something that was a casual off-camera
7 comment. It is the sort of thing I wouldn't have made
8 publicly at the time. It is there because, in the
9 interests of openness of this inquiry, I have provided
10 every frame of footage to do with those interviews. No,
11 I am not suggesting that Deane Fergie has done anything
12 improper, but it does remain an area that interests me.

13 MR LOVELL: Before Ms Pyke sits down, she said
14 earlier she was going to come back to some of these
15 matters in the article. That hasn't happened. Just to
16 make it clear that obviously everything that Mr Kenny
17 has written is unchallenged.

18 COMSR: I put to Ms Pyke that if they weren't
19 challenged that I could then assume that they weren't
20 matters which were in issue.

21 MR LOVELL: She did tell you she was going to come
22 back to it. That hasn't happened.

23 CROSS-EXAMINATION BY MY MEYER

24 Q. Would you look, please, at Exhibit 145, that's the
25 handwritten notes. I think you have got the original
26 notes.

27 A. The Milera notes, yes.

28 Q. I apologise I have a little difficulty with your
29 writing. Can you read for me from the 7th line at the
30 bottom of the first page. I now know that says 'I
31 remember that VW' because you confirmed that to Mr
32 Tilmouth. Can you read the rest of that page.

33 A. Those notes say 'I remember that Victor Wilson and I
34 said that they can take care of it. That includes that
35 consultation from Binalong has taken place with the
36 Lower Murray Aboriginal Heritage Committee and the
37 Raukkan arm of the' - I think it is - 'Ngarrindjeri
38 Lands Progress Association, the NLPA - give it to Henry

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- 1 George and Jean Rankine. They did negotiate with
2 Binalong. All Aboriginal people were negotiated with.'
- 3 Q. That's the end of that reference. That goes on to
4 something to do with the union on the next page.
- 5 A. Off to the union, yes.
- 6 Q. The word 'did' is underlined. Why.
- 7 A. That's just obviously an emphasis that Doug was making
8 at the time. I have underlined 'all' in the next line
9 as well. Doug was very keen, a number of times, to
10 stress that negotiations had taken place.
- 11 Q. Is that the negotiations tied to the consultation that's
12 referred to in the fifth to last line, consultation with
13 Binalong.
- 14 A. Yes.
- 15 Q. Henry, I take it, is Henry Rankine.
- 16 A. Yes, Henry Rankine, George Trevorrow and Jean Rankine.
17 In effect, Doug is telling me that he and Victor handed
18 that task over to those three people.
- 19 Q. Did you get a time span on when Doug was saying that the
20 negotiations and consultation had taken place with
21 Binalong.
- 22 A. There's no specific time, but he was referring to the
23 early days. He was referring quite a way back, which I
24 gather we'd be talking 89, 90. Something of that order.
- 25 Q. Who did you understand Binalong to be.
- 26 A. The developers, the Chapmans, the marina developers.
- 27 Q. The company involved with the development.
- 28 A. Yes.
- 29 Q. In the information that Doug Milera had given you, did
30 he end up telling you that in fact consultation had
31 taken place with the Lower Murray Aboriginal Heritage
32 Committee through their nominated people.
- 33 A. He was very keen to tell me that. It was an issue on
34 that night that I wasn't particularly interested in. It
35 was one of the ones - the points he was very keen for me
36 to get down.
- 37 CONTINUED
- 38

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1 Q. On p.2, five lines from the bottom of p.2, can you read
2 those five lines for me.

3 A. Yes, 'We were getting fed stories by Friends of
4 Kumarangk that lots of skeletons being found. Went to
5 marina with Draper. He showed me where interred. I was
6 satisfied.'

7 Q. Did you have any understanding as to who was meant by
8 'The Friends of Kumarangk.

9 A. Yes, I understand that to be the anti bridge group,
10 conservation group, that is at Goolwa.

11 Q. Are they, to your understanding, Aboriginal people, or
12 nonAboriginal people.

13 A. My understanding is he is referring to the white people,
14 the nonAboriginal people in that group.

15 Q. Did he name any, in particular, what I am getting at is,
16 did he indicate the name of any people who had said that
17 there were lots of skeletons being found.

