

1 COMSR STEVENS

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4 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

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6

7 WEDNESDAY, 27 SEPTEMBER 1995

8

9

10 RESUMING 10.25 A.M.

11

12 COMSR: Perhaps before we start, there is
13 something that I would like to say and really it deals
14 with the boundaries of where the freedom to vigorously
15 report what has occurred in the Commission quite clearly
16 crosses the line and what is reported is not an account
17 of the hearing, but a gratuitously insulting comment
18 made by a potential witness with whom counsel for the
19 Commission had been communicating, particularly where
20 the person may not necessarily have had the benefit of
21 any prior advice. This has the effect of placing such a
22 person, if called upon to give evidence, in a difficult
23 position. Moreover, it may well have the effect of
24 causing a person who might otherwise have voluntarily
25 attended as a witness to form a resolve not to appear.
26 To this extent, it has the capacity to interfere with
27 the work of the Commission. It is, of course, very easy
28 for persons who are being interviewed outside the
29 witness box where they are not on oath and not subject
30 to the probing of cross-examination by experienced
31 counsel, to appear quite confident and convincing.
32 Where those same persons are subjected to
33 cross-examination, often quite a different picture
34 emerges of the confidence of that person.

35 Now, I appreciate that the media has their job to do
36 and no doubt it is not an easy job, particularly in
37 circumstances such as this, but I should point out that
38 I would expect all sections of the media to comply with

1 the requirement of s.11 of the Royal Commissions Act,
2 which prescribes wilfully insulting the Commission.

3 I don't propose to enlarge upon that.

4 MR SMITH: Could I indicate also that Mr Bourne,
5 who at least not in this Commission, but by letter to
6 this Commission after he left the Commission, indicated
7 that he acted for or continued to act for Mr Milera, on
8 television some nights ago indicated that, had he known
9 Mr Milera was to be subpoenaed, he would perhaps have
10 sought to cross-examine a number of witnesses.

11 Can I indicate to you that counsel for Mr Kenny, for
12 instance, has indicated that, should Mr Milera give
13 evidence, Mr Kenny will proffer himself to
14 cross-examination by Mr Milera's counsel.

15 COMSR: Mr Chris Kenny?

16 MR SMITH: Mr Chris Kenny, yes.

17 And, so far as the Commission is concerned, should
18 Mr Milera give evidence, that those witnesses such as Mr
19 Denver who have given evidence touching upon what was
20 said by Mr Milera to them would, probably unhappily
21 perhaps, but be available for cross-examination. On the
22 basis, of course, that Mr Milera contests that these
23 things happened, if he does.

24 So, we have reached the programme for today.

25 MR KENNY: I don't mean to interrupt. Just so that
26 I understand from my client's point of view and the
27 instructions I may need to take from my clients, do I
28 understand that Mr Milera is to be subpoenaed to give
29 evidence?

30 MR SMITH: Yes.

31 The programme for today is just the continuing
32 evidence of Mr Chapman.

33 WITNESS T.L. CHAPMAN, EXAMINATION BY MR SMITH CONTINUING

34 Q. I think we had reached p.8 of your statement and the
35 authorisation of 12 April 1990, which is document 33,
36 that is so, isn't it.

37 A. Yes, that document was given to us on the morning of the
38 12th and that gave us clearance under s.13 of the

- 1 Aboriginal Heritage Act of 1988, which clearance we had
2 applied for under s.12 on 3 January. And that
3 authorisation was the authorisation that we needed. And
4 that is the one that so confused Mr Collett in the
5 Federal Court. He didn't understand it and I don't
6 think Mr Kenny understood it yesterday, when he was
7 cross-examining my wife, but that was the clearance that
8 we needed and we got it. We actually, in fact, got it
9 before we got the s.51 approval later in the day. So,
10 that meant that our main Aboriginal clearances were
11 achieved on the same day as we got our planning
12 approval. So, any need to discuss anything of a
13 heritage nature was cleared within that document. And
14 you will see that the authorisation was subject to
15 conditions set out in s.4.6 of the assessment report,
16 which told us to go back, as this does, to the
17 Aboriginal Heritage Unit, when we started digging, which
18 we did it. We did in a phone call, writing, letters
19 backwards and forwards, which I will come to later on.
20 So, the issue is very clearly a two-staged issue. One
21 to do with heritage and one to do with issues of local
22 interest that are nonheritage issues.
- 23 Q. Upon obtaining that approval you were then faced with
24 organising finance, were you not.
- 25 A. We got the s.51 approval on the same day. They were the
26 two approvals that we got. But, yes, having got all the
27 necessary approvals, including the Aboriginal Heritage
28 Act approval, we then had to look for finance, which we
29 had organised through the State Bank, at that stage,
30 subject to getting the planning approval.
- 31 Q. For the purposes of that finance, it was necessary to
32 come up with an indicative cost for the bridge itself,
33 that's right, isn't it.
- 34 A. That's correct, yes.
- 35 Q. For the purpose of that costing, core testing had to be
36 carried out in the river bed.
- 37 A. That's correct.
- 38 Q. I think that core testing was done at the end of the

- 1 ferry causeway on the eastern side of the river.
- 2 A. That's correct, yes.
- 3 Q. I think there was some further core testing done from a
4 barge in January 1992, is that right.
- 5 A. That's correct, yes, both of which were well-documented
6 in the Victor Harbor Times. And, of course, the testing
7 that went right across the river was subject to a notice
8 to mariners, which was advertised in The Advertiser, in
9 accordance with the normal procedure with those issues.
- 10 Q. I take you, first of all, to document 41, or item 41:
11 That is the bore hole location plan, isn't it.
- 12 A. That's correct.
- 13 Q. Perhaps if we start with item no.34, in Exhibit 178.
- 14 A. That's correct.
- 15 Q. Which is a Victor Harbor Times article on core testing
16 conducted for the bridge support.
- 17 A. That's correct.
- 18 Q. Which is 2 May.
- 19 A. Bridge core tests begin, preliminary work begins, the
20 construction of the bridge between Hindmarsh Island and
21 Goolwa began on Thursday with the core testing for the
22 bridge support.
- 23 Q. We have there in the Victor Harbor Times, on 2 May, on
24 p.3, graphic pictures showing testing or pictures
25 showing core testing for Hindmarsh Island bridge getting
26 underway, etc.
- 27 A. That's correct, yes.
- 28 Q. I take you to item 39 in the book of documents, Exhibit
29 178, which is the notice to mariners, that's right,
30 isn't it.
- 31 A. Yes.
- 32 Q. Is that some sort of compulsory notice that has to be
33 given to shipping.
- 34 A. Yes, because the barge was anchored in a continuous
35 manner at various points across the river, the
36 Department of Marine & Harbours had to give a formal
37 notification that that would be there. It would be lit
38 with certain lighting at night and it would also have

1 certain markers during the day to identify that it was
2 stationary and we were also to let people know that
3 there were cables extending from it for anchoring it
4 into set locations.

5 Q. That is later, of course, isn't it.

6 A. Yes.

7 Q. We have come out of chronology a little bit. That is 11
8 January 1992 in The Advertiser.

9 A. That's correct, yes.

10 Q. The item to the right in that sheet of paper no.39 is
11 again a newspaper article 'Testing continues for
12 Hindmarsh Island bridge.'

13 A. That's correct.

14 Q. Can you tell us when that was.

15 A. That was in accordance with that notice to mariners
16 thing, because you can actually see the barge on the
17 bottom photograph. And the top photograph was a special
18 piece of equipment - sorry, no, that is taken on the
19 barge, as well. That is actually a photograph on the
20 working deck of the barge. You can see the OSCAR W in
21 the background.

22 Q. We know the notice to mariners was given in The
23 Advertiser, on 11 January 1992. The two other pictures
24 and the article there under the heading 'Testing
25 continues for Hindmarsh Island bridge', is that January
26 1992, as well.

27 A. Yes.

28 Q. You were present, I suppose, from time to time, while
29 that work was being done.

30 A. Yes.

31 Q. Were there any complaints received by you as the
32 developer.

33 A. No, at that stage, the Government was paying for the
34 costs of putting that - the second lot of drilling tests
35 were done by them. But, no, because it was done through
36 Pak Poy of PPK who we used as our engineers and they
37 were involved in it, so, we knew the personnel well
38 involved. It caused considerable interest, but no

1 complaints.

2 Q. No complaints from the wider community.

3 A. None that we were ever advised.

4 Q. I take you to document 41, in Exhibit 178. I think that
5 is the important hole location plan and the results of
6 testing.

7 A. That's correct. And it can be seen how it has slewed
8 slightly downstream or slightly to the south of the
9 existing ferry track across the river. The major Stobie
10 poles which sit there some 40 metres high are evident on
11 that plan as identification and at each one of those BH
12 points, BH1 through to BH13, are where they actually
13 located the barge across the river or drill set on the
14 land and drilled a hole which went down up to 40 metres,
15 I believe, in some cases.

16 Q. If we look at the second sheet of item 41, that is a
17 section into the depths of the river bed.

18 A. That's correct.

19 Q. That indicates a number of bore holes going down into
20 the river bed to a depth of 45 metres.

21 A. That's correct.

22 Q. The plan shows the number of bore holes is something
23 like twelve.

24 A. Yes.

25 A. And I think you can draw from that, as we did in our
26 submission to Professor Saunders, that it would be
27 impossible for any skeletal remains to be in the line of
28 the bridge.

29 Q. In any event, that testing unearthed no skeletal
30 remains, to your knowledge.

31 A. That's correct. And each one of those bore holes was
32 positioned over the point where the major tressle for
33 the bridge was going to actually go - be constructed.

34 Q. During this time, and bear in mind that we are back to
35 the middle of 1990, the Supplementary Development Plan
36 for Hindmarsh Island was still being prepared, was it
37 not.

38 A. Yes, that's correct.

- 1 Q. In February 1991, a public meeting was held at the
2 Council chambers in Goolwa to discuss the draft plan.
- 3 A. That's correct.
- 4 Q. Did you go to that meeting.
- 5 A. Yes, I did go to that meeting.
- 6 Q. We are talking here about the Supplementary Development
7 Plan and there was a draft prepared and put on notice.
- 8 A. That's correct. It was well-advertised locally and
9 people could comment on it. And this was a meeting held
10 by ACOP, which is a Government committee which assesses
11 - its role was to assess Draft Supplementary Development
12 Plans. It was chaired, if I remember correctly, by Tom
13 Muecke. And the members of the committee came down to
14 Goolwa for a public hearing. And that took place in
15 February in the Council chambers.
- 16 Q. In February 1991.
- 17 A. Yes, and then people could give their evidence to the
18 committee, what they either agreed with or disagreed
19 with or were for or against.
- 20 Q. That was a public hearing.
- 21 A. That was a public hearing. It was advertised.
- 22 Q. The Draft Supplementary Development Plan, which was, as
23 it were, in the spotlight.
- 24 A. Yes.
- 25 Q. That included the construction of the bridge.
- 26 A. It was predicated on the bridge being in place. In
27 other words, it was a plan that identified what would be
28 allowed to happen on the island in the way of
29 development with the bridge in place.
- 30 Q. How many people, to your knowledge, attended that
31 meeting.
- 32 A. From memory, there were fifty to sixty. And, since,
33 somebody else has confirmed they thought it was about
34 the same number. And there were two Aboriginal people
35 who sat down the front of the meeting, were there during
36 the whole of the meeting.
- 37 Q. Do you know who they were.
- 38 A. No, I cannot recall who they were now. The Aboriginal

- 1 Heritage Branch was one of the people that the
2 Supplementary Development Plan was given to for comment
3 and they made a comment to the Planning Department and
4 through to ACOP and these two gentlemen were there as
5 presumably part of what it would have been then, the
6 Lower Murray Aboriginal Heritage Committee.
- 7 Q. Were there any objections raised by any persons and, in
8 particular, any Aboriginal persons or Aboriginal
9 interests.
- 10 A. There were probably objections raised by people, but, as
11 far as I understand, there were none raised by
12 Aboriginal persons. And, in fact, the Aboriginal
13 Heritage Branch advised the Planning Department, so I
14 understand, that they had no objection, providing
15 skeletal remains were protected.
- 16 CONTINUED

1 Q. Under the original conditions, stage 1 of the marina
2 extensions could proceed at any time. That's correct,
3 isn't it.

4 A. That's correct, yes.

5 Q. Can you draw a distinction for us, a practical
6 distinction, between, first of all, the original marina,
7 and then there was a lagoon development further
8 downstream, which was essentially a residential -

9 A. Yes.

10 Q. What are we talking about here.

11 A. This stage 1 - and I apologise there are too many stage
12 1's - but this stage 1 related to the lagoon
13 development, which we call Barkers Lagoon, that is,
14 there were 150, approximately, allotments created in
15 that development. We could not proceed - there were
16 other certain things that we could do that you might
17 term were relatively minor, but basically we had to wait
18 until the bridge was completed.

19 Q. That Barkers Lagoon, stage 1 of the second stage, if you
20 like, did that require the sort of excavation into the
21 bank and the creation of a lake in much the same sort of
22 way as the original marina.

23 A. Yes. They were both dug to 3 metres depth of water, and
24 that's done for a variety of reasons, but principally
25 the water level in the basin, although it is kept to .75
26 AHD as the pool level, the nominal pool level, it is
27 subject to quite considerable variations in level due to
28 primarily wind. If the wind blows strong and hard from
29 the south-westerly quarter, then that pushes the water
30 up into the lake, so there is quite a substantial drop
31 in water level suffered at Goolwa and, correspondingly,
32 if there is a strong consistent northerly blowing, then
33 you will find the water level goes above .75 AHD. The
34 biggest drop I had experienced happened in a localised
35 but very strong storm in May in one particular year,
36 where the water had been reduced by over a metre below
37 the pool level. So that became one of the primary
38 concerns, that boats would still have water left under

1 them. Secondly, because of weed growth, you needed to
2 have a certain depth of water, otherwise you would have
3 had the basins filling up with unwanted weed, and that
4 would have then meant it would have rendered them
5 useless for boating. Three metres means there is not
6 enough sunlight down there to allow weed to grow, and
7 the basins have a slight slope on them so cold water in
8 the basin goes back out of the river. There is a
9 tremendous amount of hydrological thinking went into the
10 basins, which people wouldn't be aware of from general
11 knowledge.

12 Q. I think we can get a picture of the extent of the basins
13 if we go back to the plan which is part of item 26,
14 which is the application under section 12, which has
15 attached to it a plan which includes the lagoons.

16 A. Yes. The southern most lagoon is the one that we have
17 dug.

18 Q. The southern most being the one closest to the river.

19 A. Yes, closest to the Goolwa barrage.

20 Q. Again, I take it that the creation of those lagoons in
21 that residential estate was massively invasive of the
22 island in the sense that you cut those lagoons into the
23 island. Is that right.

24 A. I wouldn't say it was massively invasive. They were in
25 fact depressions, and the ridges that you see there -
26 the fingers are in fact ridges. It has always been my
27 concept that we were working with nature. In fact,
28 nature had created those valleys which we have approval
29 now to dig out, and the fingers are natural ridge lines
30 which we were going to enhance, and that's what we will
31 be doing in the future.

32 Q. But there is a lagoon there of considerable proportions
33 if this development goes ahead which wasn't there
34 before.

35 A. That's correct, but there were - you know, they were
36 salt pans, so there was, you know, maybe a few inches of
37 water there - in much of it, not all of it.

1 Q. You were ready to commence that part of the development,
2 and in accordance with the requirements of the EIS, you
3 wrote to the Aboriginal Heritage Branch to notify them
4 of the commencement of digging.

5 A. Yes. One of our requirements was that we had to liaise
6 with the Aboriginal Heritage Branch, and we did that by
7 phone call. That was then confirmed with a letter to
8 them of the 23rd, advising them that we were about to
9 dig.

10 Q. That's item number 35, at Exhibit 178, is it not.

11 A. That's correct, yes.

12 Q. You received a letter of reply of 29 May from the
13 Aboriginal Heritage Branch of the Department of
14 Environment and Planning.

15 A. That's correct. It is interesting to note that, by
16 then, the branch archaeologist was Vanessa Edmonds, our
17 consultant archaeologist. So I think that shows the
18 standing in which she was held. It makes it very clear
19 that if we unearth any skeletal/artefact material,
20 'please contact Vanessa and she will carry out a site
21 inspection'. That was one of the requirements we had to
22 do. The other requirement was that we had to make
23 anybody that was on the site aware of the Aboriginal
24 heritage issue, and we covered that with the next item,
25 where our contractor, Bardavcol, made every employee
26 that visited the site sign an undertaking. And you will
27 see there that it was highlighted that 'Hindmarsh Island
28 is an area of particular importance to Aboriginal
29 heritage. The respect of all people involved on this
30 project is warranted and encouraged. Back further you
31 will find, in item 4, that any discovery of artefacts,
32 fossils, et cetera, of any descriptions is to be
33 reported to the site foreman immediately.' That was
34 along with a number of other requirements that we had,
35 basically common sense. I suppose the other important
36 area was that there was an area that we had fenced off
37 as a reserve, and that was not to be entered by any
38 equipment because it had a plant that was relatively

- 1 rare to the area, and we were keen to preserve it, and
2 we achieved that.
- 3 Q. Just going back to that document, as your statement sets
4 out, in late May 1991, there was a site meeting between
5 Bardavcol -
- 6 A. Yes.
- 7 Q. They are a sort of earth moving organisation, aren't
8 they.
- 9 A. Yes, that's correct.
- 10 Q. PPK Consultants, the engineers.
- 11 A. Engineers, yes.
- 12 Q. And yourselves.
- 13 A. That's correct.
- 14 Q. You have said 'Other people involved in the marina
15 work'.
- 16 A. That's right.
- 17 Q. What, just other contractors.
- 18 A. Yes, other various people.
- 19 Q. That meeting was, in particular, to deal with this
20 question of how the siteworks were to be managed.
- 21 A. That's correct.
- 22 Q. In particular, to alert everybody to the need to be
23 sensitive about discovery, for instance, of artefacts,
24 fossils, et cetera.
- 25 A. That's correct, yes.
- 26 Q. So that document, which is in fact document 37 of
27 Exhibit 178, is a list of warranties, if you like, by
28 workers on site.
- 29 A. And visitors.
- 30 Q. That had to be signed by them.
- 31 A. That's right.
- 32 Q. That they would be sensitive to the discovery, for
33 instance, of burial remains -
- 34 A. That's correct.
- 35 Q. If that happened.
- 36 A. Yes.
- 37 Q. In fact, it is the case, isn't it, that no skeletal

- 1 remains and artefacts were found in that excavation of
2 the lagoon.
- 3 A. Absolutely none.
- 4 Q. Construction work on that was carried out in what
5 period.
- 6 A. We started late May, or you could say early June, and by
7 6 October it was formally opened by the then Premier, Mr
8 Bannon.
- 9 Q. Moving to document 38, that is a newspaper article,
10 including a photograph. Is that the 'Victor Harbor
11 Times'.
- 12 A. That's correct, yes.
- 13 Q. Article of 8 October 1991, headline 'Bannon opens marina
14 stage.'
- 15 A. That's correct. You will notice in that that there is a
16 paragraph that says 'It will also result in a bridge
17 being built to the island to replace the ferry'.
- 18 Q. There is a second page there in that same paper.
- 19 A. That's right. That had the completion date set by the
20 government, 1993.
- 21 Q. That second page is again the 'Victor Harbor Times' of
22 Tuesday, 8 October.
- 23 A. That's correct, yes.
- 24 Q. In that article there is a mention indeed of the bridge,
25 isn't there.
- 26 A. That's correct. The article really talks about the
27 bridge mainly.
- 28 Q. The article speaks for itself, but indeed we have Mr
29 Bannon speaking in several areas in the article about
30 the bridge.
- 31 A. That's correct.
- 32 Q. You were present at that time.
- 33 A. Yes.
- 34 Q. Was that gathering, the opening, if you like, attended
35 by members of the public.
- 36 A. Yes, and it was well telecast in the news that night.
37 So anybody in South Australia would have been well aware
38 of what was happening, and they talked about a bridge.

1 Q. However, at about this time, negotiations on the bridge
2 contract were still taking place, weren't they.

3 A. That's correct.

4 Q. What do you mean by that, exactly.

5 A. We were in negotiation with the State Government over
6 the manner in which the bridge would be constructed,
7 ownership and the like. This was brought about by the
8 fact that we had a package in place to build the bridge
9 on the basis that ownership remained in our control
10 basically. We had an indicative undertaking, and I
11 think this whole debacle, to a degree, goes back to the
12 fact that we had to give up ownership of the bridge,
13 which is something that today the government are quite
14 willing to let private people keep them. In other
15 words, we were meant to fund something upfront in a
16 development on the basis that we lost - had no title to
17 it.

18 Q. So there were negotiations going on about that.

19 A. How we overcame that and how it happened. You know, how
20 the bridge would be developed, who would develop it, how
21 it would develop and costings, working out indicative
22 costings. Connell Wagner were brought into the
23 proceedings to come up with options to consider, once
24 again, whether a bridge was a viable alternative.

25 Q. Isn't it the case that this need for you to contribute
26 to the financing of the bridge was what was causing
27 financial strain on your development resources.

28 A. We were caught in a difficult position in that we had,
29 firstly, the State Bank suddenly change their mind after
30 we had got planning approval, and we had been told they
31 would finance it. They then came up with an alternative
32 package which wasn't acceptable to Westpac, and that is
33 because of what is now well known, the State Bank was in
34 trouble so they weren't prepared to take on any more
35 lending. And we found ourselves in a situation where we
36 just had to keep pushing on with everybody falling
37 around the sides of us and making life very difficult
38 for us, because we still had a major project which was

1 eating up large amounts of family funds, and we were
2 placed in a difficult position not of our making.

3 Q. In early 1992, as your statement sets out, there was a
4 major development proposed for the waterfront on the
5 Goolwa side of the river.

6 A. That's correct.

7 Q. That was known as the Carmo development.

8 A. That's right.

9 Q. What was the Carmo development.

10 A. The Carmo development was put up by the Weeks family in
11 response to a proposal that was outlined by the joint
12 committee that we referred to yesterday of the State
13 Government and the council, to develop the foreshore
14 area. That was a joint working committee. They were
15 the people that were also involved in getting the
16 costings of the bridge, if you remember yesterday.
17 There were a series of things they were trying to do in
18 and around Goolwa. I guess you could say the most
19 important aspect of their operations was to try and get
20 a development going on the foreshore, as they saw that
21 was the principal area to develop. This followed an
22 earlier attempt, some few years earlier, by the Fricker
23 Group to build a 5 star hotel in the same - generally in
24 the same spot, which is immediately south-west and
25 adjoining the existing shed complexes at the wharf. So
26 Carmo, which was the Weeks family, became involved, as I
27 understand, in negotiations with the joint committee -
28 the Goolwa Development Committee. They then lodged
29 plans for a motel, marina and I think shopping complex,
30 together with a tavern in that particular location.
31 That was driven very hard, I believe, by the State
32 Government and the council to make it happen. In the
33 end, it didn't happen.

34 Q. Item number 40 in Exhibit 178 is a newspaper article,
35 broadcasting the information, if you like, or
36 disseminating information about that development, is
37 that right.

1 A. That's correct. It was a \$14 million tourist complex
2 prepared for the Goolwa wharf. It was given the
3 thumbs-up by the Port Elliot and Goolwa Councils.
4 Councils met to inform the State Planning Commission of
5 its support for the project, providing certain
6 conditions were attached to the approval.

7 Q. There is a mention in that article of some 27 written
8 objections to the project.

9 A. That's correct. In fact, we were one of the objectors,
10 because we were concerned that they were going for
11 planning approval which was more advantageous than ours
12 in commercial basis. For instance, we have a setback of
13 25 metres from the waters edge of any substantial
14 building, and this is a general requirement by what was
15 then the E&WS Department on the River Murray in built-up
16 areas. We also have a requirement that we cannot build
17 below 3 metres AHD. And these two things, in
18 particular, were being completely overlooked by this
19 competing development. We saw, for commercial reasons,
20 that it was important - we would support the development
21 going ahead, but it had to go ahead in the same playing
22 field as we were in, and that was the reason why we
23 objected to it primarily.

24 Q. Do you know anything of the other objections.

25 A. The other objections were raised really by people who
26 lived immediately behind and above it in Admiral
27 Terrace, the Bishops and people like that. They were
28 very concerned because it would have impinged upon their
29 existing ambience, I would suggest. They, I believe, at
30 one stage got in Jean and Henry Rankine to look at the
31 area to see whether there were any Aboriginal sites in
32 that area, and they were - that is, the Rankines - were
33 apparently happy that there weren't any that were going
34 to be impinged upon by that development if it went
35 ahead. They apparently pointed out that there were
36 burial grounds on the properties owned by the people who
37 were in fact objecting against that development, and in
38 fact behind Admiral Terrace. This whole area is, I

1 might add, a matter of 200 metres south of the bridge.

2 So it is important to realise its geographical position.

3 Q. In 1992, the bridge project engineers, Connell Wagner,
4 requested the Aboriginal Heritage Branch to comment on
5 the slight realignment of the bridge.

6 A. That's correct, yes.

7 Q. Why was that.

8 A. Connel Wagner had come into the bridge project now on
9 behalf of the State Government because they were the
10 managers appointed by the Department of Road Transport,
11 and in the formalisation of the design, which now
12 became, you know, the actual fixed working drawings,
13 there were minor alterations - and I stress minor
14 alterations - to the alignment of the bridge. So Connel
15 Wagner, I presume, as a matter of prudence as project
16 managers, checked through the various government
17 authorities to make sure the approvals were still
18 current.

19 CONTINUED

1 Of course, in the course of doing that, they wrote to
2 the Aboriginal Heritage Branch for comment and they got
3 a response.

4 Q. The response is the letter marked 42 in the bundle in
5 Exhibit 178.

6 A. That's correct.

7 Q. That is a letter from a Mr Ware of the Aboriginal
8 Heritage Branch. The letter gives the all-clear, as it
9 were, to Connell Wagner, but suggesting to Connell
10 Wagner that it be careful as excavations go on of
11 archaeological discoveries further down in the soil.

12 A. Yes. And I think you would read into that, that is the
13 sort of letter they would write in every development.

14 That is the same sort of letter we got earlier in
15 relation to our digging, that things - you never know
16 what you are going to come across necessarily.

17 Q. A green light with the reservation of what might be
18 discovered.

19 A. Just to be careful. Once again, make your contractors
20 know what is going on.

21 Q. This is the letter from Mr Ware dated 8 May 1992, which
22 is item 42, and also I think refers Connell Wagner to Mr
23 Gara and provides a number. Now that's Tom Gara, is it,
24 as you understand.

25 A. Yes. I don't know - at least I'm not aware of knowing
26 Tom Gara. He apparently made an inspection of the site
27 on 19 April 1992.

28 Q. He is actually mentioned in the letter itself as the
29 historian with the Aboriginal Heritage Branch.

30 A. Yes, that's correct.

31 Q. Going on then. On 26 August 1992, the Minister for
32 Environment and Planning issued a further consent to the
33 bridge and marina extensions planning application; is
34 that right.

35 A. That's correct, yes.

36 Q. I think that is document no.43 in Exhibit 178.

37 A. Yes.

38 Q. That letter attaches a series of conditions. That is

1 the approval, isn't it.

2 A. Yes.

3 Q. And it attaches a list of conditions to the approval.

4 A. That's correct.

5 Q. Can you go back to item no.32.

6 A. Yes.

7 Q. Comparing those two lots of conditions, which I think
8 addresses what you said in the opening this morning in
9 evidence, doesn't it.

10 A. Yes.

11 Q. Will you draw our attention to the conditions, which
12 speak for themselves, but there is a marked difference
13 between the conditions attaching to this approval of 26
14 August 1992 and the earlier conditions in item no.32 -
15 that is, the approval of 11 April 1990 - is there not.

16 A. That's correct, yes.

17 Q. What is the essential difference.

18 A. Well, the item 2.B has been removed, which is the
19 recommendations relating to anthropological issues, is
20 removed in the second approval. That was done on the
21 basis, as I understand it, because we had on the same
22 day, or on the 12th, the next day of those
23 recommendations, received our approval under the
24 Aboriginal Heritage Act. They then took precedence over
25 this issue and there was obviously no need to have those
26 in our planning approval.

27 Q. Is this the position: You understood, as a result of
28 that letter, of that approval of 26 August 1992, that
29 the extent of consultation with Aboriginal interests was
30 as to the discovery of artefacts, skeletal remains and
31 the like as you went about the project.

32 A. Absolutely, because there was no other need for us to
33 consult. We were waiting for the Aboriginals to come
34 back to us on any other issue they might want to raise,
35 but not heritage issues, nothing to do with heritage at
36 all.

37 Q. Certainly nothing to do with whether the development
38 could go ahead or not.

- 1 A. Nothing to do with it whatsoever.
- 2 Q. There were subsequent alterations to that approval in
3 April 1993 and July 1993.
- 4 A. That's correct.
- 5 Q. Those alterations to the terms of the approval are found
6 in documents 45 and 46, I think, are they not.
- 7 A. That's correct.
- 8 Q. Perhaps if you would turn to those. Have you got those.
- 9 A. I'm sure I have, yes - yes.
- 10 Q. The first one is a letter from the Office of Planning
11 and Urban Development of 28 April 1993.
- 12 A. That's correct.
- 13 Q. Then, the next one is again with some conditions
14 attached.
- 15 A. Yes.
- 16 Q. Then, the next is a letter from the same office, the
17 Office of Planning and Urban Development of 13 July
18 1993.
- 19 A. That's correct.
- 20 Q. Again, with some recommended conditions.
- 21 A. Yes. The first one of those two altered the numbers of
22 allotments in stage two. The second one altered the
23 time in which we can get titles issued. That couldn't
24 be before February 1994 and we had - the Government had
25 to have the bridge substantially commenced before we
26 could issue titles, or the Government would issue us
27 titles.
- 28 Q. You see there in that letter, the last letter I just
29 referred you to, which is item 46, and that's the letter
30 of 13 July 1993, am I right there that Binalong has had
31 a commendation, if you like, from the Director of the
32 Policy and Assessment Division of the office.
- 33 A. Yes.
- 34 Q. The copy's rather hard to read.
- 35 A. Yes. I wish also to commend Binalong Pty Ltd in its
36 approach to the development of the marina and the
37 housing development of State significance at the marina
38 Goolwa and the manner in which the company has conducted

1 its dealings with this agency. These have been open and
2 honest on both sides and this co-operation is much
3 appreciated. I wish you well in the development of
4 stage two of the marina.' And that is signed by Rod
5 Hooke, the Director of Policy and Assessment Division.

6 Q. In addition to that commendation, there was no mention
7 made of any outstanding Aboriginal heritage matters.

8 A. No. Bearing in mind that every time we wanted an
9 alteration to our approval, it has to go through to
10 Cabinet and then from Cabinet to Executive Council. So
11 it was thoroughly tested by the department, the
12 Minister's, you know, unit or staff, then the Office of
13 Cabinet before it finally got in the Cabinet agenda.
14 And that is the normal procedure. And I wouldn't see
15 the approval after Cabinet had approved it and before it
16 went to Executive Council - and that was for the
17 Governor's approval, it had to have the Governor's
18 approval. It wasn't a normal type of approval which you
19 would get.

20 Q. To address this question of consultation at this point,
21 it is your position, and a position supported by the
22 documentation that we have just addressed, that
23 consultation with Aboriginal groups as to the primary
24 question of whether the development could proceed was
25 now over.

26 A. Absolutely.

27 Q. That the only consultation with Aboriginal groups was an
28 obligation of yours, which was the on-going need to keep
29 the heritage branch appraised of the discovery of any
30 burial remains and like artefacts as excavations and
31 work continued.

32 A. Yes. That was certainly our requirement.

33 Q. What was your understanding then of what was going to
34 happen in terms of this meeting that was going to be had
35 by the Ngarrindjeri peoples of Point McLeay and other
36 areas.

37 A. That was purely to discuss matters that they might have
38 thought of in accepting that they had some interest in

1 the island in general terms, but certainly nothing to do
2 with heritage. That had already been cleared by them
3 and by the department.

4 Q. On 22 October, is this the first sign - is this the
5 date, if you like, of the beginnings of the opposition
6 that grew to the bridge.

7 A. Well, there had been a few people from, I suppose, right
8 back prior to us really being involved in the equation
9 that didn't want a bridge for their own particular
10 reasons, whatever they may be. Very few. In fact, a
11 handful. And the priority permits kept them in the
12 standard of living which they had become accustomed to.
13 When they came out, they panicked and were very keen to
14 support the bridge, or something similar to that, but
15 then when that sort of all faded away and the bridge got
16 underway, there was still a few people who said they
17 didn't want the bridge, for whatever reasons. And I
18 guess the first that we really saw that anybody was
19 particularly interested in it was the petition of Mr
20 Roscrow - and he is a man who has done very well, and in
21 South Australia has had considerable success.
22 Apparently, he developed the recreational and
23 residential property on a relatively prominent area of
24 the island immediately upstream from the ferry crossing,
25 and he used considerable fill and other material from
26 our development, I might add, and set up a very pleasant
27 house. He was also a developer of a site at Middleton,
28 I think, a little earlier than this. So he was
29 something - and, in fact, I think he was the Chairman of
30 the State Development Committee. He was somebody
31 well-known within the community and the like. He
32 apparently didn't like the idea of a bridge being built
33 because it would impede his view of the boats, the ships
34 at the wharf, and so he thought it would be a good idea
35 to perhaps put in a second ferry and, therefore, he
36 would be able to retain his view from the front sea
37 room.