18 A. Actually, most of that evening, I don't recall Doug
19 naming anyone, in particular, from Friends of Kumarangk.
20 It is difficult for me, because they are names I am
21 aware of from my other involvement with that group. To
22 the best of my recollection, Doug always referred to
23 them as 'Friends of Kumarangk', rather than as people.

24 Q. He ends up saying he was satisfied, along with Dr
25 Draper, as to what he observed at the marina.

26 A. Yes.

27 Q. Have you ever met a Mrs Betty Fisher.

28 A. I don't believe I have ever met her, no.

29 Q. Have you seen her picture on the television.

30 A. I have seen her picture on the television. I have seen
31 her in here.

32 Q. You know what Mrs Fisher looks like.

33 A. Yes.

34 Q. Did you see Mrs Fisher at Mrs Kartinyeri's doctorate
35 ceremony.

36 A. I can't recall.

37 Q. In relation to the tapes that you have supplied to us,
38 just so I understand the technicalities of this

C.K. KENNY XXN (MR MEYER)
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1 television stuff, are you saying to us that we have got
2 all of your raw or wild footage, or whatever it might be
3 called, that you have ever made, that you know of, in
4 relation to your interviews.

5 A. There would be bits and pieces that aren't there,
6 undoubtedly. But, to the best that we have been able to
7 pull together, everything, every significant interview
8 has been kept. And we have kept every tape. And we
9 have handed over every bit of vision on those tapes, as
10 I said before, including bits that we would never
11 normally see go to air, when it is conversations after
12 an interview, etc.

13 Q. Including the embarrassing bits, warts and all.

14 A. Including the embarrassing bits and the stand ups and
15 whatever, but we decided it was better just to hand
16 everything over. I think -

17 Q. By 'embarrassing', I mean where you have seven attempts
18 to say something, for example, and that sort of stuff.

19 A. Precisely. And also the conversations after interviews
20 and whatever, I felt a bit uncomfortable about handing
21 over, because these are conversations with people we
22 were interviewing normally under the assumption that it
23 is not going to air. But we thought, in the interests
24 of completeness, we would hand over everything, so that
25 the Commission could view the spirit and the demeanour
26 in which all this work was done. The only interview
27 that, to my knowledge, by way of completeness, we
28 haven't been able to track down the complete, original
29 version was that interview with Sandra Saunders, on 19
30 May, the day the very first story was aired. The
31 original camera tape from that somehow didn't get kept.

32 CROSS-EXAMINATION BY MR ABBOTT

33 Q. Do you have copies of your articles in the Adelaide
34 Review.

35 A. Yes, I do.

36 Q. You wrote one article in the Adelaide Review of June,
37 one in July and one in August this year.

38 A. Yes.

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1 Q. The one in June is the one that Ms Pyke has referred to,
2 which was repeated in the Canberra Times.

3 A. That's correct.

4 Q. Turning to the one in June, Ms Pyke asked you about a
5 passage in the Adelaide Review article, also in the
6 Canberra Times, about my clients, which begins apropos
7 of my clients 'These are respectable, credible women,
8 whose historical and genealogical links to the
9 Ngarrindjeri community are stronger than those of the
10 sacred secrets promoters. Prominent among them is
11 Dorothy Wilson, whose accounts are particularly
12 insightful, because she was involved in some crucial
13 meetings, when the claims were being organised.' You
14 then go on to deal with other Ngarrindjeri women for
15 whom I act. And you conclude by saying apropos of
16 Bertha Gollan 'Bertha's seniority was recently
17 recognised through her election to the Ngarrindjeri
18 Heritage Committee'. You learnt that from her, or from
19 other source, or from both, from both directions.

20 A. No, Bertha told me about that.

21 Q. In essence, what you have put in this article about my
22 client is a distillation of what they told you in
23 face-to-face interviews.

24 A. It is a distillation of what they told me and what I was
25 able to ascertain, through reading and speaking to other
26 people. And it was also a reaction to some of the
27 comments that were being thrown around in the public
28 arena, at the time, which was giving, I think, a very
29 misleading impression of these women.

30 Q. Do I discern, from what you have said, that, when you
31 initially heard of the claims by Dorothy Wilson and
32 others, you were, if not sceptical, at least resistant
33 to accepting the claims, at face value, without a degree
34 of investigation.

35 A. I treated them with a high degree of scepticism. I was
36 well-aware that this was a situation where people could
37 be trying to sell someone a pup. And I was not going to
38 lead myself down that sort of dead-end path.

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1 Q. When you described my clients as 'respectable, credible
2 women', is that on the basis of you conducting checks,
3 independently of just interviewing them.

4 A. Indeed. It is based on my face-to-face encounters with
5 them and on my discussion about them with other people.
6 And, in fact, observing what positions they have held,
7 in the communities in which they live.

8 Q. Without going into great detail, would you tell us what
9 other independent checks you have conducted.

10 A. I have chatted with various other people in the
11 Aboriginal community. I have spoken to Sue Lawrie and
12 her mother, who were involved in introducing me to these
13 women. I have even discussed, with various contacts,
14 people who have dealt with these - some of these women
15 in the workplace. I have checked out many of the facts
16 they have told me about their involvement in Aboriginal
17 groups and church groups and community groups.

18 Q. Indeed, have you found that anything they have told you
19 doesn't check out.

20 A. There is nothing that any of these women have ever told
21 me that has not checked out.

22 Q. You told this Commission that you spoke with Dorothy
23 Wilson initially as a result of Mr Ian McLachlan
24 contacting you. Do you remember telling us that.

25 A. Yes.

26 Q. Subsequently, you met with Sue Lawrie. And you then
27 spoke, again, to some of my clients, did you not.

28 A. After Ian McLachlan put me in contact with Sue Lawrie
29 and Sue Lawrie introduced me to the women, I have been
30 in constant contact with your clients. At least, I was
31 in almost daily contact with them, while I was working
32 on the story and developing various angles on the story.
33 We have seen less of each other in the ensuing - in the
34 past couple of months.

35 Q. In so far as it may be suggested, by people who don't
36 know any better, that my clients were somehow
37 manipulated by politicians, such as McLachlan or a woman
38 involved in politics, such as Sue Lawrie, did you ever

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- 1 see anything to suggest that any of my clients had any
2 political line that they were taking.
- 3 A. If I had ever seen anything like that, I would have
4 ceased reporting the story. It was what I was on the
5 look out for, from the very first day, because of the
6 fact that Ian McLachlan had put me in contact with these
7 women. I have kept my eyes open for that, from day 1.
8 They are very strong-minded, independent women.
- 9 Q. May we take it, then, that the fact that Ian McLachlan
10 was the person who initiated your contact was not a plus
11 for my clients.
- 12 A. No, if your clients had come directly me to, I suppose
13 there would have been perhaps just that smaller degree
14 of scepticism. The fact that it came through Ian
15 McLachlan, who obviously had a political interest in the
16 issue, made me doubly sceptical, right at the outset.
- 17 Q. And keen to investigate, at every possible opportunity,
18 the possibility of whether or not there were any
19 political links between any of my clients and
20 politicians, of any stripe.
- 21 A. Indeed. I was on the look out for that, from the
22 outset. And, as I say, I have never seen any indication
23 that there has been any political motive whatsoever.
- 24 Q. Nor, indeed, even the contact you have told us about,
25 any contact between my clients and persons in the
26 political arena.
- 27 A. As far as I am aware, they have no contact with
28 politicians, that I know of. And certainly my contact
29 with McLachlan and Lawrie finished months and months
30 ago. They were virtually just a catalyst for getting me
31 in touch with these women.
- 32 Q. Can I go back to the article in the Review, which dealt
33 with, amongst other things, Dr Fergie. You say in the
34 article referring to 'A World That Was' and the fact
35 that, and I am paraphrasing, that in 'A World That Was'
36 there was a great deal of detail about Hindmarsh Island
37 and sites, but, with reference to none of the sites, was
38 there any reference to the possibility of secret women's