38 Q. Did he say that to you.

- 1 A. That is the view that has been conveyed to me by
2 numerous people, and I did meet him.
- 3 COMSR
- 4 Q. What is the basis of your evidence of that conversation.
- 5 A. In the conversation he had with me in January, later.
6 That is in January, which I will come to shortly I
7 guess.
- 8 XN
- 9 Q. On 22 October 1992, Noel Roscrow wrote to Dean Brown
10 enclosing a petition signed by a number of people; a
11 petition opposing the construction of the bridge.
- 12 A. That's correct. And it's interesting to note, if you
13 take a few minutes to have a look at that, that people
14 who have now become very obvious anti-bridge people,
15 picketers, have signed this. Some of them - you will
16 find that, for instance, Mr Richard Owen signed it on
17 behalf of his family four times, or on behalf of four
18 members of his family. You will find that other, to us
19 anyway, well-known picketers have signed the document
20 twice; and, in fact, Mr Roscrow signed it at least
21 twice. It was really - and it was signed by people who
22 had no interest in the island or the ferry crossing, and
23 things like that. It was a petition of not much
24 standing, I believe. It certainly showed the colours of
25 some people which we subsequently became aware of.
- 26 Q. There are people who became active in the group known
27 as, eventually known as The Friends of Goolwa and
28 Kumarangk.
- 29 A. That's correct.
- 30 Q. Who featured in this petition.
- 31 A. Yes. You'll find them in there.
- 32 Q. Noel Roscrow.
- 33 A. Yes.
- 34 Q. Bill Longworth.
- 35 A. Yes.
- 36 Q. Anne Lucas.
- 37 A. Yes.
- 38 Q. Jean Bishop.

1 A. Yes.

2 Q. Owlyn Barwick.

3 A. Yes.

4 Q. Tony Brooks and Richard Owen.

5 A. That's correct. They were all original people within
6 this group.

7 Q. It's the case that a bridge had been, we know that a
8 bridge had be mooted for many years.

9 A. Yes.

10 Q. But actively pursued in terms of your development, what,
11 from about 1989 onwards.

12 A. Yes. At that time in 1989, we were told by the
13 Government that a bridge had to be built for access to
14 the island, approved access to the island, or they were
15 not prepared to consider any further development on the
16 island. And that, don't forget, included the other two
17 competing developments. It's a common - it's a common
18 misconception that the bridge was for the Chapmans,
19 which was absolutely ludicrous, it wasn't.

20 Q. If we just go back in time in the documents you have
21 tendered to this Commission, in Exhibit 178, the first
22 active canvassing of a bridge is in about the middle of
23 1987.

24 A. That's correct, but I believe that is not the first
25 time. There is earlier evidence of this which is yet to
26 be made available of the council considering a bridge to
27 the island some 30 years ago.

28 Q. To your knowledge, is it the case that this is the first
29 time people such as Noel Roscrow and Bill Longworth, et
30 cetera, had come out and voiced their opposition to the
31 bridge.

32 A. Yes. And we weren't immediately aware of that. We
33 became aware of it shortly afterwards.

34 Q. Can I take you to that January meeting, the 1993 meeting
35 that you mentioned a minute ago. Tell us what happened.

36 A. Andrew, one of our sons, was at the marina on Sunday
37 afternoon working and Noel Roscrow and Bill Longworth
38 came into the office and asked whether they could see

1 me.

2 Q. Who is Bill Longworth.

3 A. Bill Longworth is a close friend of Noel Ross and runs a
4 landbroking business in Goolwa and down near Reynella
5 somewhere as well. He has a house on the island. And
6 you will see from newspaper articles that he is very
7 prominent in the anti-bridge campaign and has been all
8 the way through. He does a lot of the carrying out of
9 the work of Mr Roscrow, I would suggest, at his beck and
10 call.

11 Q. So Roscrow and Longworth visited the marina.

12 A. They came into the marina and Andrew rang me up. I was
13 in the house not far away so, I made my way down to the
14 marina and met with them in my office, the four of us.
15 And they then said 'Well, we like the marina, we think
16 it's fantastic', and Noel Roscrow had been in and out of
17 that place on a weekly because - or all during our
18 development stage, using our facilities there and things
19 like that. And all of a sudden, he appeared with Bill
20 Longworth and said 'We don't like the idea of a bridge'.
21 He said 'I think primarily I don't like the idea of a
22 bridge'. And we said 'Well, we're sorry, it's a
23 Government requirement long ago. We didn't see that the
24 bridge was necessary straight away, but it's now a fact
25 of life. If we can't develop it, the development would
26 be dead. We have to have a bridge.' He then made it
27 very clear that he was going to the Government and he
28 was going to stop the bridge. He was somebody who was,
29 I think when I say the Chairman of the State Development
30 Advisory Committee, whatever it was around about that
31 time, and he led me to believe and Andrew that he had
32 access to Government and he could stop those sorts of
33 things. And it was clear to me from that discussion
34 that he was concerned because it was going to impede his
35 view.

36 CONTINUED

1 Q. Did he say that to you.

2 A. Yes, or words to that effect. Because, I pushed hard as
3 to why suddenly this would happen when he - I
4 particularly raised the issue that he hadn't, or Bill
5 Longworth become involved in the EIS process where it
6 was open and clear for them to make representations.
7 And bear in mind they were both living - you know, were
8 holidaying in the area on a regular bases, as they had
9 houses down there and they just didn't take that
10 opportunity up. So, why come now, two years, three
11 years later?

12 Q. Is that indeed the case, that these men, just speaking,
13 say, for a minute, about Roscrow and Longworth.

14 A. Yes.

15 Q. Had been long-time recreational residents on the island.

16 A. Yes.

17 Q. To what extent, throughout the period of the
18 development.

19 A. Throughout the period, yes. And they said `We didn't
20 really see any interest in the EIS.'

21 Q. Notwithstanding that the EIS encompassed the bridge.

22 A. Absolutely, and it was well-publicised and there were
23 public meetings. Other people who became prominent in
24 that list at the top of the page are a few of the people
25 who, in fact, were against development. Anne Lucas and
26 Olwyn Barwick I think were two that were agin it,
27 because it would put more people down in the Sugars
28 Beach area where they lived.

29 Q. They were originally objectors.

30 A. They were originally objectors and they were objecting
31 to it, because it would upset their area where they
32 lived down there and they didn't want other people down
33 there. And they made that clear. They were what you
34 would call nimbys.

35 Q. Nimbys.

36 A. Yes.

37 Q. What does that mean.

38 A. No development in my back yard, or words to that effect.

1 Q. On 14 January 1993, Dean Brown visited the marina at
2 Goolwa.

3 A. Yes, he came down and he met with Wendy and myself and
4 at least one other person. We were concerned that the
5 Liberal Party, at that stage, in opposition, were being
6 vocal about trying to stop the bridge. Particularly
7 Diana Laidlaw. And we could see that there was no logic
8 behind their argument. That they would need development
9 in South Australia, if they won power. And, at that
10 time, it appeared they would at the next election. And
11 it was absolutely, seen from the perspective of myself
12 and the family, illogical in the extreme that the
13 Liberal Party would be fighting a development which
14 they would need for employment and other purposes. And
15 Dean Brown who had recently been made or got the
16 position of local member, the local member of Finnis,
17 which is our electorate down there, came, at our
18 invitation, met with Wendy and myself and, as I say, one
19 other person. At the end of that meeting, he made it
20 very clear the Liberal Party would go quiet on the issue
21 of the bridge, because he now realised that the position
22 had got sufficiently far down the line that it was
23 beyond political interference, so to speak. However,
24 that didn't stop the Liberal Party, as we now all
25 well-know.

26 Q. Just completing that picture, in February 1993, the
27 present Premier, Dean Brown, took a delegation to meet
28 the then Premier Arnold regarding the bridge.

29 A. That's correct.

30 Q. And that delegation included Noel Roscrow.

31 A. Yes.

32 Q. And other anti bridge people such as Tony Brooks and Gus
33 Cattenach.

34 A. Yes, Tony Brooks became involved with the original
35 picket group that met at Noel Roscrow's place every
36 lunchtime and he had a property both on the island and
37 in Goolwa. And he was obviously the mouthpiece to
38 getting to various media outlets. And Gus Cattenach had

1 recently arrived on the island and took over Nanu
2 Cottage Homestead, which was a bed and breakfast type
3 place on the north shore, and he became involved in the
4 tourism committee in Goolwa. And, for some reason or
5 other, he was anti bridge, but he had only arrived on
6 the scene months beforehand. So, what he had to
7 contribute, I wouldn't know.

8 Q. In effect, the anti bridge group developed, as it were,
9 and started agitation against the bridge.

10 A. Yes, there was still a small group who were the nucleus.

11 Q. I think you would claim that that was instrumental in
12 Parliament referring the matter of the construction of
13 the bridge to the Environmental Resources & Development
14 Committee.

15 A. Yes, it is yet to be clear why Diana Laidlaw became
16 interested in the bridge issue, apart from the fact that
17 she was the Shadow Minister for Transport and stood
18 against Barbara Wiese, who was the Minister for
19 Transport in the Upper House and needed to obviously
20 point-score on a political basis. But he was obviously
21 concerned about access to the island, because, in 1987,
22 she is quoted in Hansard as saying 'I had to wait three
23 hours to get off the island.' So, back in 1987, she was
24 well-aware of the problems. Mike Elliott was obviously
25 picked up by the cause and his name appears in and out
26 of this saga on numerous occasions and I think has
27 probably had quite a significant part to play. He
28 certainly saw himself as the role-maker at times, but he
29 supported - and that's what the Liberal Party needed in
30 opposition - the, sort of, democrates - in order to
31 force the ERD Committee to review the bridge.

32 Q. On 8 May, the ERD Committee advertised their terms of
33 reference. And I think you make the point in your
34 statement that the terms of reference did not address
35 any matters of Aboriginal heritage.

36 A. That's quite correct. And the report didn't cover
37 anything of Aboriginal heritage.

38 Q. Tenders for the bridge construction closed on 8 June

1 1993, did they not.

2 A. That is correct, yes.

3 Q. On 29 June 1993, at a Westpac shareholders meeting in
4 Adelaide, you make the point in your statement that Anne
5 Lucas, who was an original objector to the bridge, made
6 submissions to the meeting to stop funding Binalong.

7 A. That's correct. And I was advised of that by one of the
8 Westpac staff, because the matter had been taken up with
9 Westpac in Sydney, at that time. They were obviously
10 interested in it.

11 Q. You learned also I think that Noel Roscrow appeared on
12 the 7.30 Report.

13 A. Yes, and he had got involved with Westpac, as well.

14 Q. Noel Roscrow issued a media release making his position
15 abundantly clear I think on 16 August 1993.

16 A. That's correct.

17 Q. That is item no.48, in Exhibit 178, is it not.

18 A. Yes, that's correct, yes.

19 Q. The ERD Committee hearings were held in July 1993.

20 A. That's correct.

21 Q. I don't think you were involved in that.

22 A. No, we looked at the advertisement that gave the terms
23 of reference for that Committee and there was nothing in
24 those terms of reference that we, as a family, or
25 Binalong, or any of our other companies, could add to.
26 They were just, in our view, totally out of context in
27 the reality of what was going on, as we saw it. It was
28 a political manoeuvre.

29 Q. The next thing that happened I think was, on 3 August,
30 there was a meeting, or a public forum, concerning the
31 bridge, called by The Friends of Hindmarsh Island.

32 A. That's correct. And the Conservation Council of South
33 Australia, who, strangely enough, had changed horses
34 completely, because the Conservation Council had, during
35 the EIS process, supported the development, both in
36 their submissions and publicly in newspaper articles.
37 So, it was a surprise to us that, some three years
38 later, the Conservation Council had changed their

- 1 colours. They were either greener than green or
2 whatever the change was, I don't know, but there was no
3 logic, in our view. They didn't talk to us about it, it
4 was just a hobbyhorse they suddenly came across, I
5 suspect, with no real thinking of their previous
6 position.
- 7 Q. I take you back to the media release relating to the
8 Hindmarsh Island and the release is headed 'Hindmarsh
9 Island bridge fiasco.'
- 10 A. Yes, the Noel Roscrow one?
- 11 Q. Yes, and it is no.48.
- 12 A. Yes.
- 13 Q. That came to your attention, that media release.
- 14 A. Yes, that's correct.
- 15 Q. You see in the final page, p.3, Noel Roscrow's name is
16 recorded there as the spokesman for The Friends of
17 Hindmarsh Island.
- 18 A. That's correct, yes. He was prominent, at that time.
19 And he is less prominent today, but I think still the
20 person that probably pays most of the money and does
21 those sorts of things behind that group.
- 22 Q. I think we had got to the public meeting, the public
23 forum, of 3 August.
- 24 A. That's correct.
- 25 Q. I think that was advertised in the Southern Argus.
- 26 A. Yes, and I think probably the Victor Times and things
27 like that, as well, but certainly the Southern Argus,
28 yes.
- 29 Q. You have that in front of you.
- 30 A. Yes.
- 31 Q. And the advertisement there speaks for itself. So, is
32 this the case, The Friends of Hindmarsh Island, whose
33 spokesperson was Mr Roscrow, had been joined, at this
34 stage, by the Conservation Council.
- 35 A. That's correct, yes.
- 36 Q. Was that the first notice you had of the conversation
37 Conservation Council taking an objection to the bridge.
- 38 A. Yes.

1 Q. As late as 1993.

2 A. Yes, and as I said earlier, they were supportive of the
3 development during the EIS process.

4 Q. I think that the first hint you had that Aboriginal
5 interests were going to be involved in this protest was
6 what incident, can you tell us.

7 A. It was a meeting held in the Centennial Hall in the main
8 street of Goolwa, on 8 October 1993. There was a
9 meeting that had been put together by the anti bridge
10 people and they got Henry Rankine and George Trevorrow,
11 as I understand, to be present. I wasn't at that
12 function.

13 Q. Interrupting you there, I go back to an earlier time:
14 Did you not learn, albeit secondhand, that the protest
15 movement was going to elicit some aid from the
16 Aboriginal interests.

17 A. Yes, I was told by a number of people, but particularly
18 by one person that there had been a discussion that took
19 place. In fact, I think the person who made the point
20 was Bill Longworth, then speaking to another party, that
21 they would, as they weren't getting anywhere with the
22 ERD Committee and things like that, that had come down
23 against them, they would go and bring in the Aborigines.
24 And Bill Longworth said words to the effect, as I am
25 told, 'We should call on the Aboriginals from Murray
26 Bridge to come and help us in our cause.'

27 Q. You learnt that in a rather long, secondhand sort of
28 way, didn't you.

29 A. I heard it from a person, Reverend Jones, who heard it
30 from a person called Wayne Posgate, who was, in fact,
31 the person that Bill Longworth was talking to. But in
32 and around Goolwa, at the time, it was a very open
33 secret, that you would hear it from many places.

34 Q. On 6 October 1993, the ER & D Committee tabled its
35 report.

36 A. That's correct.

37 Q. It recommended a second ferry rather than a bridge, did
38 it not.

- 1 A. That's correct, but they didn't mention anything to do
2 with Aboriginal issues.
- 3 Q. Then we had, on 8 October, the public meeting at Goolwa
4 that you mentioned before.
- 5 A. That's correct.
- 6 Q. That is referred to in document 49, is not.
- 7 A. Yes, document 49 talks about motions that they passed.
8 Who were the speakers. They had Margaret Bolster, the
9 vice president of the Conservation Council of South
10 Australia, the Honourable Dean Brown, the leader of the
11 Liberal Party and Member for Alexandra, Mike Elliott,
12 the Australian Democrats' MLC and a member of the ERD
13 Committee, George Trevorrow and Henry Rankine of the
14 Lower Murray Aboriginal Heritage Committee and Jock
15 Schmieshen, some such name, from Australia About Echo
16 Cross-Culture tours and David Thomason from the
17 Construction Forestry Mining & Energy Union.
- 18 Q. Amongst other people, this is the first mention, at
19 least in your evidence, of David Thomason.
- 20 A. That's correct, yes.
- 21 Q. From the CFMEU.
- 22 A. Yes.
- 23 Q. Were you aware of any union opposition to the bridge,
24 prior to this 8 October 1993.
- 25 A. To the best of my knowledge, I don't think there were.
- 26 Q. Did you go to that meeting.
- 27 A. No, I did not.
- 28 Q. However, a number of residents on the island whom you
29 knew went to that meeting, didn't they.
- 30 A. That's correct. And they reported back what was said.
31 Perhaps the most significant saying in that, the whole
32 discussion that night, was the fact that Henry Rankine
33 was reputed to say to a question from the floor
34 apparently 'Are there any Aboriginal sites in the line
35 of the bridge?' He said 'No, but I'm sure I can find
36 some, or we can find some.' And that was reported to me
37 by three people.
- 38 Q. I produce to you Exhibit 170A, which you would recognise

1 as a volume of clippings and documents.

2 A. Yes, that's right.

3 Q. Deposited to by your wife.

4 A. That's correct.

5 Q. You will see there, at about almost more than

6 three-quarters of the way through the volume, there is a

7 flyer for that public meeting on Friday, 8 October, is

8 there not.

9 A. That's correct, yes, from 7.30 to 9.30, Friday the 8th.

10 Q. Headed 'Too late to stop Hindmarsh Island bridge', with

11 three question marks.

12 A. That's correct.

13 Q. That sets out the agenda of the meeting.

14 A. Yes, and sets out the motions, doesn't it?

15 Q. No, I think the document which you have included in

16 Exhibit 178 sets out the motions that were passed at

17 that meeting, does it not.

18 A. That's correct.

19 Q. The flyer that I just had you acknowledge, from Exhibit

20 170, actually went back and addressed the ERD

21 Committee's recommendations, didn't it.

22 A. That's right. And then they had four motions. And you

23 will notice that none of those motions talked about

24 Aboriginal heritage.

25 CONTINUED

Pages 2871 - 2879 - At the top of each page, Witness is listed as W.T. Chapman instead of T.L. Chapman

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RF 37E

W.T. CHAPMAN XN (MR SMITH)

- 1 Q. Can I take you to document number 50, I think that is
2 just an 'Advertiser' article concerning that meeting
3 dated 11 October. I think there is a computer printout
4 of that in your -
5 A. Yes, there is one.
6 Q. I don't need to take you into that. It features,
7 amongst other things, residents plans to protest against
8 Hindmarsh Island Bridge.
9 A. Yes. Also it is perhaps worth adding at this time that
10 the bridge contract had been completed, signed, and the
11 actual contract for the bridge was, from memory,
12 \$4,095,000, and when you added on the engineering fees
13 and certain other standing charges, you came out with a
14 total cost of the bridge of just a fraction under \$5
15 million. And it has always amazed me that it has been
16 reported as a \$6.4 million bridge when, in reality, it
17 was just a fraction under \$5 million. So I think it is
18 important to see it in the context of what has happened
19 since, that it was in fact something around a \$5 million
20 bridge, a fraction under.
21 Q. There were further meetings of the anti-bridge people.
22 A. Yes. They then thought it was a good idea to meet at a
23 Amelia Park, which is adjacent to the ferry crossing.
24 Q. Going to document 49, I think that is a flyer for the
25 picnic that you have just mentioned there.
26 A. Yes.
27 Q. 'For Ferry Friendly Folk at Amelia Park'.
28 A. That's correct.
29 Q. Did you go to that.
30 A. No, no, but I did see it.
31 Q. That is supported by the Friends of Hindmarsh Island.
32 A. That's correct.
33 Q. The Conservation Council.
34 A. Yes.
35 Q. The Lower Murray Aboriginal Heritage Committee.
36 A. Yes.
37 Q. Is that the first mention of that committee.

- 1 A. Yes, I think it was, and that was obviously in
2 consequence of 8 October, the public meeting.
- 3 Q. Then the CFMEU and Green Peace.
- 4 A. That's correct, yes.
- 5 Q. That was 23 October. I think there was an earlier
6 meeting on 16 October, wasn't there.
- 7 A. That's correct. That is when they talked about an
8 article on 19 October in the 'Victor Harbor Times',
9 'Push for bridge picket. A push to conduct a residents
10 picket of the building site of the Hindmarsh Island
11 Bridge is gaining momentum with 40 people attending an
12 on-site meeting on Saturday to plan their tactics'.
- 13 Q. Just to complete the picture, I produce to you Exhibit
14 170A again, and there is the original flyer for the
15 picnic for Ferry Friendly Folk at Amelia Park.
- 16 A. Yes.
- 17 Q. On 23 October.
- 18 A. Yes. They were quite friendly to anybody else but the
19 Chapmans, I might add. When we tried to get a brochure
20 or anything like that, they didn't seem so friendly as
21 their brochure said they were.
- 22 Q. Bridge work commenced on 27 October 1993, is that right.
- 23 A. That's correct, yes.
- 24 Q. You were there when it commenced, were you.
- 25 A. I was there at some time during the day, in the
26 afternoon. I wasn't there the whole time.
- 27 Q. The first work was some grading, was it not.
- 28 A. That's right. Well, that's what was anticipated to be
29 held - proposed to be done, yes.
- 30 Q. What happened.
- 31 A. From what I observed and from what I understand of the
32 happenings of that day, Mr Traeger, a local
33 subcontractor to Built Environs, was to lay a skim of
34 blue metal on the road that ran alongside the railway
35 line adjacent to Amelia Park from near the Veenstra's
36 boat building area, through to the ferry crossing, and
37 that was going to be used as a short term access road to
38 the ferry during the bridge construction. But what

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1 happened was that, because the council hadn't done as
2 they were required to do in the assessment report, that
3 is, to block off that road which had been in existence
4 for probably 30 or 40 years, maybe longer, because it
5 went through a site identified by Vanessa Edmonds, some
6 Aboriginal people were there who were brought down by
7 Neale Draper, who was also on site, and they said that
8 that work couldn't proceed through that area. So
9 effectively, Kym Mayes, who was then the Minister
10 looking after Aboriginal heritage, put a stop work on
11 the activity for the day, and I think that was perhaps
12 the source of the cancer that stopped the bridge at that
13 point in time.

14 Q. The picketing then started at the bridge site.

15 A. There were very few people that did it. They were
16 regulars, well known to us. We were well aware of who
17 they were, what they were doing, where they lived, and
18 everything else. They kept up a picket with signs that
19 were rather amateurish, and tried to intimidate people
20 as they crossed on some occasions across the ferry to
21 Hindmarsh Island. There was a real rift in the
22 community then appearing between the people on Hindmarsh
23 Island generally who supported the bridge and those
24 people in the town that did, against the small nucleus
25 of say 15 or 20 people who suddenly decided they didn't
26 want a bridge, for whatever their motives.

27 Q. After the bridge work was stopped in October 1993, I
28 think there was the announcement, was there not, that
29 the department would provide \$20,000 for a report to be
30 prepared by Dr Draper, with the help of the Lower Murray
31 Aboriginal Heritage Committee, relating to Aboriginal
32 heritage sites on Hindmarsh Island.

33 A. That's correct, which had no bearing to the original
34 stop, and I think also at the same time there had been -
35 an alternative approach to the ferry was agreed to by
36 the Aboriginal - Lower Murray Aboriginal Heritage
37 Committee; the contractors; the works supervisors, that
38 is, Connell Wagner; and the council, for work to proceed

1 along - with access to the ferry along another route
2 which wouldn't take it through Amelia Park. So, in
3 other words, steps were taken immediately to overcome
4 any objection there might have been to the original
5 proposal.

6 Q. While this was going on, was work still being,
7 nonetheless, undertaken on the island itself by
8 Binalong.

9 A. Yes. We were - well, at that stage we had Barkers
10 Lagoon obviously finished in late October 1991. We had
11 done superficial works then. But basically we were
12 selling that Barkers Lagoon development and running the
13 marina and getting increased usage of that. Pressure
14 was building on us because we were running out of stock,
15 or could see when we would run out of stock, and we
16 needed to have the bridge underway to be able to get
17 into the next stage.

18 Q. I think you had a visit to the marina from Neale Draper
19 around about this time, is that right.

20 A. Yes. In fact, he came on several occasions, but he
21 certainly came in very early on. But, however, I think
22 it is probably worth reporting that the people that were
23 - the Aboriginal people that were on site on the day
24 that the work stopped on, whatever it was, the end of
25 October, were mistaken in believing that the bridge
26 alignment was still on the Crystal Street alignment and
27 not now on the Brooking Street alignment. So therefore
28 the midden that Vanessa Edmonds had identified was
29 really never in any threat whatsoever.

30 Q. Just to get back to the protest and stoppage of work for
31 a minute, there was an article on that in the
32 `Advertiser' of 29 October 1993, was there not.

33 A. There were a number of articles in the `Advertiser'
34 about that.

35 Q. Item number 52.

36 A. Yes, that's right, yes. Of course, the big advantage of
37 that was that it, amongst other things, told us

1 precisely who the picketers were, by identifying them in
2 the photographs.

3 Q. Can I take you then to the visit of Dr Neale Draper. I
4 think your statement records at p.14 that that was on 2
5 November, is that right.

6 A. Yes.

7 Q. He came to the marina, did he not, to do something in
8 particular. What was it.

9 A. On 2 November he came in to have a look at what is known
10 as a borrow pit, and that's an area where you - it was
11 proposed that Built Environs would take material for the
12 approach to the bridge on the island side. In other
13 words, they were going to quarry out the material, it
14 had to be of a certain quality obviously, remove that,
15 and take it to the bridge site. In consequence of the
16 issue of a few days beforehand, he came in, together
17 with some members of the Aboriginal Heritage Committee,
18 and looked at that particular site, and gave a clearance
19 of it. It was a hard area. There would hardly be any
20 significance to anybody.

21 Q. Do you remember who was with you from the committee.

22 A. No, I can't particularly remember, no.

23 Q. You were present there with your wife and your son,
24 Andrew.

25 A. Yes.

26 Q. What did Draper say to you.

27 A. He said that our site, there were no problems with it,
28 and the marina generally and the bridge site was okay,
29 and there would be - a clearance letter would be issued
30 by the department immediately. And I think you will
31 find there is a copy of that clearance.

32 Q. That was on 2 November.

33 A. That's correct.

34 Q. Indeed, there was a clearance issued by letter from the
35 Aboriginal Heritage Branch, was there not.

36 A. Yes, that's correct.

37 MR SMITH: That letter is not there only because it
38 provides some detail that perhaps shouldn't go before

1 you at this time, commissioner.

2 XN

3 Q. That letter was dated 9 November 1993, wasn't it.

4 A. Yes.

5 Q. Which, in effect, bore out what Draper had told you on 2
6 November.

7 A. On 2 November, that's correct.

8 Q. I think you met again with Neale Draper and the members
9 of the Lower Murray Aboriginal Heritage Committee -

10 A. That's correct.

11 Q. Later in November.

12 A. That's correct, yes.

13 Q. Tell us about that.

14 A. Yes, we had a phone call in the marina office to say
15 that there were some people out in the subdivision
16 wandering around, and we went out and found that it was
17 Neale Draper, together with people that he introduced to
18 us, being Robert Day junior, Robert Day senior, and Doug
19 Milera. They were just generally looking around the
20 marina area - or the Barkers Lagoon area actually, and
21 they found two small areas which had become exposed
22 through erosion of the top soil. One of these was, as
23 they described, a kitchen oven type thing, which was
24 partially in an allotment which we had already sold, and
25 the balance of it was in a council reserve. To give you
26 some idea, it was a blackish material and it was about
27 the size of a base of a 44 gallon drum. We gave them
28 details of the purchaser of the allotment and a copy of
29 the Certificate of Title, so they could then identify it
30 on the allotment and do whatever they had to do to
31 register it, if they chose to do so. But it was no
32 longer in our ownership so we had no control of it. The
33 other site was on land that Binalong still owned, and we
34 discussed it. It was a very scattered area that had
35 exposed, and the suggestion was that any artefacts
36 material would be removed before we filled the site, and
37 that can be used then for some sort of interpretive

1 display at some other suitable location, to which they
2 agreed.

3 Q. You were wandering around as a group, I take it, looking
4 at all these places.

5 A. Yes. We were out there for quite some time.

6 Q. Did you have any discussion with Dr Draper about -

7 A. We had - two other things of significance, I guess, were
8 that he told us once again the marina area and the
9 bridge crossing were cleared and that, from their point
10 of view, they had no problems with it whatsoever. We
11 suggested then that they should go back and recheck
12 where the skeletal remains were found in 1989, which
13 they did, and Neale Draper returned to the marina office
14 later in the afternoon and said that he was very
15 satisfied with - and so were the members of the
16 committee - the way that it looked at this particular
17 time. I think they probably would have had difficulty
18 finding it. Neale Draper came in and used a phone in
19 the office for some considerable time to talk to
20 Adelaide. I think it was probably the first meeting,
21 the November second meeting, but he made use of our
22 facilities quite extensively.

23 Q. I am producing to you again Exhibit 170A, the clipping
24 book kept by yourself and your wife. Almost at the end
25 of the clipping book there is an article headed
26 'Aboriginal areas studied', 'Victor Harbor Times' of 26
27 November 1993, and we have a photograph of Doug Milera,
28 Robert Day junior, Robert Day senior, and Dr Neale
29 Draper looking at some -

30 A. That was the item I was describing, yes.

31 Q. That is the oven found at a location on land sold by
32 you.

33 A. That's correct, yes.

34 Q. So we can fix the day as the 26th.

35 A. It would have been a day or two before then.

36 Q. You were actually in attendance at that spot, were you,
37 at some stage.

1 A. At some stage. We weren't when the photograph was
2 taken. I presume it was the same spot.

3 Q. You had got a clearance letter from the Aboriginal
4 Heritage Branch of the department, hadn't you, of 9
5 November 1993.

6 A. That had gone to Connell Wagner, yes.

7 Q. Did you, around about this time, late November, have a
8 discussion with Neale Draper about the topic again of
9 the marina area and the bridge crossing and that sort of
10 thing.

11 A. Yes, certainly did.

12 Q. What did he say.

13 A. He said that it was clear. There was nothing there that
14 he'd identified that would stop the development of the
15 bridge or anything on our particular site, Binalong
16 sites.

17 Q. So that conversation was around about the time of the
18 incident that has been photographed in the 'Victor
19 Harbor Times'.

20 A. That's correct, yes.

21 Q. The discovery of that artefact around about 26 November.

22 A. That's correct, yes. He went to some considerable
23 trouble to reassure us that there was nothing that would
24 concern us.

25 Q. I think it was around about this time that arrangements
26 were made with Draper to inspect the foreshore area
27 where remains had been discovered in 1989.

28 A. That's correct.

29 Q. And Draper did go and inspect that, did he.

30 A. That's correct, yes, together with, as I understand it,
31 the three Aboriginal men he had with him, or at least
32 one or two of them, or whatever.

33 Q. On 9 December 1993, the supplementary development plan
34 for Hindmarsh Island was approved and gazetted.

35 A. That's correct.

36 Q. Of course, it made provision for a bridge as well as
37 your other development.

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- 1 A. It was promulgated on the basis the bridge was going to
2 happen because that was the basis of that planning
3 approval - that supplementary development plan, and it
4 reinforced the planning approvals we already had in
5 relation to our area.
- 6 Q. Can I take you to item number 53, Exhibit 178, which is
7 the Amelia Park access road closure plan document.
- 8 A. That's a newspaper article.
- 9 Q. A newspaper article in the 'Victor Harbor Times' of 21
10 December 1993, is it not.
- 11 A. That's correct, yes.
- 12 CONTINUED

1 Q. If I take you to item 56, which is council minutes of a
2 meeting of 21 April 1994. That is minutes of a meeting
3 between the council and representatives of the Lower
4 Murray Aboriginal Heritage Committee; is that right.

5 A. Yes.

6 Q. It dealt with this topic of the Amelia Road closure, did
7 it not.

8 A. That's correct, yes. And that was a meeting held on 21
9 April 1994 between the council representatives, the
10 Mayor, six councillors and the District Clerk,
11 representatives of the Lower Murray Aboriginal Heritage
12 Committee, together with representation from the
13 Department of Aboriginal Affairs. And the purpose of
14 the meeting was to discuss the roadway adjacent to
15 Amelia Park and the use of the reserve area.

16 Q. There had been an earlier council meeting which resolved
17 to close the road.

18 A. I think that came after this. It was around that time.
19 It came as a consequence of this.

20 Q. What relevance was this to the question of the bridge.

21 A. Well, I think there were two important issues with this.
22 One was that this carried out the requirement the
23 council was required to do in the assessment report;
24 that is, namely protect that midden which they hadn't
25 done and close that road off. And the second was that -
26 that really was what it was all about. There was little
27 logic that we could see in the whole thing because the
28 cockle train kept rolling past two metres away and the
29 midden was seen to be on both sides of the road and the
30 railway. How you can close the road and not the railway
31 defied our logic anyway.

32 Q. I think together with your wife and your solicitor, Mr
33 Palyga, you met with Mr Samuel Jacobs QC in early
34 January 1994.

35 A. That's correct.

36 Q. When he was doing his work in relation to reporting to
37 the Government.

38 A. Yes.

1 Q. I don't need to take you any further on that topic.

2 A. I think he made the comment that the Aboriginals had
3 advised him that they were more than satisfied in the
4 way in which the Chapmans had handled their relations
5 and consultations with the Aborigines.

6 Q. Then, the next event of significance was that on 15
7 February 1994, the then Minister of Transport, Miss
8 Laidlaw, issued a Ministerial statement concerning the
9 Government's obligations to build the bridge.

10 A. That's correct, yes.

11 Q. You have included that as document no.54 in Exhibit 178,
12 have you not.

13 A. Yes.

14 Q. The problem with that was, from your point of view at
15 least, that the work on the bridge was to remain
16 deferred because it had halted, had it not.

17 A. That's correct.

18 Q. Whilst the Government investigated the possibility of
19 building a bridge on the barrage.

20 A. That's right, yes. The suggestion of the barrage bridge
21 had been made on numerous occasions over numerous years.
22 It wasn't a new idea as such. The E & WS Department
23 were dead against it.

24 Q. I think it was around about this time that some movement
25 was made by the opposition groups which affected your
26 financial arrangement with your bankers.

27 A. Very much so. It had a two-pronged effect. One, it was
28 obvious now when you look at the chronology, perhaps
29 less obvious at the time, but the anti-bridge people had
30 failed in every other way to stop the bridge and it
31 became very clear to them that if they could get Westpac
32 to withdraw funds from us, or put pressure on us, that
33 was the best way of stopping the bridge. During March
34 1994, you will find there is a very concerted effort by
35 the union, the Conservation Council, the Aboriginal
36 people to have a very focused and intensive effort to
37 get Westpac to pull out of the bridge. It went on
38 radio, television. They absolutely played it hard and

1 fast and it was -

2 Q. I think, for instance, on 15 March, the Conservation
3 Council publicly announced they had written to Westpac.

4 A. That's correct.

5 Q. Did you hear that announcement.

6 A. We certainly did, yes. It was, to us, concerning
7 because the effect was that it made it then impossible
8 for us to have any negotiations with other financiers to
9 pay Westpac out, because it had become such a huge issue
10 that nobody would finance us with the bridge in a state
11 of go or no-go with the group haranguing Westpac, our
12 financier, so publicly. And you could read it all
13 across the nation. That they really were in a position
14 of trying to completely knock the block from under our
15 feet and we were caught in both ways. We couldn't
16 refinance and we couldn't - you know, we had Westpac
17 then who very quickly reacted to all of this and put the
18 company into receivership.

19 Q. The Conservation Council made a public announcement.

20 Did any of the other opposition groups.

21 A. The CMFEU went public.

22 Q. In particular -

23 A. They - not only this, they had written to Westpac, they
24 had said this publicly. They also, on the day of a
25 rally on 24 March, which was extensively shown on
26 television, the union representatives went across to
27 Westpac with a group of other people, flags flying and
28 megaphones and the like, and read a letter publicly in
29 the banking chamber of Westpac to get them to withdraw
30 funds from the development.

31 Q. On 15 March, I think, the Government announced that the
32 bridge work would recommence.

33 A. That's correct, yes.

34 Q. There was a media release to that effect from the
35 Minister of Transport, was there not.

36 A. That's correct, yes.

37 Q. That's document no.55 in the bundle.

38 A. Yes.

- 1 Q. It's a media release dated 15 March 1994 from The
2 Honourable Dianna Laidlaw MLC.
- 3 A. There was the one the month earlier from her as well.
4 We have covered that.
- 5 Q. Yes, that is the one canvassing the bridge across the
6 barrage.
- 7 A. Yes.
- 8 Q. Which had proven to be not a viable possibility.
9 A. Yes.
- 10 Q. So, the media release we are looking at in document 55
11 is dated 15 March 1994, which is the release where the
12 Government makes it clear that the bridge is to go
13 ahead.
- 14 A. Yes.
- 15 Q. I think that was followed by a rally in North Terrace at
16 Parliament House on 24 March.
- 17 A. That's correct, yes.
- 18 Q. Aboriginal people took part in that.
19 A. Yes.
- 20 Q. Were you there.
21 A. No.
- 22 Q. But that was televised.
23 A. Yes. Prominently, yes.
- 24 Q. CFMEU were involved.
25 A. Yes.
- 26 Q. I think it was on 30 March 1994 that Westpac served a
27 demand for payment on Binalong.
- 28 A. That's correct. And we became aware later that Victor
29 Wilson, Doug Milera and Matt Rigney had had a meeting, I
30 think, on 23 March, or thereabouts, in North Adelaide
31 where they decided to canvass various Aboriginal
32 organisations around Australia to withdraw funds from
33 Westpac, unless Westpac withdrew funds from the
34 Chapmans. And they put some very considerable effort
35 into that particular situation; which I say culminated
36 in 30 March Westpac's serving a demand for payment.
37 There was no logical, commercial reason for Westpac to
38 serve us with a demand for payment or do anything at

1 that stage when the Government had announced the bridge
2 was going ahead. It was absolutely illogical in the
3 extreme.

4 Q. I think it was on the same day that Binalong, that is 30
5 March 1994, that Binalong obtained interim injunctions
6 under s.45D of the Trade Practices Act.

7 A. Yes.

8 Q. Against the various persons and entities involved in
9 that process.

10 A. We were very concerned with the campaign that had been
11 found in March against Westpac to take funds away from
12 us. We had to do something to protect ourselves and
13 this was the only avenue open to us at the time to take
14 action to stop these people from putting pressure on
15 remove banking facilities from us. And, of course, we
16 tied into that the supply of water and we took those
17 injunctions out against the organisations which were
18 involved in the Westpac issue, certain white picketers.
19 It was no intention of ours to in any way take any
20 action against the Aboriginal people that we knew
21 because we saw that they were not party to this
22 incredibly intense period of effort and issue going on
23 to get Westpac out of the equation.

24 Q. The hearing to confirm or discharge those interim
25 injunctions was set for later in April, wasn't it.

26 A. That's right. That is where those were held.

27 Q. I think it followed in March 1994 -

28 MR MEYER: That was a misleading question. It was
29 not an application to discharge an interim injunction,
30 the injunction on 30 March was interim in nature and the
31 full argument came on in mid-April or so. So, it was
32 still the same application for a permanent injunction
33 rather than an application to discharge that it came on
34 in mid-April.

35 COMSR

36 Q. Do you agree with that.

37 A. Yes, I have to agree. It's over my head. Certainly,
38 that is what happened that we were successful in holding

1 the actions in the Federal Court.

2 MR MEYER: I was counsel on the first occasion on
3 30 March. I wasn't counsel on 15 April, or thereabouts
4 - the 18th - Mr Mansfield QC was. Having been involved
5 as counsel, I was aware of what the application was. I
6 didn't want there to be a factual misleading point about
7 the presence in the Federal Court.

8 MR SMITH: To be certain then, because, as I
9 understand it, the statement says `and a hearing to
10 confirm or discharge the interim injunctions was later
11 set for 18 April', does Mr Meyer take any issue with
12 that?

13 MR MEYER: I did not hear the words `confirm or
14 discharge'. I heard my friend refer to `discharge'.

15 MR SMITH: No, I did say that.

16 COMSR: After all of that, you are not taking
17 issue in the way that the matter was put?

18 MR MEYER: No, I apologise.

19 XN

20 Q. In late March, there was an incident which occurred at
21 approximately 6 p.m. in the tavern at the marina.

22 A. That's correct.

23 Q. A lady spoke to you, a lady by the name of Joy Harvey.

24 A. Yes, that's correct.

25 Q. Joy Harvey is one of the anti-bridge people.

26 A. She and her husband Dr Harvey were well known as
27 anti-bridge protesters. A number of meetings had been
28 held in their house at Goolwa. However, they would
29 normally come over on a Thursday evening to what is
30 known as `happy hour' at the tavern and have a drink
31 there. And she came to the table that Wendy and I were
32 sitting at and, in the course of a conversation, she
33 said `You will never get a bridge, because you can't put
34 piles into the bed of the river because it will hurt the
35 Aboriginals'. Now, my personal reaction to that was:
36 What was she talking about piling, we'd discover or
37 interfere with skeletal remains?

38 Q. That topic gets a mention a bit later on.

1 A. Yes.

2 Q. That was the first time you had heard anything like
3 that.

4 A. That is the first time we heard anything about the
5 riverbed, and it prompted me to do - we looked at it
6 later and that it was just impossible.

7 Q. What you did later was to seek out an admiralty chart to
8 show that what you had explained earlier in your
9 evidence; namely, there has always been water in the
10 area of the bridge crossing.

11 A. That's right, and low water.

12 Q. At least since 1876.

13 A. And a lot earlier I would suggest.

14 Q. On 6 April 1994, there was a page, one lead story in the
15 Advertiser reporting that Matt Rigney of ATSIC,
16 Adelaide's Regional Council Chairman, threatened to have
17 Aboriginal groups withdraw one billion dollars from
18 Westpac if it did not pull out of the marina project.

19 A. That is correct, yes. And that horrified us, that
20 article.

21 Q. That article's appeared already in evidence. You had
22 dealt with this topic of the campaign, if you like,
23 against you through Westpac before.

24 A. That's correct.

25 Q. And this was some detail about that.

26 A. And was repeated on other media. And you will find that
27 was repeated the next day and it was repeated again in
28 June. I can't - it was a topic that was never let die.

29 Q. On 6 April, all that had happened was that Westpac had,
30 on 30 March, served a demand for payment to obtain a
31 loan.

32 A. That's correct, but that was the precursor to what they
33 were going to do.

34 Q. 6 April in the press was that article about Matt Rigney
35 and ATSIC, and then I think on the following day the
36 Advertiser carried a story that sacred site claims were
37 being prepared.

38 A. Yes.

1 Q. In case Dr Armitage allowed the bridge work to proceed.

2 A. That's correct, yes.

3 Q. There was a repeated reference to Mr Rigney calling on
4 Westpac to withdraw funds from you.

5 A. That's correct, yes. I think also to say the speed in
6 which Westpac were working at, there were a couple of
7 things that were significant. I believed they gave us
8 21 days to refinance to pay them out. They didn't give
9 us that time, they gave us eight days - and Easter was
10 over part of that time. They were desperate to try and
11 get Tom and Wendy Chapman out of the equation.

12 Q. So that activity culminated, I think, on the next day, 8
13 April, when Westpac appointed receivers and managers to
14 Binalong.

15 A. That's correct.

16 Q. And to its related company which operated the marina;
17 namely, the Marina Services Co. Pty Ltd.

18 A. That's correct, yes. We then took them to court arguing
19 the validity of the action, which we weren't successful
20 in. But I think the significance of that was that in
21 the course of evidence that they gave in the Supreme
22 Court, they quite misleadingly, I believe, said that
23 Binalong had not made any payments to them. In fact,
24 we'd made millions of dollars of payments to them in
25 that year; and that was quoted in the press the next
26 day, once again further damaging our credibility.

27 Q. The next event was, I think - and I'm not putting these
28 Advertiser articles to you because they are already
29 before Madam Commissioner in Exhibit 105. The
30 Advertiser of 12 April quotes Dr Neale Draper. That is
31 an article by Colin James. Dr Draper in that article is
32 describing sites and relating the features of the
33 landscape, et cetera.

34 A. Yes.

35 Q. You remember that article.

36 A. Yes.

37 Q. I won't show it to you. That is in Exhibit 105. It is
38 the case, isn't it, that Dr Draper's reported remarks

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CJ 37F

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- 1 did not indicate any change, at least from him, in terms
- 2 of the Aboriginal significance of the area.
- 3 CONTINUED

- 1 A. Certainly the impression I got reading the article there
2 was no change at that particular point.
- 3 Q. That is from your point of view at least.
- 4 A. Yes.
- 5 Q. In early April I think you learnt from the bridge
6 engineers that the Minister of Transport was making
7 moves to allow the bridge construction to proceed.
- 8 A. That's correct.
- 9 Q. Namely, seeking the appropriate authorisation.
- 10 A. Yes.
- 11 Q. Under the Aboriginal Heritage Act from the Minister,
12 namely, Dr Armitage.
- 13 A. That's correct, yes.
- 14 Q. Your statement sets out that, on 18 April, the
15 interlocutory injunction application against the anti
16 bridge protestors -
- 17 A. Yes.
- 18 Q. You had the interim injunction granted.
- 19 A. Yes.
- 20 Q. And I think the result of that is as indicated there,
21 Heerey J in the Federal Court ordered interlocutory
22 injunctions, permanent injunctions against seven of the
23 ten defendants.
- 24 A. That's correct, yes.
- 25 Q. And discharged the other three.
- 26 A. That's right.
- 27 Q. At this time - and we are into April, here - you and
28 your solicitors were endeavouring to negotiate, were you
29 not, with the Aboriginal interests who had come out in
30 protest against the bridge.
- 31 A. Yes.
- 32 Q. I think, as a result of discussions between your
33 solicitor and Steve Palyga and the Australian Government
34 Solicitor, Peter Walsh, acting for ATSIC, a meeting was
35 set up.
- 36 A. That's correct, yes.
- 37 Q. That was the meeting which we have already heard about
38 in the cafe at North Adelaide.

1 Q. Yes.

2 Q. On 26 April 1994.

3 A. That's correct, yes.

4 Q. You went to that meeting, didn't you.

5 A. Yes, I certainly did.

6 Q. With your lawyer, Mr Palyga.

7 A. Yes.

8 Q. And the other two people there were Matt Rigney and
9 Peter Walsh.

10 A. That's correct, yes.

11 Q. The purpose of the meeting was, broadly speaking, to do
12 what.

13 A. Steve had had discussions with Matt Rigney and Matt
14 Rigney had led, I believe, Steve to the conclusion that
15 it was worth us talking. And, at that time, we were,
16 you know, naturally happy to do anything that was going
17 to expedite a conclusion to the problem that had arisen.
18 So, he and I set off to ATSIC's office in North Adelaide
19 and we were met on the balcony outside and taken to the
20 forecourt down below and we sat at a table, the four of
21 us, and had what was a pleasant discussion ranging over
22 a number of topics. And, out of that, I came away with
23 two bits of information I wasn't aware of before. One
24 was that Matt Rigney had talked about the shape of the
25 island, Hindmarsh Island, that is. And he had also
26 mentioned tree burial sites.

27 Q. Tell us what he said about the shape of the island.

28 A. He said there was something in the shape of the island.
29 He wasn't clear about what he was - I don't think, what
30 he was talking about, at the time, except that it was in
31 general terms that it was something to do with that and
32 it was women.

33 Q. And women, did you say.

34 A. Yes, he mentioned women.

35 Q. What, that the shape of the island was evocative of a
36 woman.

37 A. I don't think you could say he was exactly clear. It
38 was a women's issue and it had - Hindmarsh Island had a

1 significant part in that. And the waters around it. He
2 was forthcoming, to a degree. Enough for me to go and
3 ring Rod Lucas.

4 Q. Another topic was mentioned about the significance.

5 A. The other was the tree burials and burials generally,
6 along the alignment, I took it, of the bridge. And,
7 from photographs or lithographs of the area that were in
8 our possession, it was clear that that was an exposed
9 cliff face from the time of European settlement and it
10 was hardly likely that there were any trees there of any
11 significance for tree burials. So, I couldn't see any,
12 you know, point in that comment, at all. But he did
13 come back to the point, the two ferry option, as a
14 compromise. He did suggest that. And, you know, I
15 wasn't able to get out of him why he was so keen on a
16 two ferry option. Once again, two ferries going
17 backwards and forwards would be far more obstructive
18 than a bridge built upon an alignment that had already
19 been destroyed by European activity for 100 years or so.
20 To put a second ferry in would mean major earthworks,
21 particularly on the Goolwa side and, therefore, more
22 likely to seriously impinge upon Aboriginal areas. But
23 that didn't seem to bear any fruit, as far as he was
24 concerned.

25 Q. The meeting lasted for how long.

26 A. I think it lasted - it was pretty late in the afternoon
27 when we finished. I think it was about sometime around
28 5 or just after and I think we went there around about
29 2.30 or so. So, two and a half, three hours.

30 Q. You came away from that meeting and that caused you to
31 contact Dr Rod Lucas, you said.

32 A. Yes, Rod Lucas was as the environmental - I mean, our
33 anthropologist and I had made contact with him
34 previously after some considerable difficulty of trying
35 to track him down and I rang him and said `Look, this is
36 what I have been told. Surely you would be aware of
37 something like that, if you were - you know, you had
38 done an anthropological survey, a detailed one? You

1 have been to various places, the museum and the like.'

2 Q. Did you put the two issues, its Aboriginal cultural
3 significance issues to him.

4 COMSR: Are these both matters of public record?

5 MR SMITH: There is no problem with these.

6 A. I spoke to him about the two issues, but primarily the
7 women's issue.

8 XN

9 Q. As conveyed to you by Rigney.

10 A. Yes, and he assured me he had heard nothing of that at
11 all or nothing like that at all. Then - well, the tree
12 burials that he - you know, I would rather put my theory
13 to him I think about it was highly unlikely. I then
14 rang Vanessa Edmonds.

15 Q. What response did he have to the question of the tree
16 burials.

17 A. He just said he had never heard of it and he felt it was
18 unlikely. Extremely unlikely. Later on I had a phone
19 call with him where I followed that up and said 'Did you
20 take up any field notes or could you show me in your
21 field notes that you discussed with the Aboriginals were
22 there any other issues?' And he assured me that there
23 were no other issues, because I had become concerned
24 about it. But that was a subsequent phone call, I
25 believe. I rang Vanessa Edmonds about the tree burials
26 and she was quite caustic and concerned about the issue.
27 And she said, well, the area is so over-researched now,
28 archaeologically, I think she meant, that it is, you
29 know, just extremely unlikely. I don't think she used
30 the word 'impossible', but that's what I think she was
31 meaning. But she was quite testy of the fact that
32 someone would come up with something, after she had been
33 through the area.

34 Q. That meeting with Rigney had concluded on the basis that
35 it was worth arranging another meeting.

36 A. Yes.

37 Q. With members of the, for instance, Lower Murray
38 Aboriginal Heritage Committee.

- 1 A. Yes, I think the other thing, there were a couple of
2 things perhaps important out of the Rigney meeting. One
3 was that he said he was an elected member to ATSIC. He
4 was representing what his constituents were talking
5 about and wanted - because he was trying to say to me
6 that this wasn't necessarily his view. And he wasn't
7 going to tell me what his view was probably. But he was
8 trying to push it back to the fact that his constituency
9 were the people he was acting for. He was like a
10 politician would be in any other context. He then said
11 'Well, look, you have got to meet with the Lower Murray
12 Aboriginal Heritage Committee. They are the people that
13 are the people that are involved in this issue.' I then
14 said 'Well', you know, 'we want to meet as soon as we
15 can. In fact, I had a phone call with Henry Rankine
16 some days before then to try and get a meeting going,
17 but I wasn't successful.' He said 'I will arrange
18 that.' So, the next day, we had a meeting. I think it
19 was the next day, we had a meeting that evening, in the
20 Centrepont building.
- 21 Q. This is 27 April.
- 22 A. Yes.
- 23 Q. That meeting your wife has already given evidence about.
- 24 A. That's correct, yes.
- 25 Q. That was a meeting which lasted some three hours from
26 about 6 o'clock in the evening.
- 27 A. That's correct, yes.
- 28 Q. Who was present at the initial part of that meeting.
- 29 A. Doug and Sarah Milera, Jean and Henry Rankine and David
30 Rathman.
- 31 Q. I think the meeting with all present lasted for some two
32 hours.
- 33 A. That's correct.
- 34 Q. And there was a further meeting between yourself, your
35 wife and David Rathman.
- 36 A. That's correct.
- 37 Q. Later or immediately following.
- 38 A. Immediately following in his office as opposed to the

- 1 meeting room the other one was in.
- 2 Q. I think you returned to your then home in Goolwa.
- 3 A. That's correct, yes.
- 4 Q. You were then living in Goolwa, and I think, the next
- 5 morning, you and your wife typed up notes of the
- 6 meetings.
- 7 A. That's correct, yes.
- 8 Q. Having typed up the rough notes, I think you put them in
- 9 a more formal state to forward off to your solicitor, is
- 10 that right.
- 11 A. That's correct, yes. I think that probably, from memory
- 12 of what happened, Wendy was working on putting together
- 13 some notes, the first lot, herself. I was doing
- 14 something else. Then we sat down together and produced
- 15 the second lot of notes immediately afterwards.
- 16 Q. Looking at Exhibit 169A and Exhibit 169B: Exhibit 169A,
- 17 are they the rougher notes, that is, the notes that
- 18 aren't so formalised and numbered.
- 19 A. That's correct.
- 20 Q. Then Exhibit 169B is a neater presentation in the sense
- 21 that items are numbered, there is underlining and the
- 22 like.
- 23 A. That's correct.
- 24 Q. Those two sets of notes were prepared by you and your
- 25 wife jointly.
- 26 A. My memory was that the first set, I think Wendy probably
- 27 sat down and put together what we had thought about in
- 28 some rough notes earlier and just put it into type. And
- 29 then from that we just then produced together, settled
- 30 down and worked out the bits and pieces that came out of
- 31 the consequence of that meeting.
- 32 Q. The second lot of notes, there is a little more
- 33 elaboration there.
- 34 A. That's right.
- 35 Q. That was the set of notes you forwarded to your
- 36 solicitor, Mr Palyga.
- 37 A. In fact, both sets were sent to him.
- 38 Q. Do those notes set out accurately, so far as you can

1 tell, in your view, what passed at the meeting.

2 A. Yes.

3 Q. I won't wade through those -

4 A. I think that the thing that is worth remarking on is
5 that you will find that, during that meeting, we - or I
6 did, in fact, say that I had copies of both the Lucas
7 report and the Edmonds report. And you will find that,
8 when Doug Milera was, in fact, confronted by the fact
9 that we had done the consultation that we were required
10 to do, that we had the approvals that we were required
11 to have, his reaction was to say to David Rathman 'Have
12 the Heritage Committee got these particular reports?'
13 And David Rathman was unable to answer, at the time.
14 But I think the important issue was that, when you look
15 at the way Doug Milera started off the meeting, or he
16 started his side of the meeting, it was clear that he
17 was being pushed on the consultation issue by - that had
18 come out of Lucas report. But he didn't know the Lucas
19 report existed, as such. So, that led me to believe
20 that obviously the white picketers or somebody else were
21 feeding him with the lines that he was then coming to
22 these meetings with.

23 Q. Your notes show that Doug Milera started the meeting
24 off.

25 A. Yes, that's correct.

26 Q. He said that 'The developer's consultation was wrong.'

27 A. That's correct, yes. And then you will find that, when
28 I countered it by saying 'Yes, but here is the Lucas
29 report and here is the Draper things and here is what we
30 have done, we have been given approval under the
31 Aboriginal Heritage Act to do those things, and we have
32 to talk to the Aboriginal Heritage Branch, which Rathman
33 and Jean and Henry were not arguing about', he suddenly
34 then changed foot and said 'Have we got these reports?'
35 So, he clearly didn't know that those reports existed,
36 at the time. He was being driven by an outside source,
37 who had access to those reports.

38 Q. Can you tell the Commissioner whether Milera was

1 addressing things that were in the Lucas report, was he.

2 A. He had to be over that consultation issue, because that
3 was the standard line taken by the white picketers, at
4 the time.

5 Q. Did he do that in a particular way. That is, the things
6 that he said betrayed the fact that some contents of the
7 Lucas report he knew about without knowing the -

8 A. No, I think it was purely this business of consultation.

9 Q. He raised that topic of the consultation in that
10 generalised way, did he.

11 A. That's right.

12 Q. And then do you say he was surprised to be confronted
13 with the Lucas and Edmonds reports.

14 A. Absolutely.

15 Q. Your wife pointed out to us that Sarah Milera, in the
16 course of this meeting, had become noticeably agitated.
17 So much so that she left.

18 A. Yes.

19 Q. That's correct, is it.

20 A. With considerable noise and mutterings, yes.

21 Q. Did Sarah have any input in this meeting in terms of
22 speaking out.

23 A. Yes, she had talked about I think from memory the
24 consultation issue as a peripheral issue. She seemed to
25 be very concerned about the fact that, you know, we had
26 an answer to the set line of Doug Milera over the
27 consultation issue. That obviously caught her on the
28 back foot, or put her on the back foot. She was
29 concerned about the issue of the 45Ds, her friends in
30 Goolwa.

31 Q. She made a point of that, did she.

32 A. Yes, she made a point of that, but, you know, we had
33 made it very clear, as we had on several occasions, that
34 those 45D issues, injunctions, were not aimed at the
35 Aboriginal community in any shape or form at all. They
36 were aimed at the people who had denied us or were
37 trying to deny us banking facilities and the bridge that
38 was going to bring water across to the development. Two

1 totally separate issues. But, you see, the people in
2 Goolwa were suddenly getting worried. They could see
3 that, you know, they had got into a situation which was
4 way out of their depth. And they were trying to put
5 pressure on to the Aboriginals to then put pressure back
6 on to us. It is as clear as anything.

7 Q. Can I ask you about that. Why weren't the 45Ds directed
8 to the Aboriginal opponents of the bridge.

9 A. Because we didn't see them as being in the position of
10 being directly opposing the bridge. They had been
11 clear, by what we had been able to read in the papers,
12 that they were talking about a site at Amelia Park. And
13 bearing in mind, when the 45Ds were talked about, it was
14 still talking, to our knowledge, anyway, talking about a
15 site in Amelia Park. It hadn't progressed, at that
16 time.

17 Q. Was there any hint of women's issues, at this meeting.

18 A. Not really. Except it was in vague terms. And I
19 suppose now knowing what we know today, it is easy
20 perhaps to put a different connotation on to it to the
21 connotation we put on it at the time of the meeting.
22 She used words such as 'This is a culture issue. It is
23 from within. History hasn't been written yet', which is
24 probably a most significant point. 'We are still
25 learning about it', which was also very significant.
26 'That some big special reason. It is more than meets
27 the eye.' They were all sort of terms that really
28 didn't tell you very much, but told you that she was
29 being driven by something else, I guess.

30 Q. Dr Draper was mentioned in this meeting, wasn't he.

31 A. Yes, that's right. She made it very clear that she
32 taught Neale Draper everything that he knew and I think
33 that meant everything he knew about Hindmarsh Island.

34 CONTINUED

1 Q. Is that the note of `Draper taught by me'.

2 A. That's correct, yes. And I might add that that was
3 reinforced by Doug Milera. He said that about Draper at
4 a meeting I had with him later. She talked about the
5 fact that she had been told by other people that we had
6 mishandled skeletal remains.

7 Q. Can I take you back to this question of the 44D notices
8 or injunctions against the protesters, your statement
9 reads at p.18 at the bottom `She was extremely upset
10 about letters sent to protesters threatening
11 litigation'.

12 A. Yes. What we did was arrange for letters to be sent to
13 various known white picketers to tell them that if they
14 continued to stop the bridge, then they stood the chance
15 of being involved in major litigation. It was a very
16 clear, polite thing to do. What else would you do? You
17 don't let them wander along blind to the fact that they
18 are about to fall into a caldron. I personally thought
19 it was the right thing to do, and I guess I was the
20 person that was keen to see that people were at least
21 aware that if they went and picketed - we didn't mind
22 what they said in the press or the media which, of
23 course, they tended to say we tried to stop, which
24 wasn't our intention at all, they can say what they
25 like, how they liked, when they liked - but it was the
26 fact that they were going to be physically caught up in
27 major litigation at some time or other. As events had
28 turned out, the receiver managers let those proceedings
29 lapse, but the Chapmans, in due time, I am sure, will
30 take civil action against those people.

31 Q. The focus of my question, however, is the exhibited
32 concern by Sarah Milera about what you had done. At
33 that meeting, tell us, how -

34 A. She made a number of comments about `those ladies, their
35 pensioners, their people, they don't have much money and
36 you're threatening litigation'. She became quite
37 agitated about litigation, litigation. We tried to
38 explain the best we could - at least I did - that they

1 were in no way threatening Sarah or Doug or anybody like
2 that. They weren't aimed at that. But if these people
3 tried to stop our normal commercial operations, then
4 they had to stand by their convictions. If the courts
5 saw that their convictions were going to mean they were
6 going to be up for very considerable damages, then that
7 was something they needed to be very aware about.

8 Q. This is what you conveyed to the Mileras.

9 A. That's what I conveyed to the Mileras.

10 Q. You have said there that Sarah claimed these people to
11 be her friends.

12 A. That's correct.

13 Q. What sort of emphasis did she lay on that.

14 A. She seemed to see them very much as her friends. I
15 think later on you see that she talks about how they
16 soon foresake her when she changed her mind at one
17 stage. But she saw them, and I think they had put -
18 that is, the white picketers - had put immense pressure
19 on she and Doug to try and get us to withdraw those
20 actions.

21 Q. Did Doug Milera join in that plea to you.

22 A. Yes, he certainly did. He wanted all those actions
23 retracted. He was very strong about that, which made me
24 very sure that it wasn't him speaking, but it was the
25 people, the white picketers behind him, who were really
26 using him or using the Mileras as mouthpieces to their
27 concerns, because I think that suddenly it had dawned
28 upon some of them that they had stood to learn -

29 OBJECTION Mr Kenny objects on the ground of
30 hearsay.

31 MR KENNY: I have sat this morning and listened to
32 this witness give his opinion on various matters that
33 are completely outside his knowledge. It appears that
34 it is almost an open invitation for him to slam any of
35 the protesters, white or black, that he feels like.

36 COMSR: You are taking exception to the fact
37 that this is hearsay evidence and inferences, it is his
38 opinion?

T.L. CHAPMAN XN (MR SMITH)

1 MR KENNY: It is his opinion or he is saying what
2 the motives of what other people are. It is just so far
3 off the track. I think it is time that I at least
4 protested on that.

5 MR SMITH: On behalf of your clients?

6 MR KENNY: My clients were present at that meeting.

7 MR SMITH: Yes, that is right. I am sorry about
8 that. Perhaps there will be final submissions made by,
9 amongst other people, My Meyer, who can draw all these
10 threads together and make these comments.

11 COMSR

12 Q. What has been objected to is this, Mr Chapman, that you
13 are giving evidence of inferences or opinions of your
14 own, but not evidence of what occurred. It has been put
15 to me that can have no weight, your opinions or
16 inferences that you have been drawing, and Mr Kenny has
17 taken an objection on that basis. It is the case that I
18 can sift that out, as it were, at the end of it, but
19 evidence of opinion is not really helpful to me.

20 A. All right. Yes.

21 XN

22 Q. Otherwise, the notes are in accord with your memory -
23 both sets of notes of what passed at the meeting.

24 A. Yes.

25 Q. Can you focus on the item headed 'Further discussion
26 with David Rathman'. I don't want you to say anything
27 about it, because the commissioner has suppressed
28 material under that heading. But would you perhaps just
29 look through that and ensure that you agree with that.

30 A. Yes, I agree with that.

31 Q. That is so, is it.

32 A. Yes.

33 Q. That's your memory of the meeting.

34 A. Yes.

35 Q. The meeting ended on the basis that you would do what.
36 What was the end result of that meeting.

37 A. The first part of the meeting finished on the basis that
38 they would need to get all members of the Lower Murray

1 Aboriginal Heritage Committee together, and they would
2 do that expeditiously, and they made it very clear that
3 they would do it as such. We said, on our part, that we
4 would be available to meet them anywhere, at any time,
5 and we were awaiting their notification. We are still
6 waiting.

7 Q. So another time was not set.

8 A. No.

9 Q. Did you chase that matter up at all.

10 A. Yes.

11 Q. Who did you contact in relation to organising the full
12 committee meeting.

13 A. I spoke to David Rathman on a number of occasions.

14 Q. Anyone else.

15 A. Not that I can particularly remember, but it was
16 certainly something that at the time we were pushing
17 hard. I am sure that it - I may well have had one other
18 phone call of Matt Rigney, but I'm not sure.

19 Q. I want to take you to the next topic, in particular, 1
20 May. We will come back to the council meeting after
21 lunch. On 1 May 1994 there was, as your statement
22 discloses, a rally of picketers and Aboriginal people at
23 Amelia Park. Is that right.