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- 1 business. You go on to say `Against this background, Dr
2 Fergie now says that Catherine Berndt might have known
3 about the secrets, but decided not to make any reference
4 to them.' Where did that come from.
- 5 A. That came from the interview that I eventually got with
6 Dr Fergie, in the foyer of the Festival Theatre. And I
7 put to her the proposition that there have been
8 respected female anthropologists who have studied the
9 Ngarrindjeri people and haven't recorded any of these
10 details. And her response was that they may have
11 actually found them and decided not to record them.
- 12 Q. Has anyone, so far, to your knowledge, and I include Dr
13 Fergie in the term `anyone', suggested that the Berndts
14 did record, or have recorded anything in relation to
15 secret sacred women's business on Hindmarsh Island.
- 16 A. No, not at all.
- 17 Q. Have you checked up, as to where the Berndts' field
18 notes are. You say they are in Perth.
- 19 A. I believe that is correct, that they are in Perth.
- 20 Q. You go on to describe Dr Fergie as a friend of Doreen
21 Kartinyeri's. Was that based on something more than
22 seeing her at the induction of Doreen Kartinyeri with
23 her honorary doctorate at the university.
- 24 A. As I have said earlier, I had been told by a number of
25 sources that they were good friends and, of course, that
26 was made evident at that doctorate ceremony.
- 27 Q. You rely upon anecdotal information, from a number of
28 sources.
- 29 A. Yes.
- 30 Q. Did you learn that they had worked together at the
31 museum.
- 32 A. I knew that they had worked together there, yes.
- 33 Q. You mention in this article Nanna Laura who is described
34 and I will continue to describe her as the daughter of
35 Pinkie Mack.
- 36 A. Yes.
- 37 Q. You had heard, I think, from sources associated with the
38 ALRM, that they had documentation from the daughter of

1 Pinkie Mack.

2 A. Yes, this was - this is a matter that I tried to
3 investigate earlier in the year, before - long before
4 Ian McLachlan contacted me. And I ended up getting in
5 contact with Dorothy and Dulcie. I didn't get very far
6 in investigating it then, but there were public
7 statements saying that there was a document, a document
8 had been procured from the daughter of Pinkie Mack. But
9 I believe now that that document never has been made
10 public.

11 Q. You have never seen it.

12 A. I have never seen it, no.

13 Q. You are not able to help us, as to whether it exists or
14 doesn't exist.

15 A. As I understand it, I think in the 7.30 Report interview
16 Sandra Saunders says that such a document exists, but I
17 can't confirm that.

18 Q. You may or may not be aware that Mr Easdown, in one of
19 his articles, refers to information imparted to him by
20 Doreen Kartinyeri refers to it as being a statutory
21 declaration.

22 A. That is the sort of document it has been suggested it
23 is, but I have never seen the document, so I can't
24 confirm that it exists.

25 Q. You say in your article, apropos of this issue, that
26 `Sandra Saunders and the ALRM attempted to discredit
27 this letter,' - that is the letter that was read out in
28 Parliament - `by saying that the daughter of Pinkie Mack
29 was tricked into signing it. The Elder's
30 signature' - that is the daughter of Pinkie Mack's
31 signature - `was then procured on a second document
32 denying that she had denied the so-called sacred
33 secrets. The ALRM now says that the daughter of Pinkie
34 Mack's position is that the issue of women's business
35 should never be discussed.' Did that information come
36 directly from the ALRM to you and, if so, from whom.

37 A. Sandra Saunders told me, in the foyer of the ALRM,
38 during one of our exchanges when I raised that letter

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1 with her. She said that Nanna Laura now says that. She
2 did not say that Nanna Laura says there is sacred secret
3 women's business. She says that Nanna Laura says the
4 whole issue should not be discussed.

5 Q. The article that was published in the Adelaide Review in
6 the June number was, I think it is fair to say, critical
7 of the ALRM. And, in part, critical of the proponents
8 of the sacred secret women's business.

9 A. Yes, it was. It raised a lot of issues that I believed
10 weren't being raised in the public arena. By this
11 stage, I had raised the initial stories of the
12 allegations from the so-called dissident women. And the
13 public reaction, through the media, in particular,
14 through the 7.30 Report, had been very fulsome and very
15 wide of the mark, when it came to the substance of the
16 allegations. And this article was an attempt to get
17 some of the detail on to the record. And that is some
18 sort of assessment of what the Fergie and Saunders
19 report actually did lock on to. And an attempted
20 assessment of what the ALRM and Deane Fergie had
21 provided us, by way of explanation.

22 Q. Did you obtain, or was there any response to the
23 article.

24 A. This particular article, in the Adelaide Review?

25 Q. Yes.

26 A. There have been all sorts of responses to me. I don't
27 know whether I can narrow them down, in this particular
28 article, or the Channel 10 reports.