24 A. Yes, that's correct.

25 Q. That gathering was addressed by Matt Rigney.

26 A. Amongst other people.

27 Q. Turning to document number 57, that is the flyer, is it
28 not, for that Amelia Park meeting or picnic of 1 May.

29 A. Yes. There were some others as well, which I think you
30 have already got in evidence, haven't you?

31 Q. Yes, but this is the one in particular that was
32 addressed by Matt Rigney.

33 A. Yes, that's right.

34 Q. Did you go to that.

35 A. I went past it by car. I went across on the ferry, but
36 I was made aware of what was going on by other people.

37 Q. On 3 May there was a report in the 'Advertiser' of Sarah
38 Milera's views.

- 1 A. Yes.
- 2 Q. We have that in evidence. On 3 May Sarah Milera was
3 also interviewed on radio, is that right.
- 4 A. That's correct.
- 5 Q. On that day, 3 May, the Minister for Aboriginal Affairs,
6 Dr Armitage, made a ministerial statement, did he not,
7 authorising the bridge construction under section 23 of
8 the Aboriginal Heritage Act.
- 9 A. That's correct, yes.
- 10 Q. The ministerial statement is document number 58 in
11 Exhibit 178.
- 12 A. Yes, that's correct.
- 13 Q. On 3 May 1994, I think the council met with Matt Rigney
14 and members of the Lower Murray - that is the district
15 council -
- 16 A. Yes.
- 17 Q. Met with Matt Rigney and other members of the Lower
18 Murray Aboriginal Heritage Committee in an effort to
19 settle the bridge issue.
- 20 A. That's correct, yes.
- 21 Q. You know that, I think, from some documents and from
22 council officers.
- 23 A. Council officers, that's correct, yes.
- 24 Q. I think there is a record of all that was said by Matt
25 Rigney, or at least some of what was said by Matt Rigney
26 at that meeting, isn't there -
- 27 A. Yes.
- 28 Q. That you have been given.
- 29 A. Yes. We have certainly got access to them.
- 30 Q. On 4 May 1994, Westpac issued a notice to wind-up
31 Binalong.
- 32 A. That's correct.
- 33 Q. Notwithstanding that, as a result of the minister's
34 authorisation, the builders, Built Environs, got ready
35 to recommence bridge work, is that right.
- 36 A. That's correct, yes.
- 37 Q. It was obvious there was going to be trouble - not

- 1 trouble exactly, but some protest at the bridge
- 2 construction site, is that right.
- 3 A. We were led to believe there would be, but -
- 4 Q. But you now know that on 9 May there was a briefing of
- 5 picketers.
- 6 A. Yes.
- 7 Q. And the protest took place over at the construction site
- 8 on 10 May.
- 9 A. Yes, I was there.
- 10 Q. You were there.
- 11 A. Yes.
- 12 ADJOURNED 12.57 P.M.

1 RESUMING 2.21 P.M.

2 XN

3 Q. We had got especially to the stage, I think, where we
4 are at p.20, are we not.

5 A. Yes.

6 Q. The protest at the site of the bridge construction we
7 saw on television and via the evidence of Sergeant
8 Morrison which took place on 10 and 11 May.

9 A. That's correct, yes.

10 Q. You were there on both days.

11 A. That's right.

12 Q. It was on the next day, on the second day if you like,
13 that work stopped as a result of the Tickner
14 declaration.

15 A. That's correct.

16 Q. As your statement reads there, you witnessed Tim Wooley
17 reading out a copy of the declaration to the assembled
18 picketers.

19 A. That's right, yes.

20 Q. It's the case, is it, as you say in your statement, that
21 from the time of your meeting with the Mileras and the
22 Rankins on 27 April at the Department of Aboriginal
23 Affairs, you really were met with the continued
24 non-cooperation from the Aboriginal people.

25 A. Yes. I tried to - I wrote to Mr Tickner on three or
26 four occasions asking for a meeting, or at least some
27 information. I'd go to Canberra if it was necessary to
28 meet with him. I got nowhere with that. Mr Palyga's
29 already told the Commission that he wrote on our behalf
30 as well. He wrote to various organisations. We had
31 Vanessa Edmonds locked out - and we will talk about that
32 later - and Lindy Warrell was also finding great
33 difficulty. There was nowhere where we could find
34 first- hand information.

35 Q. After Mr Tickner made his interim declaration on 11 May,
36 you engaged Vanessa Edmonds to consult with Aboriginal
37 people.

38 A. That's correct.

1 Q. To try and get some grasp of what issues she had to
2 address.

3 A. That was primarily because we still saw the issue as one
4 of archaeological significance and she was our
5 archaeologist.

6 Q. She, as you say in your statement, came to South
7 Australia on 23 and 24 May.

8 A. Yes.

9 Q. And she endeavoured to carry out your instructions.

10 A. That's correct.

11 Q. In fact, she met with resistance; is that what you were
12 given to understand.

13 A. That's correct, yes.

14 Q. Looking at document 59, which I think is one of the last
15 documents in the bundle before you, Exhibit 178.

16 A. That's correct.

17 Q. That's a report to your company Binalong for field work
18 and consultation undertaken by Vanessa Edmonds between
19 23 and 24 May 1994.

20 A. That is correct, yes.

21 Q. That document sets forth all that Vanessa Edmonds had
22 done on your behalf.

23 A. To the best of what we know, to what I know, yes, that
24 is what she did. She's quite critical of a number of
25 people in that paper which highlighted to us perhaps
26 what we were being faced with or we were facing. I
27 think that clearly shows the wall of silence that we
28 were being met with.

29 Q. Can I take you to one portion of that document that
30 deals with Dr Lindy Warrell.

31 A. Yes.

32 Q. Can I take you to p.2 of that document 59 of Exhibit
33 178.

34 A. Yes.

35 Q. Vanessa Edmonds there sets out that she's consulted on
36 the telephone with, amongst other people, George
37 Trevorrow. See that.

38 A. Yes. `Stated my concerns', yes.

- 1 Q. And you will note that what is set forth there is as to
2 what George told her.
- 3 A. That's correct.
- 4 Q. Including an assumption that George said that Lindy
5 Warrell would be doing the anthropological report.
- 6 A. Yes. I think that ties in with the evidence that Wendy
7 gave, evidence where she said that Lindy was very
8 enthusiastic about being involved on our behalf. And
9 then a few days later after she had made some phone
10 calls and said that she had spoken to Trevorrow and
11 others, that she then said she didn't want to become
12 involved. I think that ties that in.
- 13 Q. I want to draw your attention to it for the sake of the
14 record. The document reads, it sets out what George
15 told Vanessa Edmonds of the involvement of Lindy Warrell
16 and what he assumed about the involvement.
- 17 A. Yes, that's correct.
- 18 Q. It was Dr Warrell, of course, who had been recommended
19 to you by Rod Lucas.
- 20 A. Yes.
- 21 Q. You then make the point at the bottom of p.20 that on 23
22 May, Professor Saunders had been appointed by Mr
23 Tickner.
- 24 A. Yes.
- 25 Q. And she advertised for submissions on 28 May.
- 26 A. Yes.
- 27 Q. You, through your solicitors, made a number of
28 submissions to Professor Saunders, didn't you.
- 29 A. That's correct.
- 30 Q. You make the point then on p.21, on 5 June, Mr Rigney
31 appeared on television and talked about the island being
32 the birth place of the Ngarrindjeri nation.
- 33 A. Yes.
- 34 Q. Then, there was some further call - there was a report
35 of Rigney calling, again on behalf of ATSIC, to withdraw
36 funds from bank accounts held.
- 37 A. That was a recurring theme, as I said earlier.
- 38 Q. On 8 June, the Advertiser ran an article releasing part

1 of the Draper report.

2 A. Yes.

3 Q. That is in evidence.

4 A. I think it's important to say that we had been trying
5 very hard ourselves through our solicitor. I had spoken
6 to Steven Wade in the Minister's office to get hold of
7 the Draper report of 29 April - which is what this
8 report talks about - and that was denied us at every
9 turn where an excuse was put up. And to this day, Wendy
10 and I have not seen it, and I think we are the only two
11 people in South Australia that haven't seen it.

12 Q. Yet it appears in the Advertiser on 8 June.

13 A. That's correct, yes, within a few days of it being
14 finished.

15 Q. On 5 June, there was the public picnic day at Goolwa.

16 A. Yes.

17 Q. Then, on 10 June, Mr Tickner extended his declaration
18 for another 30 days.

19 A. That's right.

20 Q. I think going back to that picnic and the family day at
21 Goolwa, that was run by the Ngarrindjeri Action Group
22 and The Friends of Goolwa and Kumarangk.

23 A. That's correct.

24 Q. I think the name of that organisation had changed,
25 hadn't it.

26 A. That's correct, yes.

27 Q. Because the proponent, the supporters of the bridge, had
28 registered the name of that group.

29 A. That's correct.

30 Q. So the opposing group became The Friends of Goolwa and
31 Kumarangk.

32 A. Yes. That happened some time earlier than that.

33 Q. The 10 June rally, I think there was advertising for
34 that, wasn't there.

35 A. Yes. This was a pro-bridge rally and I was not there.

36 Q. Looking at the last document in Exhibit 178, is that the
37 flyer.

38 A. Yes, that is the flyer.

- 1 Q. For the public rally in support of the Goolwa to
2 Hindmarsh Island Bridge.
- 3 A. Yes.
- 4 Q. You didn't attend.
- 5 A. No.
- 6 Q. Then, came the Rocky Marshall incident or letter, didn't
7 it.
- 8 A. Yes.
- 9 Q. Your statement sets out there the work you did in
10 relation to that. Can I just follow the chronology on
11 18 June. The Advertiser published the Rocky Marshall
12 letter to the editor.
- 13 A. Yes, that's correct. That was a reduced version of the
14 letter, the original version we found, which was in the
15 Goolwa Lions Club Community Newsletter for May.
- 16 Q. And Rocky Marshall was an anti-bridge protester.
- 17 A. Yes. He arrived in Goolwa just earlier in January or
18 February of that year, so he hadn't been there for long.
- 19 MR SMITH: The letter itself in the Advertiser is
20 Exhibit 37.
- 21 Q. The Rocky Marshall story, as set out in the letter,
22 actually raised a potential ground of claim, did it not,
23 for some sacred significance of the area of Hindmarsh
24 Island and the foreshore at Goolwa.
- 25 A. We really saw it - and at that particular time, bearing
26 in mind different knowledge today, we saw it at that
27 time as a story about Aboriginal women giving birth
28 beside the police station, the old police station at
29 Goolwa, and we set about to go right back through
30 history. We spent three or four days investigating the
31 Rickaby connections, which were his lineal connection to
32 his grandmother, and we were able to, we believe,
33 conclusively prove that he could not have been able to
34 do that.
- 35 MR KENNY: It appears that this witness is talking
36 about a supplementary submission that he made to
37 Professor Saunders that was used in relation to her
38 report and this information he is talking about

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1 gathering was provided there. We have a difficulty with
2 that in that if we are to question that at all, we don't
3 have a copy of that supplementary submission made to
4 Professor Saunders. I'm not sure that we are actually
5 entitled in this position to obtain one either.

6 COMSR: I'm not sure of the status of that. I
7 don't know if Mr Meyer can enlighten us at all?

8 MR SMITH: There is no - Mr Kenny won't have
9 problems. The witness Mr Chapman has provided the
10 Commission with all the information relating to his
11 investigations of the Rocky Marshall matter. That will
12 be the subject of evidence other than Mr Chapman's.

13 MR KENNY: I'm happy with that.

14 MR SMITH: I don't think my learned friend needs to
15 have that for the purposes of asking Mr Chapman
16 questions anyway.

17 XXN

18 Q. That is correct, is it not, that you and your legal
19 representatives thoroughly investigated the allegations
20 of Rocky Marshall and his letter.

21 A. That's correct, yes.

22 Q. You have provided information relating to those
23 investigations to the Commission.

24 A. That's correct, yes.

25 Q. In fact, you addressed what you had uncovered in your
26 submission to Professor Saunders too, didn't you.

27 A. That's correct, yes.

28 Q. In 23 June 1994, Mr Marshall in the Advertiser retracted
29 his previous letter.

30 A. Yes.

31 Q. On the evening of 7 July, you received a copy of the
32 Saunders' report.

33 A. Yes, that came through a fax in our solicitor's office
34 about 8 o'clock that evening, if I remember correctly.
35 We went in there and read it at that time.

36 Q. You had an opportunity of sorts to comment on the
37 report, hadn't you.

38 A. Yes. Well, we were given that evening and the next day.

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- 1 And we started off reading the Saunders' report and it
2 seemed to us there were a number of things that were
3 unusual about it. And one that really particularly
4 comes to mind was there was a paragraph in the Saunders'
5 report about, taken out of the Fergie report appendices
6 which apparently had no connection with anything else
7 and which talked about the fact that Hindmarsh Island -
8 COMSR: Is there any problem about this?
9 WITNESS: It's in the Saunders' report. It was
10 out of the secret envelopes and it made clear -
11 MR SMITH: Pausing for a minute. Mam you will
12 remember that there were two secret appendices: one with
13 the basic secret sacred women's business in it; then,
14 the second secret appendice was a document of Dr
15 Fergie's where she proffers some explanation of the
16 secret sacred women's business. It's that secret
17 appendice or part of it which has formed part of the
18 Saunders' report; in other words, Professor Saunders
19 actually set out some material -
20 COMSR: So, this is as reported by Professor
21 Saunders.
22 MR SMITH: Yes.
23 COMSR: We are talking about her report?
24 MR SMITH: Her report. Her report accesses one of
25 the envelopes, but you need not be -
26 MR MEYER: A quoted matter in the body of the
27 report.
28 MR SMITH: It's quoted in the body of the report.
29 It does actually come from one of the envelopes.
30 MR MEYER: We can clear that up to ask Mr Chapman
31 if he has had access to any of the envelopes and the
32 appendices. I think he will no. I will be stunned if
33 he says yes.
34 MR SMITH: I don't think there is any need for
35 concern there.
36 XN
37 Q. You're addressing that.
38 A. We had a look at the Saunders' report and went through

1 it and there were a number of things that highlighted to
2 us that there was a document that was hastily put
3 together. And I just think it was one -

4 Q. Interrupting you there. Could you please try and avoid
5 making those sorts of comments.

6 A. It's obvious it was hastily put together to me. Anyway,
7 getting back to this particular point, Dr Fergie
8 reported that the waters of the Goolwa Channel mediated
9 or separated, words to those effect, Hindmarsh from
10 Mundoo Island. That is just plain wrong in geography
11 and anything else. You only have to look at that map up
12 here. It seemed to me at the time, or it was clear to
13 me at the time that if she's so wrong in a simple fact
14 of geography that was clear, then the whole report was,
15 you know, likely to be riddled with these sorts of
16 things.

17 CONTINUED

1 And that is what was a basis of the complaints that we
2 made to the Minister, or some of the complaints that we
3 made to the Minister. That it was factually wrong in
4 facts of geography.

5 Q. I think you had an opportunity to respond to that.

6 A. Yes.

7 Q. And later in that day, that is, 7 July, you were offered
8 a copy of Dr Fergie's report.

9 A. Yes.

10 Q. Is that right.

11 A. Yes.

12 Q. Who by.

13 A. Originally a fax was sent to Mr Tickner's office. I
14 think Sue Key of his office faxed back and said the
15 Minister had no objection to a copy of the Fergie report
16 being made available, providing Dr Fergie was agreeable
17 to it. My wife then rang Dr Fergie, if I remember
18 correctly. She said yes. And we got the Fergie report.
19 We then became aware of the fact that there were
20 appendices to it. We tried to get those. Dr Fergie
21 said to my wife 'Well, they don't belong to me. They
22 belong to the ALRM.' We tried to get hold of Tim
23 Wooley. He was on the phone, busy and we didn't get an
24 answer in time to be contacted - to be able to make any
25 worthwhile response. And, of course, he probably would
26 have said no, at that time, anyway.

27 Q. Nonetheless, you actually obtained some assistance from
28 Dr Lindy Warrell, didn't you.

29 A. Yes, we did.

30 Q. Going back to that attachment that I drew your attention
31 to where Vanessa Edmonds had set out, amongst other
32 things, that George Trevorrow told her that he thought
33 that Lindy Warrell was going to be giving
34 anthropological advice in respect of the island.

35 A. That's correct.

36 Q. Do you see there on p.2.

37 A. Yes, I see that.

38 Q. Were you alert to that, that Lindy Warrell had had some

- 1 contact prior to this time with one of the members of
2 the Lower Murray Aboriginal Heritage Committee.
- 3 OBJECTION Mr Kenny objects.
- 4 MR KENNY: I don't know how this witness can answer
5 that question. It was the way the question was framed.
6 It was suggesting it wasn't what he knew. It is a
7 question did he know whether somebody else knew. What I
8 am asking is, what did this witness know?
- 9 COMSR: What is his means of knowledge?
- 10 MR SMITH: I will go back over it again.
11 XN
- 12 Q. You obtained Dr Lindy Warrell's assistance to deal with
13 the Saunders and Fergie reports in a last minute
14 submission to Mr Tickner.
- 15 A. That was correct, but that was the second time we had
16 spoken or had contact with Lindy Warrell. There was an
17 earlier time.
- 18 Q. I refer you then to attachment 59, which is a report to
19 you from Vanessa Edmonds in May of 1994 of field work
20 and consultations undertaken by her on 23 and 24 May
21 1994.
- 22 A. That's correct, yes.
- 23 Q. Set out in that report which you had.
- 24 A. Yes.
- 25 Q. Around about -
- 26 A. We got it that day, the 24th.
- 27 Q. Set out in that report from Vanessa Edmonds was the fact
28 that she had spoken to George Trevorrow.
- 29 A. That's correct.
- 30 Q. And set out in that report was that George Trevorrow,
31 amongst other things, indicated to her that he was under
32 the assumption that Lindy Warrell would be doing the
33 anthropological report.
- 34 A. That's correct.
- 35 Q. And set out in that report was that he, George, had had
36 a chat with Lindy and, assuming she was going ahead with
37 the report, had told her to get in touch with Doreen
38 Kartinyeri and Val Power.

1 A. That's correct, yes.

2 Q. When you got that report from Vanessa Edmonds setting
3 that out, on 31 May 1994, did it click with you that
4 Lindy Warrell, at least so far as George Trevorrow was
5 concerned, was doing an anthropological report.

6 A. Yes, it did, because she had told us that she wouldn't
7 do it. In the meantime, we had found out. So, this did
8 surprise us.

9 Q. When had she told you that she wouldn't do it.

10 A. From memory, the first contact we had with her was 20
11 May and - or was it the 19th? Anyway, it was around
12 about that period in time. Wendy discussed it over an
13 open telephone with her, that we needed to find an
14 Aboriginal - I mean, an anthropologist, female
15 anthropologist and it had been recommended to us by Rod
16 Lucas that Lindy Warrell was the person worth
17 approaching. That she had the attributes that were
18 necessary in relation to what we knew, at that
19 particular time. She then considered the matter and
20 seemed pretty excited about it to start off with and
21 then she rang back two days later, I think it was, and
22 said no, she couldn't do it, or she wouldn't do it.

23 Q. Is that the occasion she had been warned off by Neale
24 Draper.

25 A. Whether it was Neale Draper and others or Neale Draper I
26 am not sure.

27 Q. When you read that there in the Vanessa Edmonds report
28 to you of 21 May you assumed it was the same
29 anthropological report that you had discussed with her.

30 A. Yes, and that we weren't - that she wasn't going to do
31 it. Because, after she said no to us, I think Steve
32 Palyga put a proposal to her 'What would happen if Mr
33 Tickner or Dr Amitage appointed you? In other words,
34 you do it from a neutral perspective?' And she, I
35 think, was receptive to that idea.

36 Q. At that stage, you actually successfully employed her
37 again.

38 A. Yes, right at the last minute.

- 1 Q. Right at the last minute.
2 A. Yes.
3 Q. You did not then have any knowledge of the fact, or did
4 you, that Lindy Warrell had had some contact with
5 Trevorrow.
6 A. Not prior to this, obviously, this night, because she
7 had said she had spoken to people involved down there,
8 which, you know, was - didn't mean much to who or what.
9 And, in that period, while she was doing that
10 investigation, the first investigation, she had a
11 meeting with Rod Lucas and Dr Deane Fergie and they
12 discussed that issue. That was the first time, between
13 the time she was enthusiastic and the time she said no.
14 COMSR
15 Q. What is the source of your information concerning that.
16 A. When she rang to talk to us.
17 XN
18 Q. What in August of this year.
19 A. No.
20 Q. Earlier.
21 A. Back in -
22 Q. In May.
23 A. The first time, yes.
24 Q. Then you obtained two reports, if you like, from Lindy
25 Warrell.
26 A. Yes.
27 Q. Which you submitted to Mr Tickner.
28 A. One on the Friday evening, which was just within his
29 time limit or just outside it. And one the next day, on
30 the Saturday morning.
31 Q. On 10 July, you had heard, via the media, that Mr
32 Tickner had made a final declaration.
33 A. That's correct.
34 Q. Five days later, on 15 July, you were evicted from the
35 marina at Goolwa, weren't you.
36 A. That's correct, yes.
37 Q. After being given five hours notice to shift.
38 A. What happened was we found the locksmiths had turned up

1 and they didn't say what they were there for, but we
2 worked that out quickly enough. And then one of the
3 media helicopters turned up and they seemed to want to
4 watch what was happening. And we were put through the
5 agony of being thrown out in less than five hours.

6 Q. On 8 August, Westpac successfully placed Binalong in
7 liquidation.

8 A. That's correct. And they actually, you know, served
9 liquidation papers on us earlier, as I reported earlier,
10 without even notifying the receiver/managers or talking
11 to them. It just became a totally separate issue to
12 them. And the only thing I can understand is that that
13 meant that we couldn't act as directors and we lost a
14 certain footing, in that regard.

15 Q. On 28 July 1994, there was a celebration at Goolwa of
16 the anti bridge protestors.

17 A. That's correct, that was reported locally.

18 Q. That was reported locally, was it, and you, of course,
19 didn't attend that, I wouldn't have thought.

20 A. No.

21 Q. What you have set out in your statement is a result of
22 what you read in the local reports, is it.

23 A. That's correct, yes.

24 Q. Rather than first-hand knowledge.

25 A. That's right. You have got to rely on the media, you
26 know.

27 Q. Just to get the chronology straight, during the latter
28 part of 1994, you were involved in the Federal Court
29 proceedings challenging the declaration of the Minister.

30 A. Yes, that's right.

31 Q. On 10 July.

32 A. That's correct.

33 Q. O'Loughlin J handed down his decision, on 15 February
34 1995, this year.

35 A. That's correct.

36 Q. I think you learnt again on the radio -

37 A. Yes.

38 Q. So, again, in the media, on 23 May, that there had been

- 1 a fresh application for a s.10 declaration, by the ALRM.
2 A. That's correct.
3 Q. On 26 May, you made an application to the Federal Court,
4 or at least you attended the Federal Court, seeking an
5 order of O'Loughlin J in relation to the preservation of
6 the secret envelopes.
7 A. That's correct. There was media speculation, at the
8 time, on their safety.
9 Q. I take you now to 5 June.
10 A. Yes.
11 Q. You had a telephone call, on 5 June, from Kym Denver.
12 A. That's correct.
13 Q. Kym Denver was well-known to you, by this time, wasn't
14 he.
15 A. That's correct.
16 Q. He was, just to put it on the record, a large land owner
17 on Hindmarsh Island.
18 A. Yes.
19 Q. And a supporter of the bridge project.
20 A. That's correct.
21 Q. Through the bridge disputation, you and he had become,
22 what, friends.
23 A. Yes, and also he was aware of what we were doing, as I
24 guess we were aware of what he was doing in relation to
25 it. And I think I will also point out that it was his
26 father who submitted the design of the bridge back in
27 1987, or whenever it was, that we referred to earlier.
28 Q. In your statement you place that time of the call from
29 Denver at 3.15 p.m.
30 A. Yes.
31 Q. How do you fix that as the time.
32 A. I was listening to Question Time in Federal Parliament
33 and it had gone on to that particular time when I
34 received the phone call.
35 Q. I think it was as a result of that telephone call that
36 you went to the Middleton Tavern.
37 A. That's correct.
38 Q. And met there with Kym Denver and Milera, Doug Milera.

- 1 A. That's correct.
- 2 Q. I think the events of that day you noted.
- 3 A. Yes.
- 4 Q. Did you not.
- 5 A. That's correct.
- 6 Q. When did you do that.
- 7 A. That evening.
- 8 Q. In your own handwriting.
- 9 A. Yes.
- 10 Q. That evening you made those notes and do you have a copy
11 of those with you and in front of you.
- 12 A. Yes, I do.
- 13 Q. The notes embrace what period of time. Do they deal
14 with the entirety of the day's activity.
- 15 A. No, they only relate to purely this activity.
- 16 Q. The activity being.
- 17 A. Being the call by Kym Denver and then going to the
18 Middleton Tavern and then, when I left the Middleton
19 Tavern, that was the end of it.
- 20 Q. I want to ask you about what happened then on that day
21 as far as you were concerned. And by reference to your
22 notes, when you need to.
- 23 A. Yes, I had a phone call from Kym Denver. He rang. I
24 answered the phone. He said that he had Doug Milera at
25 the Middleton Tavern and Doug Milera wished to speak to
26 me, or speak to Wendy and could one of us or both come
27 over there, as soon as we possibly could. After
28 discussion with Wendy, I decided I would go over there
29 there and then. We were in the middle of doing
30 something else, at the time, but - so, I went. It would
31 have been at least quarter to 4, maybe a little later
32 before I would have got to the Middleton Tavern. By the
33 time I got myself going, got down to the ferry, waited
34 for the ferry and crossed to Middleton would, I would
35 suggest, make the time at least half an hour or more. I
36 went into the tavern. They were the only two people in
37 there, apart from the proprietor of the tavern, I think,
38 from memory. They were sitting in the corner in the

1 southern corner of the large area there. I went up to
2 them and shook both their hands and sat down. Then Kym
3 just said `Well, you know, I got a phone call.' He said
4 he had got a phone call from his mother saying would he
5 please give Doug Milera a ring, which he had done. And
6 it is well-known what then went on. And he eventually
7 picked Doug up and turned up at the tavern at some time
8 earlier and had been talking to him when Doug had said
9 that he wanted to talk to the Chapmans. He was very
10 concerned that he had heard that we were going to be
11 thrown out of our house. And that it was just another
12 thing that was happening, because of the bridge, that
13 was not a good thing for anybody. He told me that he
14 had been trying to ring me on at least three different
15 occasions. That he couldn't get us and we don't have a
16 listed phone number. So, in final exasperation, he
17 tried to get hold of Kym and couldn't get him and then
18 thought to ring his parents. And that's how he made
19 contact. So, it was clear to me that this wasn't just a
20 flash in the pan. He had made up his mind that that's
21 what he was going to do. He was extremely agitated and
22 nervous about what he was doing, because he talked about
23 how he wanted to clear the whole issue up. He was sick
24 and tired of the bridge. Sick and tired of the whole
25 issue. They had got into it, out of hand, as far as he
26 was concerned. So, he said that the bridge was the
27 future, to employ people and so on. And he was very
28 sorry what had happened to us. I let him talk. He had
29 a small notebook which he had phone numbers in and
30 people's names and he said `I've got to get around to
31 certain people to talk to them to tell them my side of
32 things and why I'm doing what I am trying to do now.'
33 So, I said `Well, you know, what do you want do?' And
34 he said well, he would like to go into town at some time
35 soon to see Don Smith and Matt Rigney and talk to them,
36 because they were, in his view, very important to the
37 issue. And he needed to talk to them, about what he was
38 doing. He also wanted to ring Allan Campbell in Sydney.

1 I gave him my phone. He had a phone call that lasted
2 over half an hour to Allan Campbell. He said later that
3 Allan Campbell didn't believe him at first. Then did.
4 He rang John Campbell at Wellington and he seemed
5 perhaps a little more relaxed as the afternoon
6 progressed, but things were happening slowly. He was
7 virtually talking about his concern and his worries at
8 what was happening.
9 CONTINUED

1 Q. Had he told you what this meeting was all about yet.

2 A. At the tavern - the Middleton Tavern?

3 Q. Yes.

4 A. Firstly, it was to say how upset he was that we were

5 being thrown out of our house because of the bridge

6 issue, and he was somehow implicated. He was very sorry

7 about that. He kept me aside so Kym Denver couldn't

8 hear his apology. He was self-conscious about it.

9 Then, as I say, he then went into a stage where he

10 wanted to ensure that he could talk to other senior

11 Aboriginal men, and talk to them about what he was doing

12 and what he was proposing to do. What he was proposing

13 to do was to talk to the media about it.

14 Q. But at this point in time you had not yet any idea about

15 what he was going to disclose.

16 A. No. An apology was what I was getting at that

17 particular stage. Then it was a case of, from reference

18 to his book, who he wanted to see and how he wanted to

19 get to town to see various people to put his position,

20 but he said enough was enough.

21 Q. Looking at your notes, in the third paragraph you say 'I

22 asked him how the mess could be sorted out now', and you

23 go on there in your notes.

24 A. Yes. That was after he had got to the point where he

25 made it very clear that the bridge had to be built, that

26 was the future. I said 'Okay, how are we going to sort

27 this mess out now? Particularly, how are you going to

28 get it to a position where people like Doreen and Sarah

29 are going to get out with some sort of dignity into the

30 situation, because they are obviously' - at this stage

31 he had said that he was involved in pointing to the map,

32 and I was aware at that stage he said it was fabricated.

33 Q. So he conveyed that to you.

34 A. That's right.

35 Q. By this stage, had he.

36 A. Yes. It was a case then of really trying to help him do

37 whatever he felt he wanted to do. He was the person

38 really talking. There was not much point in us having

1 anything to say or do - myself. He was keen to talk to
2 the people I have mentioned. As I say, he had at least
3 half an hour on the phone to Allan Campbell.

4 Q. Is this the sequence of events - tell me if I am wrong -
5 that he apologised to you and made the position clear
6 that he thought the bridge should go ahead.

7 A. Before that, he had made the point very clear that he
8 tried to ring us on at least three occasions. I don't
9 know whether that was over the last three days or over
10 the last week, but it was a relatively short period of
11 time, I gather.

12 Q. I am trying to place in the course of the conversation -

13 A. That is at the beginning.

14 Q. When the disclosure about the map and the fabrication
15 occurred.

16 A. He got into the situation where the bridge needed to be
17 built, and that's when he started talking about the fact
18 that he had pointed to the map on the wall.

19 Q. So your notes don't record absolutely every word then
20 that was said.

21 A. Heavens, no. This was done that night. This is only a
22 precis of what happened obviously.

23 Q. He has disclosed to you the material about pointing to
24 the map.

25 A. Yes.

26 Q. The fabrication, et cetera.

27 A. Yes.

28 Q. Tell us what he said about that, if you can remember.

29 A. It really happened in passing. He just said that he had
30 been involved in the Mouth House, and I was aware of the
31 Mouth House issue from other sources, so that wasn't a
32 surprise to me. One of the reasons why Kym Denver got
33 me over there was he was talking about things Kym wasn't
34 aware of, but he thought I would be. And he then
35 suggested that something needed to be done to change the
36 situation, the bridge had to be built. He had totally
37 changed his stand - status on the whole thing.

- 1 Q. I would like you to tell us what he said about the Mouth
2 House at the Middleton Tavern.
- 3 A. It was in passing, he just mentioned that at the Mouth
4 House he talked about - pointed to the map and talked
5 about 'that was women's issue', and that was where it
6 was left. There was very little said about it at all.
7 It wasn't the focus of this discussion at all really.
8 It was really how he was going to move - having declared
9 his position that he wanted the bridge built, how he was
10 going to do it.
- 11 Q. Did you see, in the course of this conversation, that
12 that was the paramount issue, his involvement in this
13 Mouth House episode.
- 14 A. No, I don't think it was. I think really it was a case
15 - it was a combination. He had been and he had told us
16 he had been there since October, and he had been brought
17 down, he was at Signal Point, and they hadn't paid him.
18 A whole series of little episodes of what made up - what
19 would be a bigger position for him, and I don't think he
20 saw that perhaps - it was part of the whole sequence of
21 events that went on in his mind at that particular point
22 in time.
- 23 Q. What was the big disclosure he was making to you.
- 24 A. That he wanted the bridge built.
- 25 Q. What was the -
- 26 A. And, therefore, it didn't really matter what happened in
27 his view, I don't think. He wanted the bridge built
28 because that was the future. Forget anything else.
29 That really wasn't the story.
- 30 Q. Go on then.
- 31 A. Then I asked him, you know, who had been involved in the
32 issue. He didn't know about Noel Roscrow. He certainly
33 knew about Ann Lucas, who attended meetings that he had
34 been at. He knew Richard Owen, who he said was the
35 Chairman of the Friends of Goolwa and Kumarangk and was
36 the main person behind the anti-bridge group. He said
37 that he thought a number of people knew what was in the
38 envelopes now. He had been to Deane Fergie's place -

1 house with the women and had heard about the story. He
2 was upset with Frank Tuckwell at Signal Point. He had
3 not been paid for anything. In fact, he still owed
4 Frank Tuckwell \$50, but he couldn't repay him because
5 apparently he hadn't been paid by him. It was a meeting
6 that, as I say, canvassed a whole series of issues,
7 minor issues, but a lot of the time was taken up talking
8 to Campbell - the Campbell boys - men.

9 Q. Do you know anything about why Frank Tuckwell and Signal
10 Point had to pay him.

11 A. It was well known - it was in the local press that Sarah
12 and Doug had been appointed to the management committee
13 of Signal Point, to be paid out of a grant that had been
14 given by, I think, the museum's - whatever it is that
15 give grants - and also money from the Signal Point
16 Management Board, to increase the Aboriginal
17 interpretive display within Signal Point. So he had a
18 close contact with that area. I think probably, in
19 fairness, Sarah had a much closer contact, because she
20 is quoted as saying elsewhere that Frank Tuckwell gave
21 her all her information that she knew. So he was
22 obviously concerned that he owed Frank Tuckwell money,
23 \$50, but he couldn't repay it because Signal Point
24 hadn't paid him for the work they were meant to be
25 doing.

26 Q. Your note records that Milera had said that he had been
27 to Deane Fergie's house with the women and heard about
28 the story.

29 A. That's correct, and that's all he said. He said 'I've
30 been to Deane Fergie's house and I went with the women'.
31 There were lots of little grabs that you got from him.

32 Q. Your wife comes over, doesn't she, at some stage.

33 A. Yes. That was around - just around dark or a little
34 after. It might have been 6 o'clock, I think.

35 Actually, I've got 6.30, so I guess that was right.

36 Q. Did he talk about Granite Island.

37 A. Yes. He made the point that they now had the power to
38 do what they wanted to do with anything, and he said he

1 could get a fence, for instance - and he used it as an
2 example - put around Granite Island or Hindmarsh Island
3 if he wanted to. Then he talked about the Granite
4 Island deal, the unions and the arrangement was not yet
5 right. I don't know what he meant by that, but that's
6 what he proffered at the time. Maggie Jacobs didn't
7 understand why she was so involved. He didn't know
8 that. He was very cross about Draper, and he made the
9 point to me that he had taught Draper everything - that
10 is, that Draper knew on Hindmarsh Island, I take it to
11 mean. He went on then to say that, in his view, the EIS
12 was correct and the right people had been spoken to, and
13 the bridge should get underway. He talked about Henry
14 Rankine being a good man. Then he went on to say that
15 building the bridge would do far more for reconciliation
16 than has happened to date. Peter Rigney, the brother of
17 Matt Rigney, was the leading anti-bridge person. Then
18 he said he'd do anything to save our house and we should
19 get everything back from Mr Tickner. He thought Tickner
20 was finished. The Telecom cable under the river was
21 held up by the women.

22 Q. Sorry, 'held up by the women'.

23 A. By the women. Telecom wanted to put a fibre optic cable
24 under the river near the ferry crossing. There were
25 newspaper reports on that in the newspaper cutting
26 books, and that was held up because the women hadn't
27 agreed to it. He was concerned about the letters that
28 he had signed and been sent to Mr Tickner. They are the
29 letters that you have got in evidence, I presume. The
30 ones that were sent, particularly from Mrs Millard's fax
31 machine. He thought he could get Val Power on his side.
32 He said that Sandy Saunders was hardnosed. He said the
33 Pit women should not come down and be involved. He said
34 that Sarah was taken over by the lights and had begun to
35 believe it all. He thought Doreen may now even believe
36 her own story. He made the very strong point that he
37 would never come back onto Hindmarsh Island again.

- 1 Q. This led to the contacting of Chris Kenny, the
2 journalist.
- 3 A. That's correct, yes.
- 4 Q. How did that come about.
- 5 A. He got to the point in the conversation which, as I say,
6 had been going for some time, where he said he wanted to
7 make it public and he wanted to go on television and
8 make it public. It was at that time that Kym Denver
9 rang Chris Kenny. He was the person that made the
10 suggestion. It was certainly not of my suggestion or
11 Kym's. He was very keen to do it. We kept a - I
12 particularly kept a very neutral stand on what was going
13 on.
- 14 Q. Why did you do that.
- 15 A. I was concerned in the back of my mind that we were
16 still in a Federal Court case, and I just wanted to be
17 very careful in what I was involved in, very careful.
- 18 Q. Your wife arrived at the Middleton Tavern, didn't she.
- 19 A. Yes.
- 20 Q. At about 6.30 p.m.
- 21 A. That's correct.
- 22 Q. Your phone had gone dead by this time, had it.
- 23 A. Yes, it had been hammered.
- 24 Q. With your wife, was Kym Denver's daughter, is that
25 right.
- 26 A. Yes, yes, that's correct.
- 27 Q. Then Helen Denver arrived too.
- 28 A. Yes. She came from Victor Harbor, where she works, and
29 Wendy brought young Georgie across from Hindmarsh
30 Island. Wendy had to go from our place down to the
31 Denver's house, pick up Georgie, who is quite young, and
32 then pick up a phone battery for Kym as well, and then
33 come back to the tavern.
- 34 Q. By the time that group had gathered, if you like, at the
35 tavern, had any arrangements been made about the
36 journalist, Chris Kenny.
- 37 A. Yes, that had been made by that time, and therefore
38 Helen took young Georgie back to Hindmarsh Island, and

- 1 at the end of the - a few minutes afterwards, Wendy and
2 I left and we went back to Hindmarsh Island, and Kym and
3 Doug then drove to Victor Harbor.
- 4 Q. About what time did you leave, you and Wendy.
- 5 A. I would have thought some time probably just after 7,
6 because Doug had been also extremely upset and made a
7 particular effort to apologise to Wendy in much the same
8 way as he apologised to me, and he took her aside and
9 spoke to her for some few minutes about the difficulty
10 and the upset and, you know, what had been caused to us
11 individually.
- 12 Q. Just looking back now, you arrived at the tavern at
13 about what time.
- 14 A. Some time - probably just after quarter to 4.
- 15 Q. And you left at about 7.
- 16 A. It may have been a bit later than 7, but it was in that
17 order, I would you suggest. Wendy came over at 6.30 so,
18 you know, she was there - by the time that she arrived
19 and talked and everything else and the time we went,
20 half an hour to three quarters of an hour would easily
21 have slipped by.
- 22 Q. When you first arrived, Denver and Milera were seated in
23 a section of the tavern.
- 24 A. That's right.
- 25 Q. Were they drinking.
- 26 A. They - well, Doug Milera had a bottle of - you know, a
27 small stubbie of beer, and Kym had a lemon juice.
- 28 Q. You were together then for about three hours, or
29 thereabouts.
- 30 A. Yes.
- 31 Q. Did you continue to drink throughout the afternoon.
- 32 A. Only spasmodically, because - yes, to the best of my
33 recollection now, Doug would have had another two
34 stubbies of beer, at the most. Kym and I both drank
35 softdrink because we were driving cars.
- 36 Q. Who paid for these rounds of drinks.
- 37 A. Kym paid for one and I paid for the other.
- 38 Q. There is some evidence about Doug requiring cigarettes.

1 A. Yes, that wasn't - I think that must have happened
2 before I'd come.

3 Q. Prior to you leaving, did either you or our wife get
4 asked for money by Doug Milera.

5 A. Yes. As we went outside, the four of us - that's Kym,
6 Doug, Wendy and myself - he asked whether he could have
7 some money, I gather for some cigarettes. In the end,
8 Wendy gave him \$5, because when you are on the dole you
9 don't have money to hand out, I can assure you. And I
10 would add, that Wendy was extremely reticent about doing
11 it.

12 EXHIBIT 179 Witnesses notes dated 5 June 1995
13 tendered by Mr Smith. Admitted.

14 Q. Before I go on to 6 June, can I take you back into the
15 bundle of documents, Exhibit 178, to that copy document
16 that we addressed under the heading `Amelia Park', which
17 is document 56. If you come back one document, you see
18 there is details of a meeting held on 21 April.

19 A. Yes.

20 Q. And handwritten underneath that are the words `Meeting
21 with Matt Rigney, 10.30 at council, 3 May, no result
22 achieved.'

23 A. That's right.

24 Q. You learnt about the fact that there was such a meeting
25 from some officers of the council, Vic Mills, or Errol
26 Commane, for instance.

27 A. Yes, that's right.

28 CONTINUED

29

- 1 Q. I think you have obtained notes of that meeting.
2 A. That's correct.
3 Q. Which notes are to deal with a discussion between the
4 councillors and Matt Rigney.
5 A. That's right.
6 Q. Looking at this record produced to you, first of all, do
7 you recognise the handwriting on that document.
8 A. No. I haven't actually seen this set of - I haven't
9 seen that. I was aware of the meeting. I knew what
10 happened at the meeting. I haven't seen these before.
11 Q. I will take them back from you. I don't want you
12 guessing at it. Can I take you then back to the
13 chronology of events. I will take you to the second to
14 last topic really which is the event of 6 June 1995.
15 That is the day following your attendance at the
16 Middleton Tavern.
17 A. That's correct.
18 Q. You knew very well, I suppose, by the morning of the 6th
19 that Milera had given a televised interview to the
20 journalist Chris Kenny at the Appollon Motel.
21 A. Yes.
22 Q. I suppose Mr Denver had told you that.
23 A. He had told me, yes.
24 Q. I think you had some contact with Doug Milera on the
25 morning of 6 June, did you not.
26 A. Yes. Late-ish in the morning, I got a phone call -
27 because I had given him my phone number at that stage on
28 the night before - and he rang and said that he wanted
29 to get from Port Elliot to John Campbell's place at
30 Wellington and could I do something about it.
31 Q. Had you reported these events to your solicitors at this
32 stage, at that stage of the morning of 6 June.
33 A. I had given a very short precis of what had transpired.
34 As I say, I was concerned that these, I might compromise
35 myself.
36 Q. Doug Milera wanted a lift to Wellington.
37 A. Yes.
38 Q. What sort of trip did that involve.

- 1 A. That would be, I suppose, from Port Elliot, an hour and
2 a quarter, something like that.
- 3 Q. He rang from Port Elliot.
- 4 A. Yes.
- 5 Q. What did you do about that.
- 6 A. Well, because of the situation that I didn't want to be
7 involved in it, I thought about who I could get to do
8 it. And I then suggested that Mr Roger Searle, in my
9 mind, might be able to do it. I rang him, explained my
10 situation to him that I wasn't in a position to do it,
11 and he said, yes, he would do it. And I said `Well, to
12 make sure that the situation works out all right and
13 that Doug Milera knows who you are, I will meet you at
14 the location and introduce you and I'm going back to
15 Goolwa'. And that's what happened.
- 16 Q. Roger Searle is a caravan proprietor in Goolwa.
- 17 A. On Hindmarsh Island.
- 18 Q. He is in favour of the bridge, is he not.
- 19 A. Yes, he is.
- 20 Q. He, in addition, I think appeared before Professor
21 Saunders, for instance, and made a submission indicating
22 his -
- 23 A. Yes, he did.
- 24 Q. You asked him to do for you what was rather a
25 significant favour.
- 26 A. That's correct.
- 27 Q. He agreed to do that.
- 28 A. Yes, he did.
- 29 Q. He left his business.
- 30 A. He had to find somebody to, you know, stand in the shop
31 while he actually did this particularly, so it wasn't
32 without some effort on his part.
- 33 Q. So, the two of you drove to Middleton in tandem as it
34 were.
- 35 A. Yes, that's right.
- 36 Q. And what time are we talking about here.
- 37 A. I would think around about 11 o'clock.
- 38 Q. Do you know whose place it was that you went to at

1 Middleton.

2 A. Gary Kropinyeri.

3 Q. Did Doug Milera give you the address.

4 A. Yes, he did, instructions on how to get there.

5 Q. When you got there, you introduced him.

6 A. Knocked on the door, was met at the door by, as I now
7 know, Gary. Went inside with Roger Searle. Doug was
8 there. I explained that I wasn't able to drive him to
9 Wellington, however, Roger Searle would do so. And I
10 said that I had to leave. So I was there for a matter
11 of minutes and that was all.

12 Q. I take it Mr Searle reported back to you that he had
13 indeed done that.

14 A. Yes, he did.

15 Q. Your statement at p.24 and the last page, p.25, deals
16 with really, amongst other things, the media coverage
17 since 1990.

18 A. That's correct.

19 Q. The Advertiser articles and the like are already in
20 evidence, but you, yourselves - that is the Chapman
21 interests - had been responsible in the course of time
22 since 1990 for several full page advertisements in the
23 print media.

24 A. That's correct.

25 Q. Depicting the bridge as a favoured access from the
26 mainland to the island.

27 A. Yes. It was a full - half a page coloured photograph in
28 one advertisement of the bridge.

29 Q. I think that is in Exhibit 170, the clippings produced
30 by your wife in her evidence.

31 A. Yes.

32 Q. There was also considerable television and radio news
33 coverage dating back to as early as 1990, or earlier.

34 A. Yes. Very extensive.

35 Q. For example, on 12 April 1990, the day of the planning
36 approval for your development.

37 A. Yes.

38 Q. Including the bridge, there was every commercial

T.L. CHAPMAN XN (MR SMITH)
XXN (MR KENNY)

- 1 television station, I suggest, ran -
- 2 A. As I remember, but particularly the News carried an
3 article in it and I think the Advertiser carried an
4 article in it. Then, with the opening of the Barkers
5 Lagoon area by Mr Bannon, there was very extensive media
6 coverage of that. It's time and time again. There
7 wouldn't be a place in South Australia that wouldn't
8 have been affected by the evidence. Nobody could have
9 escaped it, there was going to be a bridge built.
- 10 Q. By the time the ER & D Committee was established, media
11 interest had increased from a high level to a higher
12 level.
- 13 A. Higher level, right.
- 14 Q. The debate about the bridge dispute then took place in
15 the media.
- 16 A. That's right.
- 17 Q. And is still going.
- 18 A. Yes.
- 19 Q. I think the balance of your statement deals with just
20 that topic, doesn't it, the way in which the media
21 followed the dispute, through to the dispute at the site
22 of the construction of the bridge.
- 23 A. Yes.
- 24 Q. Towards the report of Mr Sam Jacobs QC.
- 25 A. Yes.
- 26 Q. And to the present time.
- 27 A. I think those media books that we gave to the Commission
28 earlier and there are tapes of the - video tapes given
29 to the Commission, the audio tapes that we can give,
30 it's just a huge amount of material. It's a vast
31 amount. We couldn't ever say that we have got it all by
32 any means. What we see is only a portion of it.
- 33 CROSS-EXAMINATION BY MR KENNY
- 34 Q. Do you have a copy of your statement in front of you.
- 35 A. Yes.
- 36 Q. Have a look at p.5 of that statement. The 4th to last
37 paragraph you say there, I think you were talking of.
38 Late 1989 `At this time we were not pushing for the

- 1 bridge'. Is that correct.
- 2 A. Yes. Well, late '89, but at that stage it had become a
3 necessity.
- 4 Q. By late 1989.
- 5 A. Yes.
- 6 Q. I understood, in fact, from what you were saying there,
7 that your suggestion really was that a bridge wasn't
8 needed and that a second ferry might - I withdraw that.
9 There was a range of other alternatives.
- 10 A. That is what we were negotiating with the Government,
11 but they said 'No, a bridge is required', which is what
12 I say there.
- 13 Q. To clarify that further, in late 1989, you were
14 negotiating with the Government, what, for the
15 Government to build the bridge.
- 16 A. No. It was a case of what the form of access to the
17 island was, what was being discussed at this particular
18 time.
- 19 Q. It wasn't necessary that at that stage the bridge was
20 going to be built; is that correct.
- 21 A. The Government was saying yes. We were trying to say
22 no.
- 23 Q. I take it that the reason you were saying no is because
24 you would appreciate that the cost of building a bridge
25 would impact significantly on the financial viability of
26 your project.
- 27 A. Well, I gave evidence to that effect. It's a matter of
28 timing, not a case of the principle.
- 29 Q. In late 1989, your main concerns, I suggest - and
30 particularly when looking at the Environmental Impact
31 Statement - your main focus was really on your marina;
32 is that correct.
- 33 A. No. Access came first. If we didn't have access, we
34 didn't have the extension.
- 35 Q. If we can go back to your first meeting with Henry and
36 Jean Rankine at Murray Bridge.
- 37 A. Yes.
- 38 Q. In your evidence, I think you said you did discuss with

1 them the bridge.

2 A. Yes.

3 Q. Can you recall any of the specific conversation you had
4 with them about the bridge.

5 A. As I gave in earlier evidence, we talked about the
6 situation with Signal Point and the bridge.

7 Q. When you say you talked about Signal Point, do you mean
8 you talked about Henry's involvement.

9 A. No. If you remember what I said, it's very clear.

10 Q. Can you perhaps remind us what you said.

11 A. That I talked to him about the situation that the bridge
12 was required, that the Government was saying we had to
13 have a bridge, that we had decided to deflect it to the
14 Crystal Street alignment. Remember me talking about
15 that?

16 Q. Yes. But as I understood, that didn't come until a
17 later time. That wasn't a matter that was raised in
18 your first meeting at Murray Bridge with Henry Rankine.

19 A. I only had one meeting with him.

20 Q. You mean you only had one meeting in 1989 with them; is
21 that correct.

22 A. With Henry Rankine over the issue at this particular
23 time. I talked to Henry Rankine on occasions.

24 Q. You have talked to Henry Rankine.

25 A. Yes, but in the context of this and the evidence that I
26 gave, that was the conversation I had which was in
27 Murray Bridge, and I've told you what we discussed and
28 I've told you why we discussed it.

29 Q. I suggest to you, in fact, at that meeting at Murray
30 Bridge with Henry Rankine there was no discussion about
31 a bridge or the building of a bridge at that time.

32 A. They're your words, they are certainly not mine and that
33 wasn't the case.

34 COMSR Are you suggesting that something was
35 discussed at that meeting Mr Kenny?

36 MR KENNY: No. I'm suggesting to this witness, in
37 fact, that there was no mention of the bridge during
38 that meeting.

- 1 COMSR: Are you suggesting that there was no
2 conversation, or some conversation?
- 3 MR KENNY: No, I'm not suggesting there was no
4 conversation, but simply the conversation revolved -
5 perhaps if I ask the witness.
- 6 XXN
- 7 Q. The conversation, in fact, revolved around your marina
8 development on Hindmarsh Island.
- 9 A. Well, as I think I explained to you before, the access
10 was the number one issue that we had to face. That is
11 what we were talking about.
- 12 Q. Did you make any notes of that particular meeting.
- 13 A. No, not that I have here.
- 14 Q. Did you make any.
- 15 A. Yes, but I don't have them at the moment. No, I don't
16 have them. We have lost them.
- 17 Q. You have lost them.
- 18 A. Well, there's a whole large amount of material went in
19 the consequence of being tossed out by Westpac that has
20 just gone missing.
- 21 Q. Do you recall now what you recorded in those notes at
22 all.
- 23 A. Yes. That we discussed - I have explained to you, I
24 went through it in quite considerable detail this
25 morning what we discussed. You remember Granite Island.
- 26 Q. I'm particularly asking if you remember.
- 27 A. You obviously don't remember. I'm trying to tell you.
- 28 Q. The question I'm asking you is: Do you recall what you
29 wrote in those notes.
- 30 A. Yes, and I've told you this morning.
- 31 Q. Yes, that is what I want to know. Did you make a
32 mention in those notes about discussions of the bridge.
- 33 A. Yes.
- 34 Q. If I can take you to your discussions on the Carmo
35 development. You told us that you believed -
- 36 A. Which page?
- 37 Q. P.10 of your statement. You have told us that Henry and
38 Jean Rankine inspected that site.

- 1 A. Yes, that's what I've been told.
2 Q. Can you tell us who told you that.
3 A. Yes. Alan Jones.
4 Q. Can you tell us who Alan Jones is.
5 A. He lives adjacent to the site. He was an objector to
6 the Carmo development.
7 Q. You state there that you understand that there were no
8 Aboriginal objections.
9 A. That's what he told me.
10 Q. That was from him alone.
11 A. Yes. Well, he told me that there was a group that were
12 very much against the Carmo development as there had
13 been against the Fricker development and they have the
14 Aboriginal people involved to come down and just check
15 the site out. And he went on there then to talk about
16 how the Rankines talked about there were skeletal
17 remains under houses further back on Admiral Terrace
18 going back to the west at the front, and so there was an
19 extensive conversation that I had.
20 Q. I presume he was telling you that on the basis that he
21 understood you also objected to that development.
22 A. Yes, but we objected on totally different grounds.
23 Q. I appreciate that.
24 A. Yes, there were a number of meetings held over that
25 issue.
26 CONTINUED

- 1 Q. At the public meeting on 8 October 1993 at Goolwa I
2 understand you to say that you weren't present.
- 3 A. No, I wasn't present.
- 4 Q. Your comments reported of Henry Rankine are hearsay.
- 5 A. They were given to me in writing by three separate
6 people.
- 7 Q. Can you tell -
- 8 A. It is in the statement.
- 9 Q. You have named three there.
- 10 A. Yes, that is who it is.
- 11 Q. You were told by those three separate people.
- 12 A. Yes.
- 13 Q. Do you have copies of the notes that they gave you in
14 writing.
- 15 A. Not here, but I do, yes. As I understand, one of those
16 people is going to give evidence, is that correct? One
17 of those three. There is one of them coming to give
18 evidence anyway.
- 19 Q. Is that person - can you identify who that is.
- 20 A. Michael jolly.
- 21 Q. Has he asked you for his notes back.
- 22 A. No.
- 23 Q. If I asked for those notes, would you be able to produce
24 them.
- 25 A. Yes.
- 26 MR SMITH: Perhaps my friend could direct those
27 questions to me. I will endeavour to obtain those.
- 28 MR KENNY: Yes, I would seek to inspect those
29 notes.
- 30 MR SMITH: I don't object to my learned friend just
31 pursuing that question of notes. I don't have them. If
32 the witness has got them, then I will take some steps.
- 33 COMSR: I understand that Mr Chapman said that
34 he did have them, but not here.
- 35 MR SMITH: Not here not in Adelaide?
- 36 WITNESS: Not in Adelaide.
- 37 MR MEYER: I will take the matter up with Mr
38 Chapman. And I will fix it up.

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- 1 MR KENNY: I simply seek to inspect the notes. I
2 don't anticipate - they are not notes written by this
3 witness, in any event.
- 4 WITNESS: They only cover this one comment. That
5 is all.
- 6 MR KENNY: In any event, they are not notes written
7 by this witness.
- 8 COMSR: No.
- 9 MR KENNY: I don't anticipate I will have any
10 questions arising out of it. I simply wanted to inspect
11 those notes.
- 12 XXN
- 13 Q. Taking you to p.14 of your statement, you tell us there
14 in the third paragraph that you met with, amongst other
15 people, Robert Day senior.
- 16 A. Yes.
- 17 Q. That was on your subdivision.
- 18 A. Yes, they were introduced to us by Neale Draper.
- 19 Q. They were obviously, at that stage, carrying out an
20 inspection of the area with Mr Draper.
- 21 A. That's correct, yes.
- 22 Q. Pursuant to his enquiries.
- 23 A. They were driving around in a four-wheel drive vehicle.
- 24 Q. I understand, at that time, you had some discussions
25 with them about the work that they were undertaking, is
26 that correct.
- 27 A. Yes, we talked to them. They really were not very much
28 involved in the conversation. It was really Neale
29 Draper that was doing the talking. They came and went
30 through the conversation, as it went on. You know, as
31 you moved around, it was moving from place to place.
- 32 Q. A moving conversation.
- 33 A. Yes, and I think you would probably know what I am
34 talking about better than most people. It is hard to
35 get a definitive fix on somebody.
- 36 Q. During that conversation, did they discuss that
37 essentially they were doing a surface survey, simply
38 seeing what was on the surface in the general area.

- 1 A. Yes, what really surprised us, I suppose, was that they,
2 Neale Draper had told us that the area was cleared,
3 anyway. And then they had come back again, some weeks
4 later. And, bearing in mind that Vanessa Edmonds had
5 also been through the area, on two previous occasions.
- 6 Q. But, in fact, it wasn't entirely clear. They did, in
7 fact, find a couple of sites of significance on your
8 land.
- 9 A. I don't think they were significant. And they had come
10 about through some erosion of the top cover. In one
11 spot.
- 12 Q. When you say that, what you really mean is they became
13 visible and apparent, due to that erosion.
- 14 A. One was a scatter of small shells. So, you know, it is
15 not the sort of thing that you become aware of. You
16 wouldn't notice it. I wouldn't notice it, as such.
- 17 Q. But it may have had significance to Mr Draper and the
18 Aboriginal people with him.
- 19 A. They didn't seem to think it was of - anything of major
20 issue, to the point that they said, well, the thing
21 would be to, I gather, sieve the area and pick up the
22 bits and we would use them in an interpretive
23 demonstration somewhere else on the site, because the
24 area was scheduled to be covered.
- 25 Q. When you speak of the `bits', you mean any artefacts
26 that may have been -
- 27 A. They are not artefacts. They are just little bits of
28 broken shell. Because the area will be just covered, so
29 the thought was it might be worth just sieving the area,
30 picking up the few bits and using them somewhere else,
31 so people generally could understand what an area looked
32 like.
- 33 Q. Was it agreed, at that time, that there would be some
34 form of an interpretive display at some other location
35 around the marina.
- 36 A. I suggested that that was one way of using that sort of
37 material. That I believed people generally, I am
38 talking about the general public, are very interested to

- 1 find out, you know, a history of - or, not history, but
2 the life style of the Aboriginal occupants of that area
3 in previous years. And that it is something in a
4 development that I have proposed for that area, where it
5 is very much a case of trying to make it as Australian
6 as you possibly can. Where you only have native trees
7 and things like that. That, to have an interpretive
8 situation, goes along with that. And it is what I had
9 been involved in in setting up Signal Point. So,
10 whether it was on the marina side or whether it was over
11 at Signal Point was really something that didn't even
12 get discussed, at that time.
- 13 Q. Was there any discussion, at that time, of what might
14 happen to any artefacts, apart from the shells, that may
15 have been found.
- 16 A. There weren't any.
- 17 Q. I am not saying whether there were or there weren't, but
18 I am simply enquiring whether there was any discussion.
- 19 A. No, it was purely a case of these few minor bits and
20 pieces.
- 21 Q. I think you said they returned to the site on a later
22 occasion, as well, is that correct.
- 23 A. Yes, I don't know whether it was the same people, but -
24 and I think they made another visit. I am not sure of
25 the date now. But, yes, there was one.
- 26 Q. You didn't speak to them on that occasion.
- 27 A. No.
- 28 Q. But you did observe them on the marina area, is that
29 right.
- 30 A. Yes, I was aware of them.
- 31 Q. Did you take some photographs of them on that day.
- 32 A. Not to my knowledge. In fact, I was only aware of the
33 vehicle going past the marina building. I didn't see
34 them, at any other time. But, you know, we would get
35 something like 200 or 300 vehicles a day go past there
36 during the selling time. So, who was there and who
37 wasn't there, often you wouldn't have the faintest idea.
38 When people came and when they didn't, I wouldn't know.

- 1 So, it is a bit like saying 'Who did you see in Rundle
2 Mall today?'
- 3 Q. On 26 April 1994, that was your date of your meeting
4 with Matt Rigney and others.
- 5 A. Yes.
- 6 Q. At North Adelaide. Do you recall that.
- 7 A. Yes.
- 8 Q. On p.17 of your statement you indicate that Matt Rigney
9 advised you that the issues were to do with Aboriginal
10 women.
- 11 A. Yes, that prompted me to ring the next day to Rod Lucas.
- 12 Q. Mr Rigney, I take it, mentioned to you something about
13 the relevance of the shape of the island, is that -
- 14 A. Yes, it was the outline, okay, shape, yes, I suppose it
15 means the same.
- 16 Q. Or outline.
- 17 A. Yes.
- 18 Q. Simply your statement says 'the shape'.
- 19 A. Yes.
- 20 Q. So, he, in fact, said something about the outline of the
21 island.
- 22 A. Yes.
- 23 Q. Did he say that that was the only issue that was
24 involved.
- 25 A. It rather confused the issue when he spoke about the
26 smoke, you know, the trees, or the burial trees.
- 27 Q. But did he talk about any other women's issues.
- 28 A. He just said that there was women's issues involved in
29 it and it related to the shape of the island. And then
30 he made the comment of the tree burials. That was in
31 the context of a reasonably long conversation over a
32 large number of issues of which some of them are
33 related in that statement.
- 34 Q. But -
- 35 A. They were the main issues.
- 36 Q. He made it clear to you that the women's issue was of
37 some significance.
- 38 A. It obviously played a significant - it was significant

- 1 in his mind, at that stage. It certainly wasn't
2 significant in my mind. It hadn't got to that point.
- 3 Q. I appreciate that, but what I am saying is it certainly
4 appeared to you -
- 5 A. Look, he mentioned it with no great height or depth or
6 whatever the term is than the tree burials. So, you
7 could now say he was having a bet both ways,
8 archaeologically and anthropologically.
- 9 Q. Did you get the feeling there was more than one issue to
10 do with Aboriginal women.
- 11 A. No, he didn't mention it.
- 12 Q. You didn't quiz him further on that point.
- 13 A. No, I didn't see it as an important issue.
- 14 Q. At that time.
- 15 A. At that time, yes.
- 16 Q. You would, of course, concede that it has become an
17 important issue since then.
- 18 A. In the mind of some people, but I don't think everybody.
19 I think you can tell my thinking, at that time, was very
20 clearly on both sides, because I rang our consultant
21 anthropologist and our consultant archaeologist after
22 that conversation. So, I was obviously clearly thinking
23 it was - could have been either issue.
- 24 Q. On 27 April again you had a meeting. This time with
25 Henry and Jean Rankine and the Mileras.
- 26 A. Yes.
- 27 Q. The question of women's issues was certainly raised
28 again, at that stage, wasn't it.
- 29 A. I don't think so, on those terms. It was raised by
30 Sarah in terms which could have meant anything.
- 31 Q. But she was - it would be fair to say that -
- 32 A. Could I have a look at that exhibit? Because that uses
33 the terms in there that she used.
- 34 COMSR: What exhibit are we referring to?
35 XXN
- 36 Q. I think you repeat it on p.18 of your statement, if you
37 want to look that the -
- 38 A. Yes, right down the bottom, yes. She was using terms as

- 1 I set out in there that `from within', `the history
2 hasn't been written yet', `still learning about it',
3 `the bridge was taboo for some big special reason'. And
4 `It is more than meets the eye.' They were quotes that
5 she was making, but it certainly didn't seem to me that
6 it was an issue of women.
- 7 Q. You didn't appreciate, at that stage, that what she may
8 have been talking about was an issue concerning what you
9 might call women's business.
- 10 A. No, I still very clearly had the impression that they
11 were talking about skeletal remains on the line of the
12 bridge. Because later on she was talking about how she
13 taught Draper everything, which was obviously a
14 reference to skeletal and those sort of issues,
15 archaeological issues. Then she talked about the sword,
16 which was the piles into the bed, which, once again, I
17 took as I previously had with the Joy Harvey issue that
18 it was piles through skeletal remains.
- 19 Q. Again, that was your interpretation of what her comments
20 there -
- 21 A. Yes, but bear in mind I am not an archaeologist or an
22 anthropologist either.
- 23 Q. Turning to p.19 of your statement, in the middle of the
24 page there you refer to the meeting between the local
25 council, Matt Rigney and members of the Lower Murray
26 Aboriginal Heritage Committee.
- 27 A. Yes.
- 28 Q. You said you sought from the Council and obtained a copy
29 of the minutes of the meeting.
- 30 A. That's right.
- 31 Q. You haven't seen a copy of those minutes, though, is
32 that correct.
- 33 A. Yes, but I have got the set that you have got in the
34 minutes. They are the same date, I think, but not the
35 long, comprehensive ones. I haven't seen those.
- 36 Q. It is the long, comprehensive ones.
- 37 A. No, I haven't seen the long, comprehensive ones.
- 38 Q. You have had a copy I think.