29 Q. Tell us of some of the responses, or some of the events
30 that occurred, after the publication of this article, in
31 June 1995.

32 A. I mean, I can't think of anything, in particular. I
33 have received a lot of threats. I have received a lot
34 of abuse. I have received a lot of vilification in the
35 media. The women that I have been dealing with have
36 been attacked by Ngarrindjeri people. It has been
37 pretty well full-on. I think everybody has seen that,
38 over the last few months. There has been street

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- 1 theatre. There has been marches down the street. Your
- 2 clients have been referred to as `traitors'. And I am
- 3 thrown into a similar class of human being.
- 4 Q. The next article that you wrote in the Adelaide Review,
- 5 in July 1995, was after, I think, you had had the
- 6 interview with Mr Rigney.
- 7 CONTINUED

1 A. Yes.

2 Q. You said `Despite the fact that ATSIC opposes the Royal
3 Commission, Mr Rigney explained the Hindmarsh Island
4 claim will confirm everything that Dorothy and Dulcie
5 will alleged in my original report'. That is a report
6 reference to your June report.

7 A. No, the original May 19th Channel 10 report.

8 Q. You go on to say `No wonder Mrs Kartinyeri in the ALRM
9 and Sandra Saunders are furious with him'. Where did
10 you obtain the information, if you did obtain it, that
11 Ms Kartinyeri and Sandra Saunders were furious with Mr
12 Rigney.

13 A. Yet again, I have many sources to this story. There was
14 a period when I was given the information from within
15 the ALRM and I'm well satisfied that Miss Kartinyeri and
16 Sandra Saunders were very angry at Matt Rigney after he
17 made those comments; and that was verified from a couple
18 of sources.

19 Q. You're aware, are you not, that Mr Rigney went into
20 print shortly after your interviews were reported in the
21 Advertiser and elsewhere - and I'm referring to the
22 Advertiser.

23 A. I think the very next day.

24 Q. 30 June at the Australian, 30 June, which is our Exhibit
25 67, which is the media file.

26 A. Yes.

27 Q. I would like to put these articles to you. Looking at
28 the documents produced, this is the article in the
29 Australian by John Kerin. It mentions your interview
30 with Mr Rigney.

31 A. It was Leslie John's interview with Mr Rigney.

32 Q. Yes. It goes on to say `The report claimed Mr Rigney
33 has confirmed by the Lower Murray Aboriginal Heritage
34 Committee, to Doug Milera three weeks ago that he made
35 up secret women's business to stop the bridge. Mr
36 Rigney told the Australian yesterday that he could not
37 possibly confirm Mr Milera's version of events because
38 he was not at the meeting. He said he was simply giving

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1 his view how there could be an explanation for Mr
2 Milera's belief he'd made up the women's business. He
3 believed that Mr Milera told the women what the map
4 looked like, in the sense that it had just dawned on
5 him, but knowledge of it pre-dated the meeting'. What
6 do you say to that.

7 A. I think that is getting to the real hub of what this
8 inquiry is all about. As I repeated in earlier evidence
9 this morning, the critical allegation that was made by
10 Dorothy Wilson in that 19 May news report was that so
11 called sacred secret women's business was relayed to her
12 and a group of other Aboriginal women by Aboriginal men
13 in the presence of a white man.

14 Q. Mr Wooley.

15 A. Mr Wooley. Since that time, the Doug Milera interview
16 was the first corroborative evidence of that meeting in
17 the Mouth House and supported entirely what Dorothy
18 Wilson said. The following day, Sarah Milera, who was
19 also at that meeting, gave evidence - and she has done
20 so a number of times to me - agreeing that that is what
21 did, in fact, occur. Matt Rigney's interview which
22 followed my non-recorded interview with him a few days
23 earlier was the first high level on the record
24 agreement, if you like, that this version of events
25 could actually have happened. I found I had a very
26 fascinating shift. Matt Rigney was trying still to deny
27 that there had be any fabrication, but was agreeing now
28 this version of events had occurred, there had been a
29 group of men and women together in the shack discussing
30 sacred secret women's business and pointing to a map.
31 And, therefore, while Mr Rigney was not keen to join the
32 dissident camp and say there has been a fabrication, he
33 was trying to explain that, yes, this had occurred, but
34 it was all okay. Since that time on 7 July in Adelaide,
35 Doreen Kartinyeri gave an interview in Victoria Square,
36 an interview which every television station in this city
37 filmed. She made similar comments to Matt Rigney
38 agreeing - and this is a person who was at that meeting