- 1 A. Of an abbreviated version of them.
2 Q. This abbreviated minutes of that meeting, can you tell
3 us where you got those from.
4 A. As I say, I got them from the Council.
5 Q. You don't know who kept them or who wrote them out.
6 A. No.
7 COMSR
8 Q. What, the Council minutes.
9 A. The notes of the meeting.
10 XXN
11 Q. The notes of the meeting, were they written out by the
12 Council, is essentially what I am asking.
13 A. The Council.
14 Q. You understood they were written by the Council.
15 A. Yes, and I don't think anybody would dispute that that
16 is what it was.
17 Q. The longer, handwritten notes that were presented to
18 you, you told us you hadn't seen them before.
19 A. No, I hadn't seen those, no.
20 Q. Are you aware of what they were, whether they were the
21 long, handwritten notes of that particular meeting.
22 A. I haven't seen them.
23 CONTINUED

- 1 Q. You have told us that you were aware of what has become
2 known as the Mouth House meeting.
- 3 A. Yes.
- 4 Q. Can you tell us who told you about that.
- 5 A. Doug Milera told me.
- 6 Q. But you had heard of it before that.
- 7 A. Yes. It had been circulating around, and I had become
8 aware of it. Exactly how or what, I don't know without
9 looking to my records, which I don't have here.
- 10 Q. Before you spoke to Doug Milera, what did you believe
11 had occurred at that meeting.
- 12 A. Well, I was pretty aware that what he said was -
- 13 Q. I am asking you what you were aware of before you spoke
14 to Doug.
- 15 A. I was aware that there had been a meeting held at the
16 Mouth House, that the issue of - that it had been
17 discussed, that he had pointed to a map apparently. I
18 was pretty aware - there was nothing new that I learnt
19 from Doug Milera, put it that way, at that particular
20 time.
- 21 Q. Were you aware of any of the statements of Dorothy
22 Wilson at that time.
- 23 A. Whether I was aware of them then or after, I'm not sure
24 at the moment. I would have to research our records.
25 You have got to understand, we got barraged with so much
26 material on this issue that, for you to ask a particular
27 question, it is very difficult to isolate like that.
- 28 Q. You mean it is very difficult for you to isolate when a
29 particular piece of knowledge came -
- 30 A. Came into being, yes. Bear in mind too, it has come
31 from two or three different sources possibly and,
32 therefore, which is the first one? I can't -
- 33 Q. I was simply seeing if you could clarify that point.
34 Before Doug spoke to you, did you think that he was the
35 person who fabricated or suggested a fabrication of the
36 women's issues.
- 37 A. I think it would be fair to say that it was a case of
38 putting a big jigsaw together at that stage, and whether

1 he was part of that or not part of it, totally involved
2 or, you know, whatever, I cannot tell you now how I saw
3 him on that particular day.

4 Q. But I would suggest to you, in fact, that his statements
5 to you at the hotel were very significant to you
6 because, for the first time, you would have had
7 first-hand evidence of a fabrication.

8 A. I think, in answer to that, had that been the case, they
9 would have been noted in my notes, whereas I tended to
10 note other issues that I saw at the time as being more
11 important. I saw it probably a case of him - you know,
12 that was reinforcing what I knew.

13 Q. But I suggest to you it would appear from what you have
14 told us, that he is the one providing you with what may,
15 if it was true, be damning evidence against,
16 particularly, the Lower Murray Heritage Committee, and
17 Tim Wooley.

18 A. He, at that stage, I think was reinforcing material that
19 I was already aware of independently, and just
20 reinforcing the issue. He didn't tell me anything that
21 was new to me at the time, and he didn't tell me
22 anything that broke down other information that I had.
23 He reinforced it.

24 Q. But, at the same time, I suggest to you that is really a
25 critical piece of information, if it was in fact true.
26 Would that be fair to say.

27 A. It was reassuring to hear him say that, because it
28 confirmed what I already knew.

29 Q. But, if what he said was actually true, it would be the
30 first time you could produce some proof -

31 A. Put two parts of a jigsaw together.

32 Q. Yes.

33 A. Yes.

34 Q. I understand at this stage you were already, I think you
35 have said, involved in the Federal Court hearing.

36 A. Yes, that's right.

37 Q. But, despite all of that, as you have pointed out to us,
38 you have made no mention of that in your notes.

- 1 A. Because there were - to my thinking at the time, there
2 were more important issues that I needed to note down,
3 apart from the fact that I was well aware that he was
4 reinforcing what I had already been told. Back in
5 August last year we knew that there were people
6 dissenting, Aboriginal women saying that it had been
7 fabricated. So I think you have got to see it from our
8 perspective, which was probably very different to other
9 people's. We already then - in November we had another
10 senior Ngarrindjeri woman come out in the media and tell
11 us, that we came across. So you might see it as
12 important at that time, but certainly I think in our
13 perspective it was seen as just confirming already
14 information that was well known to us.
- 15 Q. I think you have given us evidence that Doug owed Frank
16 Tuckwell \$50 at the time he spoke to you.
- 17 A. Yes.
- 18 Q. Did he say he had any other debts.
- 19 A. No.
- 20 Q. He did ask you for some money, as you have told us, just
21 before you left.
- 22 A. He didn't ask me.
- 23 Q. In your notes you said on the second page 'When we left
24 the tavern, Doug asked if we ' -
- 25 A. No, he asked Wendy.
- 26 Q. He actually asked Wendy. He didn't ask -
- 27 A. Yes. That's the royal 'we'.
- 28 Q. Had you spoken to Doug about money before.
- 29 A. No.
- 30 Q. But it was quite clear to you, I take it, that he had no
31 money.
- 32 A. No, he made it clear. I asked him 'What clothes have
33 you got? What do you want to do?' because he suddenly -
34 as I told you earlier, he wanted to go down to Adelaide.
35 I said 'How are you going to get there? You need some
36 clothes and things like that.' He said 'Don't worry
37 about that', he was self-contained. He said 'I have
38 done it before, and I don't mind doing it again. I will

- 1 go out and live on the street, if necessary.' It was a
2 case of what -
- 3 Q. Was there some expectation that he expected you to drive
4 him to town or some suggestion of that.
- 5 A. No, as you know, I wasn't about to do that.
- 6 Q. Did you make that clear to him, that you weren't going
7 to drive him to town.
- 8 A. It didn't get to that point.
- 9 COMSR
- 10 Q. When you talk about money, is this the \$5 for
11 cigarettes.
- 12 A. Yes, that Wendy gave him.
- 13 XXN
- 14 Q. Did Doug say anything to you about him owing rent at
15 Goolwa or having financial difficulties.
- 16 A. No.
- 17 Q. I think you said in your evidence that he was giving you
18 lots of little grabs.
- 19 A. Yes.
- 20 Q. It appears from your notes that the conversations jumped
21 from one topic to another.
- 22 A. Yes.
- 23 Q. Is it fair to say, during his discussion with you, he
24 appeared to be continually jumping from topic to topic.
- 25 A. He certainly jumped around, yes. He was in a nervous,
26 agitated state of mind, I believe, as to how he was
27 going to meet with his peers.
- 28 Q. I think you said he wanted to go to Adelaide and meet
29 with some people. Did he say who he wanted to meet
30 with.
- 31 A. Yes, I told you that in the evidence. It is in there
32 somewhere.
- 33 Q. That is Don Smith and Matt Rigney.
- 34 A. That's right. I don't know who Don Smith is. That
35 means nothing to me, but means something to you, does
36 it?
- 37 Q. Did he say to you why he wanted to ring Allan Campbell.

- 1 A. No, but he was keen to, and he had his phone number, so
2 I gave him the phone. Then he rang Allan's brother
3 John, Johnny Campbell.
- 4 Q. Did he say to you anything about what those
5 conversations were about.
- 6 A. No. He had them - he went out of the room and had them
7 on what you would probably call the sundeck, overlooking
8 the ocean. So Kym and I were not party to what they
9 were talking about. We made it our business not to be
10 near him, to pressurise him, or do anything.
- 11 Q. The next day when you went to Gary Kropinyeri's place -
12 A. Yes.
- 13 Q. How long did you stay there.
- 14 A. Ten minutes, I suppose, at the most.
- 15 Q. Did you make any observations of Doug on that occasion.
- 16 A. No. I went there, introduced him to Roger Searle, and
17 he told me that he had gone over there late that night,
18 and I don't know what he had been up to.
- 19 Q. Prior to that -
- 20 A. I made my - you know, went in, did what I was going to
21 do, and got out just as quickly as I could. I wasn't
22 there to talk.
- 23 Q. Did he look like he had a hangover.
- 24 A. I would say that he had been drinking, yes, but whether
25 that was because he hadn't slept, or hadn't anything to
26 eat or anything else, I really couldn't say.
- 27 Q. But he looked to you like he could have been drinking.
- 28 A. He could have been drinking, but whether it is caused
29 through drink, lack of sleep or anything else, I'm not a
30 doctor, I couldn't tell you.
- 31 Q. Did you smell alcohol on his breath.
- 32 A. No. On the other hand, I didn't get close enough to
33 find out.
- 34 Q. This morning you gave evidence of a meeting, or a call,
35 if I remember, that was made by Matt Rigney and I think
36 you also suggested Victor Wilson, that Westpac should
37 withdraw funding.
- 38 A. And Doug Milera. There were three of them.

- 1 Q. I take it the effect of your evidence was that those
2 three people were pressuring Westpac to withdraw funding
3 from your project.
- 4 A. Yes, and that's been confirmed by - on three different
5 occasions to us.
- 6 Q. I think your suggestion really is that, as a result of
7 that, and without any commercial reason, Westpac then
8 put the receivers in.
- 9 A. That's correct, together with the support from CMFEU and
10 the Conservation Council, too. It wasn't just those
11 three, but I am sure they played a very significant role
12 in it.
- 13 Q. Did you attend any of the court hearings in relation to
14 the application to appoint receivers.
- 15 A. Yes.
- 16 Q. Would it be fair to say you attended all of them.
- 17 A. No, I don't think so.
- 18 Q. But you were well aware at all times what was happening
19 in those court proceedings.
- 20 A. I don't think - I am not a legal person, so how could I
21 say I was aware of it?
- 22 Q. I am not asking you whether you were aware of all of the
23 legal implications, but some of the factual
24 implications.
- 25 A. Yes, I was concerned that Westpac's barrister made the
26 statement that we hadn't paid any money to Westpac
27 during the preceding year, when in fact we had paid
28 them, I don't know, 3 or \$4 million, and there were wild
29 errors in fact.
- 30 Q. In fact, that is reported in an 'Advertiser' article of
31 12 April 1994, which was -
- 32 A. And it wasn't corrected the next day.
- 33 Q. Document number 12 in Exhibit 105.
- 34 COMSR: We have traversed this ground, but I take
35 it it is leading up to something to do with the parties
36 you represent, this line of questioning, is it?
- 37 MR KENNY: Yes. This witness is suggesting that
38 one of my clients put pressure on Westpac and, as a

1 result of that, they put the company into liquidation.
2 I just wanted to correct that impression.
3 COMSR: I understand the part leading up to the
4 court proceedings, but we have now got onto the court
5 proceedings.
6 CONTINUED

- 1 MR KENNY: That is where most of the evidence comes
2 out as to why Westpac undertook the course of action
3 they did. To clarify the situation, I will ask this
4 question.
- 5 XXN
- 6 Q. I take it that you read that article of 12 April 1994 in
7 the Advertiser.
- 8 A. Yes.
- 9 Q. If I can also quote from that article, that's document
10 12 of Exhibit 105, in the middle of the second
11 paragraph: `Westpac's lawyer Mr Bruce Lander QC is
12 quoted as saying "For months now the plaintiffs Binalong
13 have been on notice that they must refinance and must
14 repay their debt and they simply have not done it
15 because they can't do it", he said. He went on to say
16 "It is a fact that these companies Binalong and the
17 subsidiary The Marina Services Pty Ltd are terminally
18 ill and their call for life is coming to an end".
- 19 A. Yes. That was totally wrong, of course.
- 20 Q. You are saying that there was no request from Westpac
21 that you refinance your debt.
- 22 A. No. Westpac asked us to refinance and asked us some
23 years before to refinance. They knew as well as anybody
24 else that until we had the bridge under way, we couldn't
25 refinance. And that was what I said this morning.
- 26 Q. You do admit that you had been asked to refinance.
- 27 OBJECTION Mr Meyer objects.
- 28 A. You have to understand that Westpac were more than happy
29 to stay there until they got the pressure. Their
30 position changed dramatically when that happened and
31 didn't tell us what was going on and couldn't tell us.
- 32 Q. Mr Lander is quoted as saying `Westpac told the Chapmans
33 last November to actively pursue the sale of the marina
34 development by November'. I presume that is November
35 1993.
- 36 A. And Westpac were aware that that couldn't be done until
37 the bridge was under way at that point of
38 acknowledgement.

- 1 Q. Westpac had asked you to actively pursue the sale of the
2 development.
- 3 A. No. When it was ready to refinance, that is what they
4 asked for, which we took steps to do but couldn't get
5 anywhere because of the adverse publicity of the bridge.
- 6 Q. In that article, it's also stated that `Binalong's
7 lawyer, Mr David Meyer, accused Westpac of succumbing to
8 public lobbying by groups that have acted illegally and
9 improperly'.
- 10 A. That's right.
- 11 Q. Despite those submissions by Mr Meyer, Justice Matheson
12 refused to grant your injunction.
- 13 A. That's correct.
- 14 Q. Essentially, he found that there was no reason to
15 support an injunction, despite what you say.
- 16 OBJECTION Mr Meyer objects on the ground that the
17 witness is being asked to interpret the
18 judge's decision.
- 19 OBJECTION UPHeld
- 20 Q. In fact, on 14 April 1994, again in the Advertiser,
21 there was another article, this time by the receivers,
22 and it's an article in Exhibit 105. There, it is
23 quoted, just to clarify the point: `On the 15th of
24 December, Westpac asked Binalong to actively explore the
25 sale of the development' - no, sorry `Explore sale of
26 development by December 15, 1993'; is that correct.
- 27 A. Yes. But proceedings, things, had continued on when
28 they realised that the bridge was going to start. They
29 hadn't pushed us at all.
- 30 Q. That article of the 14th of the 4th, 1994, in the
31 Advertiser goes on to say: `Westpac offered to give the
32 Chapmans until February 28th to refinance its loan from
33 PPL. The offer was not accepted'.
- 34 A. The offer was not accepted but no-one would refinance us
35 until the bridge got under way. This is going around in
36 a circle. I don't know where you are going?
- 37 Q. There was continuing pressure by Westpac for you to
38 refinance your loan or sell the development so that you

- 1 could repay the moneys that were due and owing to
2 Westpac.
- 3 A. I don't think that that was any different to 1989. We
4 had a very good relationship with Westpac until that
5 last month when the pressure was brought to bear.
- 6 Q. What I suggest to you, in fact, is that your
7 relationship with Westpac was deteriorating.
- 8 A. No, it wasn't.
- 9 Q. There were sound commercial reasons for Westpac
10 appointing receivers to Binalong Pty Ltd.
- 11 A. Absolutely none, not with the bridge starting the next
12 week. Absolutely illogical.
- 13 Q. Even with the bridge, I suggest that you would have had
14 the -
- 15 A. How would you know if you don't have privy to the
16 valuations and other material that are necessary to put
17 together a financial presentation? You really wouldn't
18 know. And what you are doing is picking up media
19 speculation that is totally false.
- 20 Q. If I refer to another report of the Advertiser of the
21 8th of the 8th, '94, this is document 66 in Exhibit 105.
22 It suggested there that: `The company Binalong Pty Ltd
23 had been liquidated with debts of more than 20 million
24 dollars'.
- 25 A. That is my very point. You don't know what the
26 valuation of the assets of the company are. That is
27 just a meaningless statement.
- 28 Q. Have any reports been issued by the liquidators as to
29 the assets of the company.
- 30 A. No, not that I'm aware of. And that's meaningless. If
31 you don't have a bridge, you don't have any value, so,
32 once again, that is not getting us anywhere. All that
33 proves is that we have a major claim against somebody.
- 34 Q. It also suggests that: `Acting Judge Boehm in the
35 liquidation of Binalong Pty Ltd said "That Binalong was
36 hopelessly insolvent", and that was as at 8 August
37 1994.
- 38 A. Yes, that is after the bridge had been stopped. So,

- 1 therefore, the asset was entirely valueless. So, all
2 that proves is that we have a mammoth claim against
3 probably other people, including yourself - your clients
4 I mean.
- 5 Q. I take it that you are not suggesting a claim against
6 me.
- 7 A. No, I will let you off the list. A slip of the tongue.
8 I think I made it very clear that in the sequence of
9 events, what happened caught us in a movement of two
10 ways which were moving against us, stopping us from
11 refinancing and/or doing anything with the property. It
12 was just driven into the ground. And there has also
13 been evidence that other people were well aware of
14 values of property generally on the island have been
15 diminished significantly, so.
- 16 Q. I'm not denying or suggesting that you didn't lose
17 significant funds of your own.
- 18 A. But to say the company was insolvent through that is
19 just silly and extreme in my view and comes about
20 through people not understanding the circumstances of it
21 at all.
- 22 Q. If we can just follow up on that question of
23 compensation. As I understand it at the moment, the
24 company has not finally been wound up; is that correct.
- 25 A. That's correct, yes.
- 26 Q. It hasn't sold the marina assets.
- 27 A. No.
- 28 Q. That is still unsold.
- 29 A. The logic of the whole thing is to get the compensation
30 and pay the liquidator out and go straight back in
31 again.
- 32 Q. The claim for compensation is a claim by Binalong Pty
33 Ltd.
- 34 A. All the other companies and ourselves privately. Don't
35 forget that Binalong was the owner of the property.
- 36 COMSR: I am puzzled how this is going to assist
37 me to follow up this line of examination?
- 38 MR KENNY: It's right, that's of marginal

1 relevance. But, in my opinion, it does concern me that
2 this witness is suggesting that one of my clients has
3 caused his financial demise.

4 COMSR: I think you have taken that aspect as
5 far as you can. Now to follow it up and speculate to
6 what might or might not happen in the future, it's not
7 going to assist me to determine any question of
8 fabrication.

9 MR KENNY: I will take the questioning no further.

10 XXN

11 Q. During the digging of your marina and the general
12 excavation works in the area, were any skeletal remains
13 found by you or any of the contractors employed by you
14 or the companies.

15 A. I covered that in evidence.

16 COMSR: I thought the witness told us about
17 that.

18 XXN

19 Q. I'm seeking a final confirmation on that.

20 A. I said I covered it in evidence this morning. My
21 position hasn't changed. We haven't dug anything more
22 since this morning.

23 Q. You are saying that you didn't find -

24 A. We didn't find anything.

25 NO FURTHER QUESTIONS

26 COMSR: Would there be any further
27 cross-examination of this witness?

28 MR MEYER: I have some brief questions of him. I
29 take it that he would be here tomorrow morning and that
30 is as convenient a time as ever.

31 MR SMITH: Before you rise, the transcripts of
32 those two video cassettes that were put in the day
33 before, Friday I think, late. The Ray Martin interview
34 with Doreen Kartinyeri and the Sandra Saunders'
35 interview was marked Exhibit 171, I think. I've handed
36 to your clerk a copy of the transcript. Could I suggest
37 that they be marked 171A.
38

1 VIDEO CASSETTES OF RAY MARTIN INTERVIEW WITH DOREEN
2 KARTINYERI AND SANDRA SAUNDERS TO BECOME PART OF EXHIBIT
171 3 AND BE MARKED 171A
4 MR SMITH: Then, the Channel 10 interview, the
5 interview of Doreen Kartinyeri of 7 July 1995 which is
6 Exhibit 153, I've handed to your clerk the transcript of
7 that and I ask that it be marked 153A.
8 TRANSCRIPT OF CHANNEL 10 INTERVIEW OF DOREEN KARTINYERI
HELD 9 ON 7 JULY 1995 TO BECOME PART OF EXHIBIT 153 AND BE MARKED
10 153A.
11 MR MEYER: We have prepared a transcript of, if it
12 becomes relevant, the 7.30 Report of last night and have
13 handed a disk of that to Miss Simpson. If that is of
14 any assistance to the Tribunal for checking and
15 reproducing.
16 MR SMITH: I have got that.
17 ADJOURNED 4.30 P.M. TO THURSDAY, 28 SEPTEMBER 1995 AT
18 10.15 A.M.

1 COMSR STEVENS

2

3 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

4

5 THURSDAY, 28 SEPTEMBER 1995

6

7 RESUMING 10.22 A.M.

8 NO CROSS-EXAMINATION BY MR MEYER

9 RE-EXAMINATION BY MR SMITH

10 Q. In going through the chronology of events, there was a
11 telephone call between yourself and Henry Rankine on 20
12 April 1994, is that correct.

13 A. That's correct, yes.

14 Q. We didn't deal with that in your evidence, did we.

15 A. No.

16 Q. Not in detail, in any event. That came, just to put it
17 in context, at a time when negotiations were occurring
18 between your solicitors, on your behalf, and people like
19 Matt Rigney and the Aboriginal interests. Is that
20 right.

21 A. That's correct. We were trying very hard to find out
22 who we should speak to and try and get a discussion - at
23 least a dialogue going.

24 Q. So 20 April was a prelude, for instance, to the meeting
25 you had, first of all, with Matt Rigney at North
26 Adelaide on the 26th.

27 A. Yes.

28 Q. And then on the next day with David Rathman, the Mileras
29 and the Rankines at DOSA.

30 A. That's correct, yes.

31 Q. Can I take you then, just to complete the picture, to 20
32 April 1994. You made a telephone call to Henry Rankine.

33 A. I made a telephone call to Henry Rankine, and I believe
34 he rang me back. He wasn't available at the time. He
35 rang me back a little later in the day and we had a
36 conversation. The important part of the conversation, I
37 guess, was I was keen to get a meeting going with Henry
38 and anybody that he believed that we should meet with.

1 He said that he felt that it was important that we met
2 with himself, Victor Wilson and Matt Rigney, and then he
3 went on to say that, however, he didn't believe that
4 Victor Wilson would meet with us because of litigation.
5 I then explained to Henry Rankine that that was a
6 totally separate issue, nothing to do whatsoever with
7 our negotiations that we would have with Henry and other
8 Aboriginal males. I explained that that was tied up
9 very much with people who were trying to stop the bridge
10 and stop finance to us. He said he would discuss the
11 matter, and that was the last I heard of it. And then,
12 at the same time, Steve Palyga, of course, was having
13 discussions through Mr Walsh, and we finally ended up
14 with a meeting on the 27th. Out at the meeting on the
15 27th there was one other point that I think is worth
16 recording - is that I rang Wendy after that meeting of
17 the 27th, because she was at Goolwa and I was in
18 Adelaide after the meeting, and one of the points that I
19 made, that I haven't brought out before, was that Matt
20 Rigney was keen to say that the scale of the bridge
21 concerned him because you could see burial sites from
22 the bridge.

23 Q. As at 20 April, what was the litigation that was in
24 train.

25 A. It was the injunctions that we had obtained in the
26 Federal Court under the 45D's of the Trade Practices
27 Act.

28 Q. Against the picketers.

29 A. Against the picketers.

30 Q. None of those injunctions were against Aboriginal
31 people, were they.

32 A. No, absolutely not.

33 Q. Via Henry Rankine, Victor Wilson expressed concern that
34 he wouldn't meet with you.

35 OBJECTION Mr Kenny objects.

36 MR KENNY: I don't think it is a matter of `via'.

37 This is simply the witness giving evidence of hearsay
38 now. I don't think my friend can express it in terms of

1 Victor was actually expressing concerns about the
2 litigation. This witness doesn't know. All he can
3 report, at best, is hearsay information that was given
4 to him, and I don't think it should be couched in terms
5 of Victor was expressing -

6 COMSR: I am not excluded from taking hearsay
7 evidence. The weight to be attached to it, of course,
8 is a separate issue.

9 MR KENNY: The other thing is it also appears to me
10 that what has happened here is this witness has said
11 that Victor - Henry Rankine said that, if I remember it
12 correctly, he didn't think that Victor Wilson would
13 speak to him because of the litigation. He didn't say.
14 That he wouldn't, and he didn't say that Victor Wilson
15 said anything to Henry Rankine. Henry Rankine is purely
16 expressing an opinion. So I object to it being put on
17 the basis that Victor Wilson was expressing an opinion.
18 It is not Victor Wilson's opinion. It is Henry
19 Rankine's.

20 COMSR: You better lay a foundation.

21 QUESTION WITHDRAWN

22 REXN

23 Q. Could you tell us what Henry Rankine said to you about
24 the current issue of the litigation.

25 A. Yes. He made it clear that Victor Wilson would not
26 speak to me because of the litigation that was pending
27 under the 45D's. He didn't say 'the 45D's', but that's
28 what he meant. He gave me Victor Wilson's phone number
29 to see if I could make some progress directly with him,
30 because he was clear that Victor Wilson wasn't going to
31 meet with us, and Victor Wilson didn't meet with us.

32 Q. Did you use the phone number.

33 A. No.

34 Q. Did you chase up -

35 A. I tried on one occasion, and I didn't get anywhere and
36 events overtook it.

37 Q. There is one topic that I started with you, but didn't
38 complete because we obviously moved onto something else

- 1 before I completed it. You told us that you arrived at
2 the Middleton Tavern at about quarter to 4, is that
3 correct, in the afternoon of 5 June.
- 4 A. That's my assessment.
- 5 Q. And you told us that you left some time after 7 p.m.
- 6 A. And once again, that's an assessment. I can't be exact
7 on that. The arrival time is more accurate than the
8 departure time, but it was certainly dark and had been
9 for some little time.
- 10 Q. At the time you left.
- 11 A. At the time I left, that's correct.
- 12 Q. When you arrived at about quarter to 4, you told us that
13 you saw Denver and Doug Milera seated in the tavern,
14 together.
- 15 A. Yes, in the south-eastern quadrant of the -
- 16 Q. Milera was drinking a stubbie of beer.
- 17 A. That's correct.
- 18 Q. You sat down and joined, as it were, the two men.
- 19 A. That's correct.
- 20 Q. And conversation then ensued.
- 21 A. Yes.
- 22 Q. I began to ask you about the topic of Milera's sobriety
23 at that stage, but we didn't explore it in any detail.
24 Can you tell us the state of his sobriety as at the time
25 of your arrival at the tavern at quarter to 4 or
26 thereabouts.
- 27 A. I would say that there was nothing wrong with it
28 whatsoever. He was definitely agitated and worried and,
29 I think that is shown by the steps he was trying to take
30 to communicate with various people, how he could get to
31 town, that is to Adelaide, to talk to people that he
32 believed were important. That seemed to be highest on
33 his mind, and I don't believe his speech was any
34 different to the speech that he was using - or I
35 remember him using on the meeting of 28 April, whenever
36 it was, in David Rathman's office. He has a particular
37 type of slow speech.

1 Q. In your experience of life generally, you have seen
2 people drunk, sober, and in intermediate stages, would
3 that be right.

4 A. That's a leading question, isn't it? I'm not that type
5 of person. I don't believe he was affected by alcohol
6 at all.

7 Q. What about as the afternoon progressed and, in
8 particular, when you and Milera parted company after 7
9 p.m. at the Middleton Tavern.

10 A. I don't believe there was any difference in that state
11 at all. He was not affected by alcohol, I believe, at
12 all. He was, however, nervous.

13 Q. I think you provided the commission with a number of
14 photographs which I failed to put to you yesterday. I
15 would like to do that now and get them into evidence.
16 Looking at this bundle produced to you, marked 1 to 8,
17 would you deal with them one by one and tell us what
18 the.

19 A. Photograph number 1 - and these are all taken, I
20 believe, on the 9th of this month - is a close-up
21 photograph of the original bridge between Hindmarsh
22 Island and Mundoo Island, showing it in the form it is
23 today, with the earthworks on the right-hand side and
24 the timber piling and the main bearers still left in
25 place, and in the distance is the existing works of the
26 barrage. Photograph 2 is of the same structure, but
27 taken further away, giving its length and showing the
28 east and the west causeways to it - or embankments to
29 it. Photograph 3 was in fact taken a month earlier, but
30 it is an aerial photograph of the same structure showing
31 it is in tact from side to side. It was last used, I
32 believe, by vehicles in 1955 when Mr Peter Grundy drove
33 a tractor across which fell through part of it, and
34 after that time it was not used commercially.
35 Photograph 4 is an aerial photograph, not as well
36 focused, but of the same structure. Photograph 5 the
37 same. 6 is another aerial photograph looking back
38 across Hindmarsh Island. Photograph 7 is taken from the

T.L. CHAPMAN REXN (MR SMITH)

- 1 sea looking north, an aerial photograph showing the
2 current barrage in the middle ground, and immediately
3 beyond that, the structure of the original - what was a
4 Hindmarsh Island/Mundoo barrage and bridge structure.
5 And photograph number 8 is a structure which joins
6 Hindmarsh Island to Lucerne Island with Mundoo Island in
7 the background.
- 8 EXHIBIT 180 Bundle of 8 photographs tendered by Mr
9 Smith. Admitted.
- 10 Q. Would you come out of the witness box for a moment, and
11 by reference to Exhibit number 80, which is the map on
12 the wall here, would you first of all indicate the
13 Mundoo barrage.
- 14 A. This is the Mundoo barrage here, marked 2 (INDICATES).
- 15 Q. And then the Mundoo bridge which is primarily the
16 subject of those photographs, 1 to '.
- 17 A. That's right, it's marked 'Old barrage' and it is
18 clearly marked on the map (INDICATES).
- 19 Q. The Lucerne Island bridge.
- 20 A. That is shown just here (INDICATES). It is shown 'Ford'
21 there, but it is in fact now a bridge structure.
- 22 Q. Is Lucerne Island actually an island as shown there on
23 Exhibit 80.
- 24 A. Yes, this part is, yes. I think that's actually the
25 structure there (INDICATES).
- 26 Q. Yesterday you took exception to something in Deane
27 Fergie's report which was geographically incorrect.
28 Would you please demonstrate that to us.
- 29 A. Yes. In Deane Fergie's report she talks about Hindmarsh
30 Island is separated or mediated from Mundoo Island by
31 the waters of the Goolwa channel. If you look at this
32 map, it clearly says the Goolwa channel - as does every
33 other one - comes to here, and then you start from the
34 other side of the mouth, the Coorong channel. It is
35 clear that Goolwa channel doesn't reach Mundoo Island.
36 What, in fact, separates the two islands is called - on
37 the sea side, the salt water side, is commonly referred
38 to as the Mundoo channel. On the fresh water side it is

2964

RF 38A

- 1 commonly known as Holmes Creek, and they are clearly
- 2 identified on that map, and I would imagine on that
- 3 (INDICATES OTHER MAP), and certainly on the navigation
- 4 maps - charts.
- 5 NO FURTHER QUESTIONS
- 6 WITNESS RELEASED

- 1 MR MEYER: Whilst my friend is getting ready to
2 call his next witness, it seems to me it might be useful
3 for the commission to know which counsel appear on
4 certain days. I have no idea if you have some system of
5 keeping a roll.
- 6 COMSR: A record has been kept. I haven't asked
7 counsel to announce themselves each day.
- 8 MR MEYER: It only occurs to me because Ms Pyke
9 wasn't here yesterday afternoon and hasn't been here
10 today. I have no idea whether she had any interest in
11 cross-examining Mr Chapman at all. She has
12 cross-examined other witnesses. It may be relevant to
13 note it, if you are happy noting it.
- 14 COMSR: I understand we have been noting who is
15 here, not noting who isn't specifically.
- 16 MR MEYER: That achieves the same end.
- 17 COMSR: Yes, that achieves the same purpose. I
18 take it Ms Pyke has been notified in any case of -
- 19 MR SMITH: Such as that reference to Deane Fergie's
20 report, you mean?
- 21 COMSR: Yes.
- 22 MR SMITH: Yes, we have actually a book that we
23 keep here with such matters in it, and they are followed
24 up at the end of every day. Since we are having an
25 off-the-cuff discussion about it, it might interest the
26 media to know that the lawyers' jamboree -
- 27 COMSR: That we see to television so frequently.
- 28 MR SMITH: Yes, we have the opening day depicted
29 every time and we have heard what a lawyers' jamboree it
30 is. It might be interesting to note that, for a long
31 time now, the state of the hearing room has been much
32 like this.

1 MR SMITH CALLS

2 ROGER STUART NORMAN SEARLE SWORN

3 EXAMINATION BY MR SMITH

4 Q. You are the owner of the Hindmarsh Island Caravan Park,
5 is that right.

6 A. Yes.

7 Q. As part of the caravan complex, that has a deli and
8 liquor store.

9 A. That's correct, yes.

10 Q. I think you have been in business on Hindmarsh Island
11 since 1984.

12 A. That's correct.

13 Q. So you are going into your 12th year.

14 A. Yes.

15 Q. In a sense, you have been a witness and participant in
16 the Hindmarsh Island Bridge dispute, have you not.

17 A. Yes, indeed.

18 Q. In connection with this inquiry, you have supplied a
19 statement to the commission, have you not.

20 A. Yes, I have.

21 Q. Looking at this document produced to you of 6 pages, do
22 you recognise that as your statement.

23 A. Yes, I do.

24 EXHIBIT 181 Statement of Witness Roger Searle
25 tendered by Mr Smith. Admitted.

26 Q. The Hindmarsh Island caravan park, just to make it
27 clear, is actually on the island itself, is it not.

28 A. Yes.

29 Q. There was a caravan park or camping ground on Liverpool
30 Road, is that right.

31 A. That's correct, yes.

32 Q. Is that still there.

33 A. No.

34 Q. So is that the only caravan park in the area of Goolwa
35 and Hindmarsh Island, the one that you operate.

36 A. No. There are two other caravan parks in Goolwa itself.

37 Q. You are, I think, a supporter of a bridge being built
38 connecting Goolwa to Hindmarsh Island, are you not.

1 A. I am indeed.

2 Q. When did you first become publicly involved in the
3 support for the bridge.

4 A. When a public rally was organised in the Main Street of
5 Goolwa.

6 Q. Was that a public rally where a land owner on Hindmarsh
7 Island, Kym Denver, marched down the main street of
8 Goolwa.

9 A. Yes, that was it.

10 Q. Have you also had an association then with the group
11 known as the Friends of Hindmarsh Island Incorporated.

12 A. Yes, I have.

13 Q. Were you an initial member of that group.

14 A. No.

15 Q. The Friends of Hindmarsh Island Incorporated, as opposed
16 to the Friends of Goolwa and Kumarangk, are a pro-bridge
17 organisation, are they.

18 A. Yes, indeed.

19 Q. I think you took office in that incorporated association
20 in February 1995.

21 A. Correct, yes.

22 Q. The group had been in existence for how long at that
23 stage.

24 A. About - they had been in existence since October 1993.

25 Q. There were regular meetings during the time that you
26 were associated with them.

27 A. We had two meetings between February and now.

28 Q. You became secretary, as your statement says, in
29 February 1995.

30 A. That's correct.

31 Q. As the bridge dispute hotted up, if I can use the
32 vernacular, there were weekly meetings of your group,
33 were there not.

34 A. There were, yes.

35 Q. They were held in Rankine's tavern on a Wednesday
36 evening.

37 A. They were not official meetings of the Friends of
38 Hindmarsh Island Incorporated as such. They were weekly

1 meetings of people who were in support of the bridge.

2 Q. Were they, however, preceded by a meeting of the body
3 Friends of Hindmarsh Island.

4 A. From my observations, before the meetings commenced, a
5 group of the Friends of Hindmarsh Island Incorporated
6 would have a meeting in the kitchen of the tavern, and
7 then they would come out and the general meeting would
8 commence.

9 CONTINUED

1 Q. You became secretary, as your statement says, in
2 February 1995, and the president at that time was Mike
3 Jolly.

4 A. Yes.

5 Q. You were the secretary.

6 A. Yes.

7 Q. The treasurer was Bill Barton.

8 A. Yes.

9 Q. And the vice-chairperson was Bob Hockey.

10 A. Yes.

11 Q. And the committee were: Kym Denver and Anne Hockey.

12 A. Yes, Tom Chapman and also my wife.

13 Q. You make the point that The Friends of Hindmarsh Island
14 Incorporated, was not only concerned with the bridge but
15 had other concerns.

16 A. That is correct.

17 Q. What were they.

18 A. We had meetings and discussions regarding land care, fox
19 baiting and we also had a meeting where we requested the
20 proposed councillors for the local government to come
21 along and address us and tell us what their views were,
22 not only the bridge but the island, and what could be
23 done about it.

24 Q. Those weekly gatherings of pro-bridge people at
25 Rankine's Tavern, did you go to most of those.

26 A. To most of them, yes.

27 Q. During the period when the bridge dispute was at its
28 height, what sort of people, how many people went to
29 those meetings.

30 A. The meetings varied from 40 to 50 people, up to 150.

31 Q. To put it generally as you have done in your statement,
32 what you were doing, at least in connection with the
33 bridge, was rallying support, writing letters,
34 organising public meetings and that sort of thing.

35 A. That sort of thing. Also, I didn't mention in the
36 statement, there was a certain amount of fund raising to
37 assist with the cost of paperwork and postage, and so on
38 and so forth.

- 1 Q. Was the dispute relating to the bridge, and in
2 particular the picketers and the protesters, having an
3 impact on your business.
- 4 A. It certainly was, yes.
- 5 Q. In what way.
- 6 A. We were finding some of our customers were ringing up
7 and cancelling their bookings due to the adverse
8 publicity when picketers were shown on the media quite
9 often, and we also had people who came to the park and
10 complained of the treatment they had received at the
11 hands of the picketers at the ferry approach. And they
12 - some of them were telling me they had signed petitions
13 against the bridge purely and simply to get the
14 picketers out of their car.
- 15 Q. Did you come to know Doug and Sarah Milera.
- 16 A. Yes.
- 17 Q. When did you first meet them.
- 18 A. Doug Milera and three other Aboriginal gentlemen came on
19 to the island in a search for sacred sites and they
20 rented a house just around the corner from the caravan
21 park.
- 22 Q. Do you know who the other gentlemen were.
- 23 A. I know two of the gentlemen, Robert Day and Robert Day,
24 I assumed, senior and junior.
- 25 Q. When you say - were there three or two gentlemen, sorry.
- 26 A. There were four Aborigines including Doug Milera, and
27 initially they were accompanied by Neale Draper who
28 introduced himself to me and asked permission for them
29 to go on to our property.
- 30 Q. The house that Doug Milera was renting near you was
31 whose property, do you know.
- 32 A. Yes, Bob and Kate Harris.
- 33 Q. That's near your caravan park, is it.
- 34 A. Yes, it is.
- 35 Q. How long were they there.
- 36 A. They were there for four weeks.
- 37 Q. Is that just Doug and Sarah Milera, or the group.
- 38 A. The group of four, I believe, stayed in the house.

- 1 Sarah appeared to come and go daily; I think probably to
2 provide food.
- 3 Q. Did Doug Milera become a regular customer, if you like,
4 of yours.
- 5 A. Yes, indeed.
- 6 Q. In what sense.
- 7 A. Well, each day as they finished their search of the
8 island, he would come to the liquor store and purchase
9 beer and sit outside and drink it.
- 10 Q. You would talk with him.
- 11 A. I did on a number of occasions, yes.
- 12 Q. Did you, yourself, meet Neale Draper.
- 13 A. Yes. Neale Draper introduced himself and asked
14 permission to go on the property.
- 15 Q. That is your caravan park property.
- 16 A. Yes.
- 17 Q. Would you step out of the witness box for a moment and
18 show us where it is on Exhibit 80.
- 19 A. Yes. The caravan park is situated just here. (WITNESS
20 INDICATES ON THE MAP THE SPOT INDICATING 'CARAVAN
21 PARK').
- 22 Q. What's the extent of the property there.
- 23 A. 22 acres.
- 24 Q. Quite extensive.
- 25 A. Yes.
- 26 Q. I think you had a conversation, as your statement
27 indicates, with Robert Day junior.
- 28 A. Yes.
- 29 Q. About whether or not any sites of significance had been
30 discovered on your caravan park property; is that right.
- 31 A. Yes, that's correct.
- 32 Q. Can you tell us about that.
- 33 A. I asked Robert what they were actually looking for and
34 he said that he was only learning, he was being taught
35 how to identify sites and that they hadn't found
36 anything at all in the caravan park.
- 37 Q. Did he give you a hint of what he was looking - what
38 they were looking for.

- 1 A. He said that they were looking for shells.
- 2 Q. I think the next time you met Doug Milera, apart from
3 that contact over a month, was a chance meeting in
4 Adelaide.
- 5 A. Yes, that's correct.
- 6 Q. You just said 'Hello' to him; is that correct.
- 7 A. That's it, yes.
- 8 Q. The next occasion after that was, I think, the day that
9 Channel 10 screened an interview between the journalist
10 Chris Kenny and Milera himself.
- 11 A. That's correct, yes.
- 12 Q. Can you tell us of the events of that day.
- 13 A. Yes. I received a telephone call from Tom Chapman
14 asking was I available to pick up Doug Milera from Port
15 Elliot and take him through to Wellington. Tom
16 apologised for such short notice, but said it was rather
17 important and that he had no-one else to call upon on
18 such short notice to transport Doug to Wellington.
- 19 Q. That was going to take up how much of your time.
- 20 A. Well, initially it was going to take about an hour and a
21 half, but it did drag on a lot longer than that.
- 22 Q. You agreed to do that.
- 23 A. I did, yes.
- 24 Q. Was any explanation proffered to you by Tom Chapman as
25 to why this would be happening; that is, that you were
26 picking up Doug Milera and taking him to Wellington.
- 27 A. At that time, he didn't say why, but he said it was
28 important that Doug be taken to Wellington.
- 29 Q. This was at about what time in the day that this
30 telephone call came.
- 31 A. This telephone call would have been approximately 11
32 a.m.
- 33 Q. I think you made arrangements with Tom Chapman and he
34 would drive in tandem with you to, was it, Port Elliot.
- 35 A. Port Elliot, yes.
- 36 Q. You did that then after.
- 37 A. Yes.
- 38 Q. What happened when you got to Port Elliot.

- 1 A. I followed Tom to a house opposite the drive-in theatre
2 of Port Elliot and we knocked on the door and we were
3 admitted to the house. Doug Milera was sitting at the
4 table. And the owner of the house, I understood, was
5 Doug Milera's nephew. I was introduced to him, but I
6 don't recall the name.
- 7 Q. What happened then.
- 8 A. Doug didn't appear to immediately recognise me and Tom
9 introduced me and then Doug sort of said 'Oh yes, I
10 know, you've got the caravan park'. He remembered me
11 then. After a few minutes, Tom left. He had somewhere
12 he had to go and he said 'I'll leave it with you', and
13 Tom left us. And I then waited for Doug to become ready
14 to go through to Wellington.
- 15 Q. Would you describe what sort of physical state Doug
16 Milera was in at this stage.
- 17 A. Doug looked as though he hadn't slept. He was drinking
18 beer at that time. This was, by then, possibly noon.
19 He looked tired.
- 20 Q. You were talking with him from time to time at this
21 juncture, I take it.
- 22 A. Yes.
- 23 Q. Was he coherent.
- 24 A. Yes.
- 25 Q. You mentioned that he had with him what appeared to be a
26 flagon in a brown paper bag.
- 27 A. They weren't with him, they were in the nephew's car
28 outside. When we actually left the house, he asked me
29 would I put the flagon and the carton of beer in my car
30 to take with us through to Wellington.
- 31 Q. Apart from Doug you have mentioned that there was in
32 that house a person you believe to be Doug's nephew.
- 33 A. I believed to be so, yes.
- 34 Q. And I think there was also his wife there; that is the
35 nephew's wife.
- 36 A. Yes.
- 37 Q. And three children.
- 38 A. I believe three children, yes.

- 1 Q. You were telling us about what you suspect was a flagon
2 in a brown bag which was out in the nephew's car.
- 3 A. Yes, it was.
- 4 Q. Doug Milera got into your car eventually.
- 5 A. Yes.
- 6 Q. And did he have any luggage with him, anything else.
- 7 A. Nothing at all.
- 8 Q. Did he take anything with him.
- 9 A. No.
- 10 Q. There was a carton of beer that came out of the nephew's
11 car into your car; is that right.
- 12 A. It was actually 18 cans were in the carton.
- 13 Q. You drove then from Port Elliot to Goolwa, did you.
- 14 A. No, we turned off at Middleton and went through the
15 Airport Road to Currency Creek.
- 16 Q. Onward to Tailem Bend.
- 17 A. Onwards to, supposedly, Wellington at that stage.
- 18 Q. So, is it the case then that Doug Milera changed his
19 mind about going to Wellington.
- 20 A. He did, yes.
- 21 Q. So, you drove, first of all, to Tailem Bend; is that
22 right.
- 23 A. That's correct, yes.
- 24 Q. En route to Tailem Bend, you and Doug engaged in
25 conversation, did you.
- 26 A. Doug spoke at length. I was perhaps more of a sounding
27 board than a conversationalist.
- 28 Q. Was there a period of him being rather quiet to start
29 with.
- 30 A. To start with, he never said a word.
- 31 Q. And you didn't bother either.
- 32 A. I didn't.
- 33 Q. Were you curious as to why you were seconded to make
34 this journey.
- 35 A. I certainly was. And to this day I honestly do not know
36 why he was going to Wellington.
- 37 Q. I take it that you watched the Channel 10 programme that
38 night, did you.

1 A. I did, yes.

2 Q. Tell us about the journey to Tailem Bend and what
3 eventually passed by way of conversation between
4 yourself and Doug Milera.

5 A. As I said, it wasn't so much of a conversation, it was
6 more Doug talking to me. He addressed a number of
7 topics. He informed me that in 1978 he had written a
8 book. He informed me that he was widely travelled. He
9 informed me that he had saved three lives in the Darwin
10 Cyclone Tracey. And he eventually brought up the issue
11 of the bridge. He told me that he had helped fabricate
12 the story of the women's business. That the problems
13 had cost him his marriage. That he and Sarah had
14 separated. That it was all a lie and he was 'Going to
15 get those bloody women and Sarah'.

16 Q. Did he use the word 'fabricate'.

17 A. Yes, he did.

18 Q. There was a point in the conversation where it began
19 raining; is that right.

20 A. It was a wet day and in order to see clearly behind me,
21 I reached forward to switch on the rear windscreen wiper
22 and washer, and Doug became quite agitated and asked me
23 was I taping the conversation.

24 Q. You said no you weren't.

25 A. I said 'No, that's purely and simply the rear wiper'.

26 Q. Then, can you go on. Anything more said. Did he
27 mention, for instance, the topic of what he had done the
28 night before.

29 A. He asked me at one stage had it appeared on TV yet. I
30 must make mention here that at the house in Elliott,
31 mention of the interview with Kenny was made there, so I
32 knew then what he was referring to. And he asked me had
33 it been on the television yet and I told him, no. That
34 at this point he became silent for a number of minutes
35 and he was deep in thought. And he then said 'I have to
36 go to Tailem Bend', and I said 'No, we are supposed to
37 be going to Wellington'. He said he wanted to go to
38 Tailem Bend 'There are people there who I must tell what

1 I've done before it appears on television'.

2 Q. That meant, did it, a substantial change in the route
3 that you were taking.

4 A. In actual fact, no. It meant going through Wellington,
5 across the punt and then into Tailem Bend, and then
6 returning back across the punt to Wellington.

7 Q. Your statement records that Milera also asked you if you
8 spoke Ngarrindjeri.

9 A. He did.

10 Q. Can you tell us in what context that came up, what was
11 he talking about there.

12 A. He was saying that he feared for his life over the
13 statements that he had made and he asked me could I
14 speak Ngarrindjeri, and I said no. And he told me what
15 was going to happen to him, but he spoke in, I assume,
16 Ngarrindjeri language.

17 Q. You complied with his request to go to Tailem Bend.

18 A. Yes.

19 Q. Did you stop at a particular address at Tailem Bend.

20 A. Yes. Stopped at two separate places in Tailem Bend.
21 The first one there was no-one home.

22 Q. The second one.

23 A. The second one was, I believe, to be no.33 Karoonda Road
24 in Tailem Bend. Doug got out of the car and said `Come
25 in', and he walked down the driveway. I got out of the
26 car and followed him, but he walked straight in and the
27 door slammed and I never went any further and I turned
28 and went back to my car.

29 Q. Some time elapsed.

30 A. Possibly 10 to 15 minutes, and then Doug came back out.

31 Q. Unaccompanied.

32 A. He walked out and a few paces behind him another
33 Aboriginal man, young-ish, walked out down as far as the
34 gate.

35 Q. Did you recognise that Aboriginal man.

36 A. No, I did not.

37 Q. So, you set off again with Milera in your car.

38 A. Yes.

- 1 Q. Any change - did you notice any change in his demeanour,
2 or whatever, after this visit to this house.
- 3 A. No, he still appeared agitated, trying to collect his
4 thoughts.
- 5 Q. Any conversation of note in that time.
- 6 A. The first thing was he wanted me to do was stop and buy
7 a packet of cigarettes for him.
- 8 Q. Is this still in Tailem Bend.
- 9 A. That is still in Tailem Bend - which we did. A further
10 conversation from there back to Wellington, he again
11 repeated that he was, he feared for his life.
- 12 Q. From Tailem Bend, you set off to Wellington.
- 13 A. Yes.
- 14 Q. You went to, what location did you go to in Wellington.
- 15 A. It was on Karpany Road. I understand the property
16 belongs to John Campbell, but it was identified by a
17 huge Aboriginal flag flying outside.
- 18 Q. I think when you arrived there, there was a Channel 10
19 vehicle already at the premises.
- 20 A. That's correct, yes.
- 21 Q. Who were the occupants; did you see the occupants of
22 that vehicle.
- 23 A. Yes, a male and a female. When we arrived, the female
24 was on the telephone and a few minutes later the male
25 came up to us and introduced himself, but I don't recall
26 his name.
- 27 Q. You don't know even now who he was.
- 28 A. No.
- 29 Q. What about Doug Milera. So, you have just arrived at
30 the Campbells' house at Karpany Road.
- 31 A. Yes.
- 32 Q. Did Milera get out.
- 33 A. No, he didn't. I got out of the car. Doug seemed
34 somewhat reluctant to get out. He had the passenger's
35 door open and for a while was talking to John Campbell.
- 36 Q. Do you know why he wouldn't get out, having asked you to
37 drive him there.
- 38 A. I believe that he wanted to have a quiet word with me

- 1 because he wanted to borrow some more money so that he
2 could give some money to the children of this house.
- 3 Q. While Doug Milera was talking to Campbell, I think you
4 were taking his gear out of your car.
- 5 A. I removed the brown paper bag with the flagon in it and
6 the beer and placed it on the front verandah.
- 7 Q. When you left, Doug Milera was on the verandah of the
8 house with John Campbell; is that right.
- 9 A. Yes. He was sitting on the verandah and John is
10 standing in front of him and the gentleman from Channel
11 10 also and they were talking.
- 12 Q. Can I return to the topic then of the money. Milera
13 asked you for some money.
- 14 A. Yes, he did.
- 15 Q. When did that occur.
- 16 A. He asked me for \$10 at Port Elliot, which he left on the
17 table presumably to pay them for whatever fare he had
18 enjoyed there, the packet of cigarettes which I
19 purchased for him and then money to give to children at
20 the house at Wellington.
- 21 CONTINUED

R.S.N. SEARLE XN (MR SMITH)

- 1 Q. \$10.00 you gave him when you were at Port Elliot, which
2 he left on the table.
- 3 A. Yes.
- 4 Q. You bought him some cigarettes at Tailem Bend.
- 5 A. Yes.
- 6 Q. That is just a packet of cigarettes, is it.
- 7 A. One packet of cigarettes, yes.
- 8 Q. At Karpany Road where we are, at the moment, at
9 Wellington, he asked you for some money for the kids, he
10 said.
- 11 A. Yes, that's correct.
- 12 Q. What did you give him.
- 13 A. I gave him \$6.00 and he wanted more, but I wouldn't give
14 him any more.
- 15 Q. You then returned to Hindmarsh Island.
- 16 A. I did, yes.
- 17 Q. Did you ring Tom Chapman.
- 18 A. I did, yes.
- 19 Q. And reported that you had taken Milera to Wellington.
- 20 A. Yes.
- 21 Q. Did you report to Tom Chapman what he had said to you in
22 the car.
- 23 A. I mentioned to Tom and to Wendy some of the things that
24 he had said to me. Not all of the things.
- 25 Q. In all, Milera was in your car journeying with you for
26 how long, do you think.
- 27 A. Approximately two and a half hours.
- 28 Q. You told us earlier that he had said that he had
29 fabricated the story.
- 30 A. Yes, he did.
- 31 Q. About women's business.
- 32 A. I beg your pardon, he said he had assisted in
33 fabricating it.
- 34 Q. Can I take you back to that topic: did he give you any
35 detail about that, more than that just general
36 assertion.
- 37 A. No, he didn't.
- 38 Q. Did he, for instance, name any names or any places or

1 any particular occasions.

2 A. No.

3 Q. I think one of the other notable events in connection
4 with this dispute was your appearance before Professor
5 Saunders.

6 A. Yes.

7 Q. You were one of many people who met with Professor
8 Saunders at The Old Police Station at Goolwa.

9 A. I was, yes.

10 Q. I think that occasion was 23 June 1994, is that right.

11 A. Yes, it was, yes.

12 Q. And you shared that appointment with a man by the name
13 of Gary Knott.

14 A. I did, yes.

15 Q. And Mr Knott owned a premises called Knott's Landing,
16 which is a general store at the marina on Hindmarsh
17 Island.

18 A. Yes.

19 Q. I think you were involved in the Federal Court
20 proceedings and gave evidence in the Federal Court.

21 A. Yes, I did.

22 Q. As secretary of The friends of Hindmarsh Island at least
23 from February 1995 onward, was it your duty to keep the
24 minutes.

25 A. Yes, it was.

26 Q. And your duty to take charge, I suppose, of the minute
27 book.

28 A. It is, yes.

29 Q. I produce to you this red Collins account book or minute
30 book. I think you recognise that as the book in which
31 the minutes are kept.

32 A. Yes, I do.

33 Q. The minutes begin in a formal way at least in October
34 1993.

35 A. Yes.

36 Q. And are kept throughout October to at least 20 October
37 1993.

38 A. Yes.

R.S.N. SEARLE XN (MR SMART)
XXN (MR KENNY)

- 1 Q. And then the next minute is November 1994.
2 A. That's right.
3 Q. You were not an office bearer of The Friends
4 organisation in that period, were you.
5 A. No, I was not.
6 Q. You can't help us with if there were any minutes and
7 where they are in that period between October 1993 and
8 November 1994.
9 A. No, I can't help at all.
10 MR SMITH: In case any counsel want to make
11 something of the minute book and inspect it, I will
12 perhaps ask that it be marked for identification rather
13 than be something that you have to struggle and come to
14 terms with.
15 I haven't taken copies of that, but I will
16 facilitate counsel inspecting that.
17 MFI 182 Minute book marked 182 for
18 identification.
19 CROSS-EXAMINATION BY MR KENNY
20 Q. I think you have told us that when you first met up with
21 Doug at his nephew's place you said he was drinking at
22 that time.
23 A. Yes, he was.
24 Q. Is that correct.
25 A. Yes.
26 Q. There was the flagon, did you see what sort of flagon
27 it was in his car.
28 A. I have no idea, but it was full going by the weight of
29 It.
30 Q. You suspect it was full.
31 A. Yes.
32 Q. Just going by the weight. You didn't know what it
33 was.
34 A. I had no idea.
35 Q. You didn't know what was in it.
36 A. No.
37 Q. Or he made no comment about it.
38 A. No.

1 COMSR

2 Q. Did he drink any of that flagon.

3 A. No, he didn't.

4 XXN

5 Q. I understand it took you about one and a half hours to
6 drive from Port Elliot to Tailem Bend, would that be
7 about right.

8 A. Yes.

9 Q. Did you observe Mr Milera drinking during that time.

10 A. Yes, I did.

11 Q. What was he drinking.

12 A. He was drinking cans of beer.

13 Q. Do you know what sort of beer.

14 A. West End Draft.

15 Q. How many cans did he consume during that drive.

16 A. I believe four.

17 Q. After you left Tailem Bend did he continue drinking.

18 A. He consumed four in the total journey. I can say
19 definitely four from the point of view that I believe
20 there to have been eighteen cans in the carton when we
21 left Port Elliot and, when I put the carton on the
22 verandah, there were twelve cans still in the carton and
23 two loose cans on the back seat of the car. So, he
24 would have consumed four during the whole of the
25 journey.

26 Q. On p.4 of your statement, you indicate that, during the
27 one and a half hours approximately that it took to drive
28 from Hindmarsh Island to Tailem Bend, I take it what you
29 really meant there was Port Elliot to Tailem Bend, is
30 that correct.

31 A. You are correct.

32 Q. Then you go on to say 'I saw Doug consume four cans of
33 beer.'

34 A. Yes.

35 Q. Did he consume those four cans before you got to Tailem
36 Bend, or did he just -

37 A. Yes, before he got to Tailem Bend. He didn't have any
38 more -

- 1 Q. After he left Tailem Bend.
2 A. After he left Tailem Bend, no.
3 Q. From there you simply took him back to Wellington.
4 A. To Wellington, yes.
5 Q. Did he say who he wanted to see in Tailem Bend.
6 A. No, he did not.
7 Q. Did he give you any indication as to why he wanted to
8 speak to them before the story came out.
9 A. He appeared agitated and, as I did mention, he lapsed
10 into silence for some four or five minutes and then said
11 'I have to go to Tailem Bend.' And I said we were not,
12 we go were going to Wellington and he said 'I have to
13 go. I have to tell people what I have done.' I can say
14 no more than that.
15 Q. In your evidence-in-chief you have given evidence that
16 on at least four occasions he asked you for money. Just
17 to refresh your memory perhaps I will run through them
18 for you.
19 A. Yes, indeed, that's correct.
20 Q. The first occasion was at Port Elliot.
21 A. Yes.
22 Q. The second occasion was at Strathalbyn.
23 A. Yes.
24 Q. The third occasion was Tailem Bend.
25 A. Yes.
26 Q. And the fourth occasion was when you arrived at
27 Wellington.
28 A. Those are correct, however the first occasion was he
29 asked for money. The last occasion he asked for money.
30 The other two he asked for - at Strathalbyn he wanted a
31 cooked chicken and then a packet of cigarettes. So, it
32 wasn't in actual fact cash he was asking for on two of
33 the occasions.
34 Q. On any other occasions did he mention money.
35 A. No.
36 Q. He didn't make any reference to him obtaining money.
37 A. No.
38 Q. Did he make any comments about his then financial state.

R.S.N. SEARLE XXN (MR KENNY)
(MR MEYER)

- 1 A. No.
- 2 Q. As far as you were aware, he had no money at all.
- 3 A. That I took to be the case, yes.
- 4 Q. I think you said that at Wellington he appeared
5 reluctant to get out of the car, get out of your car.
- 6 A. That's correct.
- 7 Q. You understand that he was waiting to ask you for some
8 more money.
- 9 A. I believe that to be the case, yes.
- 10 Q. Was that before or after you gave him the three \$2.00
11 coins.
- 12 A. He did not get out of the car for a while. When he did
13 get out, he pulled me to one side and took me round the
14 front of the car and then asked me for the money.
- 15 Q. I think you also said at Wellington he had a
16 conversation with John Campbell, is that correct.
- 17 A. Yes.
- 18 Q. Did you hear any of that conversation.
- 19 A. No. When I say `no', I did hear the introduction or the
20 commencement of the conversation when John said `Hello,
21 Doug, and how are you?' And Doug replied, but, by then,
22 I was going round the other side of the car to get the
23 liquor out of it and put it on the verandah.
- 24 Q. At Wellington did you observe Doug drinking any alcohol
25 before you left.
- 26 A. No, when I left he was sitting on the verandah, but, no,
27 he was not drinking then.
- 28 Q. In your statement and in your evidence you have told us
29 that Doug said to you that he was going to get the
30 bloody women and Sarah.
- 31 A. Yes.
- 32 Q. Did he tell you why he was going to get them.
- 33 A. He had helped to fabricate the story and he had
34 obviously admitted this and he was going to get the
35 women, because they were telling lies.
- 36 CROSS-EXAMINATION BY MR MEYER
- 37 Q. I understand that one of the matters that was discussed
38 briefly in the motor car when you were travelling with

1 Doug was some reference to the construction of the
2 Tailem Bend road.

3 A. Yes, correct.

4 Q. I think Doug mentioned to you that there had been
5 discussion with the Government or the Highways
6 Department or somebody in relation to that.

7 A. Yes.

8 Q. Did he make any reference to a sum of money in relation
9 to the Tailem Bend road.

10 A. Yes, he did.

11 Q. Can you now recollect what that was.

12 A. The sum of money that he mentioned was \$3 million.

13 Q. What did he say about the \$3 million.

14 A. We were on a new section of road, which was over a
15 slight rise -

16 COMSR: Has this got something to do with the
17 matters before me?

18 MR MEYER: It only ties it in. The relevance of
19 the questions was that there has been some evidence from
20 Mr Chris Kenny and some brief evidence from Mrs Chapman.
21 The relevance of the question was only from the point of
22 view of Mr Milera's credit, to show some consistency in
23 relation to matters that he raises on various occasions
24 with different people. And merely to try and give you
25 some indications that you can assist yourself with as to
26 Mr Milera's credit. That is all. No other relevance,
27 at all.

28 COMSR: Yes, because it is not a matter I can
29 explore.

30 MR MEYER: No, it is only a question of what Mr
31 Doug Milera has said on a number of different occasions
32 and is there any consistency in what he said? That is
33 why I didn't lead this witness, but sought from him the
34 sums of money, etc., having introduced the topic.

35 XXN

36 Q. Can you just finish that off for us.

37 A. Yes, we were on this new section of highway, going over
38 a slight rise, and Doug said `Did you know that this was

R.S.N. SEARLE XXN (MR MEYER)

1 a sacred site that we are now travelling over?' And I
2 said no, I hadn't a clue. And he said that they had
3 asked how much the road was going to cost to go around
4 the sacred site and the figure of \$3 million was
5 mentioned. And he said 'We have agreed that the road
6 can go across the sacred site. \$1 million to go to the
7 Meningie people. \$1 million to go to the Murray Bridge
8 people. And the million dollars for the road.'

9 Q. Was that when you were on the stretch from Wellington -

10 COMSR: Are we going to -

11 MR MEYER: I was only going to establish which bit
12 of the road.

13 XXN

14 Q. That was when you went from Wellington to Tailem.

15 A. That was in between Wellington and Tailem.

16 Q. You operate the caravan park on Hindmarsh Island.

17 A. Yes.

18 Q. Did anybody on any occasion make any report to you that
19 if the Hindmarsh Island bridge was built that it would
20 be blown up.

21 A. That report was made to me, yes.

22 Q. Did you do anything about that report.

23 A. Yes, I did.

24 Q. What did you do.

25 A. I reported the matter to the local police officer so
26 that, in the event of anything untoward happening, it
27 would be recorded.

28 Q. Do you know who it was alleged to have made that threat.

29 A. Yes, I do.

30 MR MEYER: I am happy to leave it at that. If
31 counsel assisting thinks it is important he can find out
32 and if he doesn't think it is important he can leave it
33 alone. I don't know whether it is relevant or not.

34 I don't need to know the name of the person. I ask
35 the questions merely to for the purposes of validation.

36 It could be provided confidentially by Mr Searle.

37 COMSR: You didn't ask the witness did he know
38 who it was, you asked did he know who it was alleged to

1 have been.

2 MR MEYER: That's right, because the instructions I
3 have got is that it was reported to him.

4 WITNESS: That's correct.

5 MR MEYER: By a second person, rather than
6 first-hand. I am happy to leave it on the basis.

7 XXN

8 Q. Are you prepared to give that information confidentially
9 to Mr Smith.

10 A. Indeed, yes.

11 MR MEYER: I am happy to leave it at that.

12 MR SMITH: I have no further questions. In any
13 event, I need to speak with Mr Searle about that matter
14 just raised by Mr Meyer, but there is another matter
15 that I might explore, but not at this time with this
16 witness. So, I don't ask you to release him, but excuse
17 him, for the moment.

18 COMSR: Do you anticipate you might be recalling
19 Mr Searle? I suppose he would be interested to know
20 what the situation is.

21 MR SMITH: Yes, I will speak with him later in the
22 day. So, subject to that, could he be excused for the
23 time being?

24 COMSR: Yes.

25 Mr Searle, you are excused then, for the present
26 time.

27 WITNESS STOOD DOWN

M.G.W. JOLLY XN (MR SMITH)

1 MR SMITH CALLS

2 MICHAEL GEORGE WILLIAM JOLLY SWORN

3 EXAMINATION BY MR SMITH

4 Q. I think you are a land owner at Hindmarsh Island, is
5 that correct.

6 A. Correct.

7 Q. You grew up on the island as a young person, did you.

8 A. Yes. I was - yes, I was virtually born on Hindmarsh
9 Island.

10 Q. You were born on Hindmarsh Island, grew up on the
11 island.

12 A. Yes.

13 Q. So you are a fourth generation Hindmarsh Islander.

14 A. Yes.

15 Q. You have been on the island, as it were, then throughout
16 the Hindmarsh Island Bridge dispute.

17 A. Yes.

18 Q. And the events on both sides. In connection with that
19 matter, you have provided a statement to the commission
20 about certain events that you witnessed and participated
21 in, is that correct.

22 A. I did.

23 Q. Looking at this statement produced to you, do you
24 recognise that as the statement that you provided to the
25 commission, signed and dated by yourself.

26 A. Yes.

27 EXHIBIT 183 Statement of Witness Michael Jolly
28 tendered by Mr Smith. Admitted.

29 Q. In 1988-89 you lodged a plan with the Planning
30 Commission to develop an area of land on Hindmarsh
31 Island. That's so, isn't it.

32 A. Yes, that's correct.

33 Q. The preparations for that proposed development were made
34 by you in 1986-87.

35 A. No. I think it was slightly after that, probably more
36 1987-88, but I think the whole idea of development on
37 Hindmarsh Island and the proposed bridge was announced
38 in 1986-87 at a meeting in the Hindmarsh Island hall.