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- 1 - agreeing that men had pointed at a map and discussed
2 it with the women and that that's okay, that is not a
3 fabrication. That interview did not go to air on
4 Channel 9, 7 or the ABC ever. I was unaware of it
5 initially. It wasn't there. And we put it to air a few
6 days later. That interview with Doreen Kartinyeri
7 remains on the shelves of the other television stations
8 in this State. And two days ago in an interview down
9 the road from here when Sandra Saunders sought to
10 comment on the Doug Milera interview, she also failed to
11 contest the main allegation from Milera and Dorothy
12 Wilson in the uncut camera tapes - that all television
13 stations now have - and Sandra Saunders did not dispute
14 the version of events that Doug Milera referred to in
15 that interview; that is, with the men pointing at a map
16 and telling the women what it would look like and that
17 would be sacred.
- 18 Q. Does Channel 10, to your knowledge, have a tape of the
19 Doreen Kartinyeri interview that you have spoken of.
- 20 A. I've got one with me in my bag here now.
- 21 Q. I ask that you produce it and we can play it.
- 22 A. Yes.
- 23 COMSR
- 24 Q. Is there anything else on it. It is no good my finding
25 out -
- 26 A. I point out in the same vein that ABC Radio National had
27 an interview on the weekend, it was replayed three
28 times, an interview with Doreen Kartinyeri where she is
29 even more specific about being there and agreeing to a
30 series of events.
- 31 XXN
- 32 Q. Is that on the tape as well.
- 33 A. No, I don't have that. You would have to ask the ABC.
- 34 Q. Do you have the Sandra Saunders' interview.
- 35 A. The Sandra Saunders and Doreen Kartinyeri interviews are
36 here.
- 37 MR ABBOTT: I ask that they be played.
- 38

1 COMSR

2 Q. Are they the only material on those tapes.

3 A. They are the copies of the full interviews.

4 Q. I think the time -

5 A. The Kartinyeri interview goes probably less than five
6 minutes and the Sandra Saunders interview is a rambling,
7 contradictory 15 minutes.

8 Q. You mean it lasts for 15 minutes.

9 A. Yes.

10 MR ABBOTT: I ask that we hear them. If we have
11 them in order of the chronology: the Doreen Kartinyeri
12 interview first.

13 TAPE OF THE DOREEN KARTINYERI INTERVIEW PLAYED
14 XXN

15 Q. What is the date of that.

16 A. 7 July.

17 TAPE OF THE SANDRA SAUNDERS INTERVIEW PLAYED
18 CONTINUED

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1 COMSR: It appeared from that that Mrs Saunders
2 was not present at the meeting at Mouth House and cannot
3 really give any evidence as to that. I am just a little
4 unclear as to what it is suggested that that tape
5 deduces.

6 MR ABBOTT: I will tell you the relevance of it.
7 This is the woman who describes my clients as traitors
8 because of the events they have recounted, in particular
9 Dorrie Wilson, the events she has recounted about the
10 Mouth House, yet wasn't there and doesn't in any way
11 challenge my client's version. That is what this tape
12 is about.

13 MR MEYER: In my submission, it is relevant. It
14 may be that we need some bits of the transcript, and you
15 will apply what weight is necessary, but I think for the
16 time being it is a relevant exhibit.

17 EXHIBIT 153 Video tape of interview with Dr Doreen
18 Kartinyeri on 7 July 1995 tendered by
19 Mr Smith. Admitted.

20 EXHIBIT 154 Video tape of interview with Sandra
21 Saunders on 19 September 1995 tendered
22 by Mr Smith. Admitted

23 MR SMITH: The witnesses tomorrow are Steven Palyga
24 and Wendy Chapman, when we have completed Mr Kenny.

25 ADJOURNED 4.33 P.M. TO FRIDAY, 22 SEPTEMBER 1995 AT 10.15 A.M.