M.G.W. JOLLY XN (MR SMITH)

- 1 Q. You can have a copy of your statement before you. For
2 your development, I think there was a meeting of the
3 Planning Commission on Hindmarsh Island, was there not.
- 4 A. Yes. The Planning Commission expressed a wish to come
5 down and actually investigate the proposed site. They
6 came down by bus, and we had an afternoon meeting -
7 morning meeting, I think it was, on the actual site.
- 8 Q. In broad terms, what was your proposal.
- 9 A. It was a canal development, strictly residential, which
10 was approximately 300 actual allotments that were
11 scattered around a depression which was to be dug out
12 and the water let in.
- 13 Q. Could you come out of the witness box for a moment. On
14 Exhibit 80, can you just indicate where that development
15 was to be.
- 16 A. On the northern shore here, sections 52 and 63,
17 Hindmarsh Island (INDICATES).
- 18 Q. You are indicating on the map just above to the north of
19 the words 'Narnu Bay'.
- 20 A. Yes.
- 21 Q. Perhaps you could put your initials 'MJ' right on the
22 spot.
- 23 WITNESS MARKS MAP
- 24 Q. I have introduced you as a land owner on Hindmarsh
25 Island. I take it you are a farmer, are you.
- 26 A. Yes, and a fisherman.
- 27 Q. Your statement asserts that, at all stages, the Planning
28 Commission advised that no titles would be granted for
29 your proposed development until the Hindmarsh Island
30 Bridge was built. Is that correct.
- 31 A. Absolutely. They said that no titles or any development
32 on Hindmarsh Island would be allowed until the bridge
33 was built.
- 34 Q. It is your position that you are a supporter of a bridge
35 development, aren't you, as proposed.
- 36 A. Obviously, yes.
- 37 Q. Putting your development aside, if you can, were you a
38 supporter in that sense.

M.G.W. JOLLY XN (MR SMITH)

1 A. Absolutely. I mean, I think you would find that any
2 person who has lived and made a living from Hindmarsh
3 Island and had to use that outdated ferry for a number
4 of years, the people that have been there for a number
5 of years -

6 COMSR

7 Q. Mr Jolly, I am not dealing with the question of whether
8 or not a bridge should or should not be built. I can
9 understand your sentiments that you are expressing, but
10 it really is no part of my Terms of Reference to
11 determine the merits or otherwise of the construction of
12 the bridge. I gather that that is what you are going
13 into really.

14 A. No, with respect, I was just merely trying to answer his
15 question, that what he was saying was that, given the
16 development aside, did I personally wish to have a
17 bridge.

18 Q. Yes. I think you said yes.

19 A. Yes, I did.

20 XN

21 Q. It is the case, isn't it, just to set the background,
22 you decided to await construction of the bridge before
23 proceeding to the cost of going ahead with your
24 development, such as having environmental impact
25 statements and engaging other consultants. Is that the
26 case.

27 A. Yes. We had spent considerable money up to that stage,
28 and the very large cost of environmental impact
29 statements, et cetera, were looming before us, and if -
30 at that stage we had doubts whether or not the bridge
31 could be constructed by Binalong and the government, and
32 we actually decided to wait until the bridge
33 construction had taken place before proceeding with the
34 application.

35 Q. So you watched the events involving Binalong. For
36 instance, the proposals for Binalong being put on public
37 display, and that sort of thing.

38 A. Absolutely.

M.G.W. JOLLY XN (MR SMITH)

1 Q. Could you tell us what area of land you own on Hindmarsh
2 Island.

3 A. 920 acres.

4 Q. In the area of Narnu Bay, is it.

5 A. 600 acres in that area and an adjacent property as well.

6 Q. So on the north side of the island.

7 A. 600 acres in one block.

8 Q. I think a number of surveys of the island were
9 conducted, and, in particular, one by the archaeologist,
10 Vanessa Edmonds.

11 A. Aboriginal surveys?

12 Q. Yes.

13 A. Yes.

14 Q. Did you take an interest in Vanessa Edmonds' survey of
15 your property, for instance.

16 A. Absolutely, yes.

17 Q. I think she told you that your land was of little
18 archaeological significance.

19 A. No, she didn't tell me. Actually, the report wasn't
20 supposed to be released. It was released to the
21 council, but she just gave me an indication it was -
22 there had been Aboriginal presence there by the presence
23 of crushed shell and some burnt rock, and a few
24 fragments of quartz, and she said that - well, she did
25 say that she felt there was not much there, but it would
26 have to be assessed for - like by the government. So
27 she reported back to the government. The government
28 released a - as I understand, the government released a
29 report, which was given to the council at Goolwa and I
30 just happened to see that report.

31 Q. Mr Rod Lucas was also commissioned to do a survey, an
32 anthropological survey, of the island and its environs,
33 was he not.

34 A. As I understand, yes.

35 Q. Did you actually meet up with him or did you just learn
36 that.

37 A. No, no.

M.G.W. JOLLY XN (MR SMITH)

- 1 Q. There was yet another investigation conducted by Neale
2 Draper. That's right, isn't it.
3 A. Yes.
4 Q. That involved your property.
5 A. Yes.
6 Q. That was at a time, can we say generally, just before
7 the Federal Government or the Federal Minister
8 interfered to stop, for 25 years, the construction of
9 the bridge.
10 A. Yes.
11 Q. Did Dr Draper come to your property, and if he did, with
12 whom.
13 A. Yes. He came to our place with Sarah and Doug Milera,
14 Robert Day junior and senior, his wife Del, I think it
15 was.
16 Q. That's Dr Draper's wife.
17 A. Yes.
18 Q. Del.
19 A. I think that's it. Del or Nel. I think it's Del. I'm
20 not sure.
21 Q. Yes, it is Del.
22 A. Fine. I think that's all.
23 Q. Did you meet up with these people and talk with them.
24 A. Yes, yes. Neale came into our house and talked to us.
25 Q. In fact, your statement records that you had lengthy
26 conversation with this group about your school days and
27 Aboriginal people with whom you went to school.
28 A. With Doug.
29 Q. You went to school with Doug.
30 A. No, I'm sorry. I had a lengthy conversation with Doug
31 concerning the people - because I'd lost track of these
32 Aboriginal people, and Doug being secretary of the
33 council, whatever it was, at Murray Bridge, he knew just
34 about everybody that I knew and went to school with and
35 I'd lost track of for quite a few years that lived in
36 Goolwa.
37 Q. Had you met Sarah Milera before.

M.G.W. JOLLY XN (MR SMITH)

- 1 A. Yes, I had met her at the ferry, and I'm not sure of the
2 date, but it was the date that a fire broke out on
3 Hindmarsh Island, and - actually the channel - things
4 were pretty emotional over there at that time.
- 5 Q. Can I interrupt you there, because we are coming to the
6 fire later because it happened later, didn't it.
- 7 A. Right, yes.
- 8 Q. I am really dealing with the situation when this group
9 of people came to your property. You had met Sarah
10 before.
- 11 A. Yes.
- 12 Q. The event of the fire, was that before this incident,
13 was it.
- 14 A. Yes.
- 15 Q. Can we return to that in a moment.
- 16 A. Yes.
- 17 Q. So you met Sarah before. Was she talking to you on this
18 occasion, that is, the occasion when this group with
19 Neale Draper was at your property.
- 20 A. Yes. We spoke - made a point to go and speak to her and
21 Del.
- 22 Q. What did Sarah say in your presence.
- 23 A. Well, she mumbled on something about people had been
24 here for many centuries, and virtually rambled on in
25 that sort of fashion, and I talked to her about a Mr
26 Walker, who - I knew she had been related to the
27 Walkers, but they were Aboriginal - of Aboriginal
28 descendants, but this Mr Walker was a white man up the
29 other end of the island. She said 'I would like to go
30 and see him because I am probably related to him', and I
31 said 'I don't think you are because he's white'. And
32 she said 'Of course, there was a shortage of white women
33 earlier in the colony'. So it was left at that.
- 34 Q. Was Sarah coherent in her conversations with you.
- 35 A. She tends to lose concentration and drift onto other
36 things pretty quickly.
- 37 Q. You would say that about her conversation with you.
- 38 A. I would say that about it, yes.

- 1 Q. I think it is the case that you took Dr Draper to a site
2 on your property - I don't want you to tell us where it
3 is or identify it in any way - but you took Dr Draper to
4 a site that Vanessa Edmonds had identified to you.
- 5 A. Yes, I was being co-operative with him.
- 6 Q. You and he discussed it, and he suggested that perhaps
7 you might fence it off. Is that right.
- 8 A. He said that he thought it may be, not a sacred site,
9 but a site of some significance. They would investigate
10 it further. I may have to fence it off. It may be
11 registered as a site of significance with the
12 government. I asked him 'Who's going to pay for the
13 fencing? Am I going to be the unpaid custodian of it ad
14 infinitum?' He said 'We can probably contribute towards
15 the fencing'. I asked him what else was I to do with
16 it. What is its future? Was I allowed to farm it? He
17 said 'No, and you wouldn't want to build a house on it
18 like you did with the other one'.
- 19 Q. He inspected the cliffs on your property, did he not -
20 cliff faces.
- 21 A. Yes.
- 22 Q. It was the case that the Mileras and the Days were going
23 around with him and appearing to look at the property or
24 inspect the property.
- 25 A. Yes. Yes.
- 26 Q. Did they find anything in the sense of at least letting
27 you know that they had discovered anything on your
28 property.
- 29 A. No. I was with them when they were inspecting it, and -
30 I mean, the only thing that they came up with were some
31 crushed cockle shells and a few burnt stones, and that's
32 about all. The same as you can find in a thousand other
33 places.
- 34 Q. At least so far as you were concerned, they didn't
35 convey to you the location of any sites on your
36 property. Is that the position.
- 37 A. No. No, they couldn't find any others. Other than the
38 ones that - that one that I showed them.

M.G.W. JOLLY XN (MR SMITH)

- 1 Q. Some time later, I think you received a telephone call
2 from Dr Draper, is that right.
- 3 A. Yes.
- 4 Q. You and he had a discussion on the telephone about some
5 exciting news, is that right.
- 6 A. Yes.
- 7 Q. What was said.
- 8 A. He rang one evening and said that he had some exciting
9 news for me, that his wife had found some colonial
10 glass, and that it had been shaped obviously by
11 Aboriginals in order to be used as sharpening implements
12 for spears.
- 13 Q. What did you say to him.
- 14 A. I said I thought he was trying very hard.
- 15 Q. What did you mean by that.
- 16 A. What I meant was, by this stage - early in the piece,
17 because he had known my aunt, I virtually had a friendly
18 introduction towards him, and I showed him every ounce
19 of help that I could in showing him various sites that I
20 knew, even to the stage of sending him back a second
21 time to look harder, and gave him quite a bit of
22 information on what I knew about it, and I soon learnt
23 very quickly, over this site on my property, that he was
24 very much against the bridge, anything happening, and
25 very anti - how would I say? - very pro-Aboriginal
26 feelings.
- 27 Q. Can you be a bit more specific about that. To convey
28 that to you, he must have said some things, did he.
- 29 A. Virtually the tone of his voice, with that remark about
30 - I mean, you haven't mentioned this before, but there
31 was a hint on one of those old maps that my house -
- 32 COMSR: Is this going to go into something that -
33 WITNESS: I think it is relevant.
- 34 COMSR: Just a moment. Is this going to cause
35 any problems?

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M.G.W. JOLLY XN (MR SMITH)

- 1 MR SMITH: It does approach a topic which needs
- 2 some care. Could I perhaps ask you for a five minute
- 3 break just so that I can ensure that nothing comes
- 4 tumbling out that you shouldn't be hearing without an
- 5 authorisation.
- 6 ADJOURNED 11.50 A.M.

1 RESUMING 11.55 A.M.

2 XN

3 Q. We got to the stage where you had told us how you showed
4 Mr Draper and his party on your property and co-operated
5 with him, and you then told us of a change of attitude
6 or mood, or something. Would you give us a bit of
7 detail about that.

8 A. Yes. Well, I'd previously spoken to Dr Draper on the
9 telephone and had quite very amiable contact with him
10 and was looking forward to meeting him because he had
11 been introduced to me through an aunt of mine and they
12 had been connected with stopping some proposed
13 development at Cape Jervis. And when Dr Draper met me
14 and we spoke of these various things, there was great
15 amiability, but I noticed a very, very strong mood
16 change and he had become quite - well, quite - when he
17 found out that I was pro, you know, wanting the bridge,
18 he became quite unfriendly.

19 Q. You were a member, I think, of a body called the Coorong
20 Consultative Committee; is that right.

21 A. Yes. I'm an inaugural member of that now.

22 Q. What was that body.

23 A. Well, it was a body of interested people, interested and
24 connected people, with the Coorong that was formed by
25 the Department of Environment and Planning, at that
26 stage, to formulate a draft management plan for the
27 management of the Coorong.

28 Q. Plans, such as the plans that went before this committee
29 at an early stage.

30 A. Yes. They were - actually, I thought it necessary to
31 place both the plans of our development and the
32 Chapmans' development before the committee, yes.

33 Q. Does the committee have some input then into the
34 committee's deliberations, does it.

35 A. I'm sure the views of the committee would have been
36 taken very much into consideration, yes, especially on
37 the environmental matter.

38 Q. You were a member of that committee in 1988 and 1989; is

1 that right.

2 A. Yes.

3 Q. Were there any Aboriginal people on that committee.

4 A. Yes. George Trevorrow and Henry Rankine.

5 Q. You presented your plans to the committee, didn't you,
6 for your development.

7 A. I tabled them, yes. It was about at the time Mrs Harvey
8 mentioned that there had been a letter come from Mrs
9 Joan Blanchard on Hindmarsh Island expressing her
10 concern about Hindmarsh Island being developed before
11 the Supplementary Development Plan was in place for
12 Hindmarsh Island, and she said - I remember her saying
13 that she was very pleased to see it tabled because this
14 letter had just arrived, so.

15 Q. So, you came to know George Trevorrow and Henry Rankine
16 then, did you.

17 A. Henry never turned up to any meetings. George did, but
18 Henry never turned up to any meetings.

19 Q. How often did this body, this organisation, meet.

20 A. Heavens, I should say almost bi-monthly I should think.

21 Q. What period are we talking about.

22 A. From then until now.

23 Q. From 1988/1989 until now.

24 A. Yes, I should say. I don't know just off hand when the
25 inaugural meeting was. I should have thought about the
26 end of 1986, and it's still meeting.

27 Q. Are you still a member of it.

28 A. No. I had to resign because of commitments.

29 Q. When did you do that.

30 A. That would have been in 1989.

31 Q. You presented not only your plans but the plans for the
32 Chapmans' marina.

33 A. The proposal, yes.

34 Q. The proposal to the committee.

35 A. Yes, the complete proposal.

36 Q. In your statement, you make the point at p.3 that at one
37 of these meetings you told George Trevorrow about a
38 burial ground on Hindmarsh Island.

1 A. Yes.

2 Q. Did he know about that.

3 A. No.

4 Q. The minutes of meetings are kept, are they not, and
5 provided to all the members of the committee.

6 A. Yes.

7 Q. Looking at this large volume, I think that includes the
8 minutes of that body; is that right.

9 A. Yes.

10 Q. You identify that volume as enclosing the minutes of the
11 meetings of the Coorong Consultative Committee.

12 A. I do.

13 COMSR: I take it that it's not all the minutes.

14 MR SMITH.

15 Q. It is the minutes of the meetings of the Coorong
16 Consultative Committee from February 1986 through to
17 February 1991; is that right.

18 A. Yes, I should think so. I think there's actually 1994
19 minutes in there as well.

20 MFI 184 Folder containing minutes of Coorong
21 Consultative Committee marked 184 for
22 identification.

23 Q. The point is that the minutes relating to your
24 development, your proposed development, and the
25 Chapmans' proposed development, the minutes of that body
26 record the tabling of your plans and the Chapmans'
27 plans, do they.

28 A. I've looked in them this morning quickly. I haven't
29 been able to get them. I was supposed to get them this
30 morning actually and I didn't realise until 6 o'clock
31 last night the time I had to be here. The Community
32 Liaison Department of the Department of Natural
33 Resources were going to get the minute out for me. I've
34 looked quickly through there and just in the book room
35 and it does make reference to the two proposals on
36 Hindmarsh Island, so I can't be any more specific at the
37 moment.

38 Q. When you tabled the plans for the proposal for the

- 1 Chapman marina, did that include the bridge.
- 2 A. Well, yes, because - yes it did, yes.
- 3 Q. Those minutes are sent out to the members of the
- 4 committee such as yourself.
- 5 A. Yes.
- 6 Q. Although you cannot say it categorically, you would have
- 7 expected Rankine and Trevorrow to have received a copy
- 8 of those minutes.
- 9 A. Yes. The minutes were recorded by Vicki Natt, who was
- 10 the minute secretary at the meetings, and then those
- 11 minutes were sent to Adelaide and distributed by the
- 12 Community Liaison Unit at the DNR, Natural Resources,
- 13 and they are sent out to every member for using the
- 14 facilities of the environment, Natural Resources.
- 15 Q. Can I take you to the fire, on the topic of the fire on
- 16 Hindmarsh Island. I think your statement shows you
- 17 can't recall exactly when it was.
- 18 A. There were two fires and, I mean, it was not a great day
- 19 i my life, but I can't remember the day, the actual day,
- 20 no.
- 21 Q. Can you place it in terms of whether it was before or
- 22 after Minister Tickner made the 25 year ban on the
- 23 bridge construction.
- 24 A. I'm not sure. I can't remember. I think it was before.
- 25 Q. What, shortly before, or, you know -
- 26 A. No, I can't be sure.
- 27 Q. The fires are documented as to the time when they
- 28 occurred.
- 29 A. Yes.
- 30 Q. There were two separate fires, were there.
- 31 A. Yes.
- 32 Q. I think this was on the occasion of one of the fires
- 33 that you met Sarah Milera for the first time.
- 34 A. Yes.
- 35 Q. Can you tell us in what situation you met her.
- 36 A. We had been - sentiments were running fairly high that
- 37 day of the fire because of the slowness of the - we all
- 38 thought it could be our property burning and the bridge

M.G.W. JOLLY XN (MR SMITH)

1 issue was high on everyone's thoughts. And we thought,
2 well, you know, it's really not adequate this whole
3 situation. What happened was that we heard that a
4 Channel 7 or 9 helicopter was coming to the ferry to
5 actually record what happened on this day of this fire
6 and we had been pretty upset by the amount of coverage
7 that the anti-bridge lobby had been getting over various
8 things, so we decided we'd better go down to the ferry
9 and make ourselves heard as a group of concerned people
10 from Hindmarsh Island about the lack of services, et
11 cetera, that the island had. We went down. We thought
12 it was our chance to air our views virtually. So, when
13 we arrived at the ferry and the helicopter was there,
14 there was quite a few anti-bridge people arrived because
15 there were picketers on the other side handing out
16 leaflets, et cetera, to cars and it became a
17 confrontation between the people living on the island
18 who wanted the bridge and the picketers. It was quite
19 an argument ensued. And after it all calmed down a bit,
20 Sarah and another lady was standing there and I spoke to
21 them and I said 'Hello, who are you?' to be blatant, I
22 suppose. That is what happened. She introduced herself
23 as Sarah Milera and her auntie who was Doreen
24 Kartinyeri.

25 Q. I think a discussion ensued between the three of you; is
26 that right.

27 A. Yes.

28 Q. Tell us what was said.

29 A. We started talking about the island and what you know
30 about the bridge, and I asked them what their thoughts
31 on it were, and they said 'Well, it's our island' and,
32 you know, 'Nothing's going to happen, no bridge is going
33 to take place', and a few things like that, and.

34 Q. What did you say about this.

35 A. Well, I said that I thought a bridge should take place
36 and that, you know, I thought it was up to the people of
37 Hindmarsh Island to decide what should happen, not all
38 these anti-bridge protesters who some - most of them

M.G.W. JOLLY XN (MR SMITH)

1 didn't even own land on Hindmarsh Island. And she then
2 said -

3 Q. Go on.

4 A. She said 'Oh well, we've got the right to say because
5 it's our land and it's sacred to us', and I said 'Well,
6 I don't know, it's sacred to me too. I've - we've lived
7 here for four or five generations'. She said 'We have
8 been there for 5,000 years'.

9 Q. Who is speaking at this stage, you and -

10 A. And the three of us were getting a bit -

11 Q. When you said 'she said', was that Doreen Kartinyeri or
12 Sarah.

13 A. No, actually that would vary because she said about she
14 was related to the Walkers who owned all that land. I
15 said 'Well, I've got a right to the land, I feel, just
16 as much as you have because I was born there and have
17 lived all my life there. You haven't been near it. You
18 left it.' And I said that we have an affiliation
19 'Doesn't matter whether you're black or white. I have
20 an affiliation with the land and that's why we still
21 live there'. And that is how it became fairly heated.

22 Q. Looking at Exhibit 170, which is a book of press
23 clippings, see there there is an article, an Advertiser
24 article I think, 'Burning-off blame for island fire',
25 Advertiser, 26 November 1993. Just have a quick look at
26 that article. Does that help you identify the fire as
27 being the fire in November 1993.

28 A. Yes, I think that was the one. There was one on one day
29 and another on the second day, and I'm not quite too
30 sure which one it was. I think it's the first one.

31 Q. How close were the fires together in point of time.

32 A. The next day.

33 Q. So, we can safely say, can't we, that if that article is
34 correct and assuming it had been reported correctly,
35 that is said to have occurred on about 26 November 1993.

36 A. They occurred on the same property in the same pine
37 trees, so it's a little bit difficult to say.

38 Q. Being November then of 1993. We could settle on that.

1 The bridge, the ban of the bridge hadn't occurred at
2 that stage.

3 A. No.

4 Q. I think there has been recorded a fire in 1994 where a
5 fire engine fell out of the ferry.

6 A. Yes.

7 Q. That is a separate one altogether, isn't it.

8 A. Yes.

9 Q. To this November 1993 fire.

10 A. Yes.

11 Q. What was the first date 1994; I'm suggesting that the -

12 A. The last fire that took place, the ferry driver didn't
13 latch the ferry properly on and the fire unit drove into
14 the river, or drove portion of it into the river.

15 COMSR

16 Q. Which is the event you are talking about when you had
17 the heated conversation.

18 A. That was the earlier one.

19 XN

20 Q. Can I take you to - there was a committee, the
21 Environment Resources and Development Committee at
22 Goolwa.

23 A. Yes.

24 Q. Who investigated the business of the bridge and came up
25 ultimately with a suggestion that perhaps there should be
26 an attempt to put a bridge on top of the barrage; is
27 that right.

28 A. I think they did have some thought about it.

29 Q. Did you appear before that committee.

30 A. Yes, I did.

31 Q. I think your statement sets out that your involvement in
32 The Friends of Hindmarsh Island island Incorporated,
33 you're president of that organisation at the moment,
34 aren't you.

35 A. Yes.

36 CONTINUED

M.G.W. JOLLY XXN (MR SMITH)

- 1 Q. Did you, like Mr Searle, the previous witness, appear
2 before Professor Saunders when she came down to Goolwa.
3 A. Yes, for about five minutes.
- 4 Q. I think you witnessed activities or protest activities
5 by Aboriginal groups and union groups at the bridge
6 site, did you. You saw, from time to time, protests.
7 A. Yes.
- 8 Q. A lady by the name of Auntie Pearl is a relative of
9 yours, isn't she.
10 A. Yes.
- 11 Q. How old is she.
12 A. She is ninety-three.
- 13 Q. She is presently alive and living in Goolwa, is she.
14 A. Yes.
- 15 Q. I think she knew Rebecca Wilson, did she not.
16 A. Yes.
- 17 Q. To what extent were she and Rebecca Wilson friendly.
18 A. Rebecca Wilson - my auntie and uncle had approximately
19 200 acres of grapevines at McLaren Flat and - I think it
20 would have been about 45 years ago. And they - as was
21 the - as they used to do in those days, Uncle Jim used
22 to go to Point McLeay and they would second a group of
23 Aborigines to come and pick the grapes. Through the
24 vintage season they used to work picking the grapes.
- 25 Q. How often, for instance, would your Auntie Pearl and
26 Rebecca Wilson be in each other's company and socialise
27 with one another.
28 A. I think over a period of years they came every vintage
29 and Auntie Pearl struck up quite a good friendship with
30 Rebecca. That they used to sit and have cups of tea and
31 talk about relations and various things that were going
32 on around the place.
- 33 Q. Do you see your Auntie Pearl regularly.
34 A. Yes.
- 35 Q. I think your statement sets out that she was a bit upset
36 about the evidence of Betty Fisher. She conveyed that
37 to you.
38 A. She felt that Rebecca Wilson wouldn't have been the

- 1 person. She was a very quiet, reserved person and she
2 wouldn't have come out with a first - all that
3 information at a first, chance meeting.
- 4 Q. Is your auntie, bearing in mind that she is
5 ninety-three, is she frail in any either physical or
6 mental way.
- 7 A. She is frail in the way that she is crippled with
8 arthritis, but she is certainly not frail mentally.
- 9 Q. She has a number of Aboriginal friends down in the
10 Goolwa area.
- 11 A. Yes, particularly the Rankines. Point McLeay?
- 12 Q. Yes, Point McLeay.
- 13 A. More than Goolwa. Mrs Grace I think and quite a few
14 people.
- 15 Q. She is reluctant to be involved in -
- 16 A. She is reluctant to - that she might say anything that
17 would betray her friendship with the Aboriginal people.
- 18 Q. Can I take you to one last topic: a meeting at Goolwa in
19 October 1993 between the anti bridge people, the CFMEU
20 and some Aboriginal groups.
- 21 A. Yes.
- 22 Q. Where was that meeting.
- 23 A. That was held in the Centennial Hall at Goolwa.
- 24 Q. That was advertised, that meeting, was it.
- 25 A. Yes, it was a public meeting, yes.
- 26 Q. You went to it, did you.
- 27 A. Yes.
- 28 Q. Was that notable in some way, that public meeting, in
29 terms of Aboriginal interest in it, I mean, so far as
30 you know.
- 31 A. It was - well, Premier Brown was present, sitting up on
32 the dais with the CFMEU. That was rather interesting.
33 The conservation groups were there, being represented.
34 And the - both the Camp Coorong people and the Point
35 McLeay people were there, together, which was fairly
36 unusual, too.
- 37 Q. Who were the Camp Coorong people represented by.
- 38 A. George Trevorrow.

- 1 Q. And the Point McLeay people.
2 A. Henry Rankine.
3 Q. Were they on the stage, as it were, at this meeting.
4 A. Yes.
5 Q. In the hall.
6 A. Yes.
7 Q. I think there was some question asked from the floor of
8 one of those Aboriginal men, was there not.
9 A. Yes.
10 Q. Tell us what it was.
11 A. Someone happened to ask that was there any reason, as
12 far as the Aboriginals knew, were there any sites of
13 significance that were in the, well, the bridge corridor
14 or the bridge approaches. Were there any sites of
15 significance that could hold up the construction of the
16 bridge. That was asked from the floor of the meeting.
17 Q. By some person you -
18 A. By some person I couldn't see.
19 Q. Was there a response to that and who made it.
20 A. Henry Rankine made the response. George Trevorrow
21 wouldn't answer. He said 'Oh, well, I'll let my brother
22 answer that one', meaning Henry Rankine. And Henry said
23 'Not that I know of', he said. 'But', he said 'I'm
24 sure, if we have a look around, we can find something.'
25 I left the meeting in disgust.
26 Q. I think you reported that to your fellow supporters of
27 the bridge, including the Chapmans, did you.
28 A. Yes, I did. Actually, I think that meeting was video
29 taped, so - by someone.
30 Q. Was there any talk, at that meeting, about consultation
31 in the context of the bridge. In other words, that you
32 remember.
33 A. I think perhaps George Trevorrow might have said
34 something 'It is about time that the white brothers
35 and the black brothers, sort of, got together and
36 talked a few things out.' I can't really give you -
37 there was a hint from George about consultation, that
38 'We are all men together and we should be able to work

M.G.W. JOLLY XN (MR SMITH)
XXN (MR MEYER)

1 out things.'

2 Q. You mentioned before that, and am I right, that you
3 conveyed to the Commissioner that it was somewhat
4 unusual to see the Camp Coorong people represented at a
5 public meeting on the same platform or stage, as it
6 were, with the Point McLeay people.

7 A. That was the trouble, was the Consultative Committee,
8 that Mrs Harvey, who was the Chairperson of the
9 Consultative Committee, was always having trouble
10 getting these people to attend, because one wouldn't
11 attend while the other one was there, etc. They were
12 virtually having a - waging a power struggle, at that
13 stage, in order to see who should represent the
14 Aboriginals. There was quite a power struggle going on
15 between Point McLeay, Tendi I think it is, and the Camp
16 Coorong people.

17 CROSS-EXAMINATION BY MR MEYER

18 Q. What is the surname of your Auntie Pearl.

19 A. Maidment-Wilson.

20 Q. Does she live in Goolwa.

21 A. Yes.

22 Q. Has she lived in the Goolwa area all of her life.

23 A. No.

24 Q. On those occasions when you were talking about grape
25 growing and matters like that, whereabouts did she live
26 then.

27 A. At McLaren Flat, yes.

28 Q. You said that you were a fisherman. As I understand
29 it, your fishing activities are associated with, in
30 fact, catching, if that is the right word for it,
31 cockles.

32 A. Yes.

33 Q. As a result you travel the area in the vicinity of
34 Hindmarsh Island and the Coorong extensively.

35 A. Just about every day, yes.

36 Q. And have a detailed knowledge of matters associated with
37 cockles.

38 A. Yes.

1 CROSS-EXAMINATION BY MR KENNY

2 Q. You have said your Auntie Pearl knew Rebecca Wilson.

3 A. Yes.

4 Q. Did you ever meet Rebecca Wilson.

5 A. No.

6 Q. You never actually saw her Auntie Pearl with Rebecca
7 Wilson.

8 A. No.

9 Q. Before Betty Fisher came on TV, in more recent days, had
10 your aunt ever mentioned Rebecca Wilson.

11 A. Yes.

12 Q. In what context.

13 A. She had mentioned that her and her husband used to run
14 the general store. I mean, at Point McLeay.

15 Q. That is the only time you had heard her mentioned.

16 A. No, there was several times I have heard her mentioned,
17 but auntie talks about Aborigines all the time.

18 Q. In your statement on p.4 when you say however that your
19 Auntie Pearl knew Rebecca Wilson intimately, that is
20 probably a bit of an exaggeration, wouldn't you say.

21 A. No, I would not say that. She knew her intimately.

22 Q. Are you aware of what contact there was.

23 A. Just as two friendly people who talked quite often.
24 That is the only - that's the only -

25 Q. While I understand that Rebecca Wilson was one of the
26 people who came and picked grapes presumably on your
27 Auntie Pearl's property at McLaren Vale, is that
28 correct.

29 A. Yes.

30 Q. And that occurred on a number of occasions.

31 A. Yes, over about probably a three or four week period.

32 And they actually stayed on the property and Rebecca and
33 her built up a, I can say, a special friendship, because
34 she was, as Auntie Pearl put it, 'a very special
35 person'.

36 Q. Your Auntie Pearl was aware that Rebecca Wilson was -
37 would it be fair to say that she recognised her as being
38 different in some way to the other Aboriginal women.

- 1 A. She was a very quiet, nice person. And someone that was
2 very, very likable. Quite a religious person. Did you
3 know her?
- 4 Q. Do you know on how many occasions your Auntie Pearl
5 employed Rebecca Wilson to pick grapes for her.
- 6 A. No, I'm not sure, but it was over a period of several
7 years.
- 8 Q. When was that.
- 9 A. It would have been up until the - probably early 50s, I
10 should say. Prior to the early 50s.
- 11 Q. Prior to the early 50s.
- 12 A. Yes, I should say between the 40s to the early 50s.
- 13 Q. 40s to the early 50s.
- 14 A. Yes.
- 15 Q. Somewhere around that area.
- 16 A. Yes.
- 17 Q. You talked about a power struggle between Point McLeay
18 and the Tendi. This is, I take it, what you were told
19 by someone else, is that correct.
- 20 A. Yes, by Mrs Harvey. That was the reason given for the
21 nonattendance of George and Henry, because we sort of -
- 22 Q. That was the reason that she gave to you.
- 23 A. That was the reason she gave.
- 24 COMSR
- 25 Q. The nonattendance of George and Henry at what.
- 26 A. At the Coorong Consultative meetings, yes. The other
27 members asked where they were and that was the reason
28 that she gave.
- 29 XXN
- 30 Q. When do you say that that explanation was given.
- 31 A. I couldn't say.
- 32 Q. I can refer you to the notes of the minutes of the
33 meeting of 20 July 1992 of the Coorong and district
34 consultative committee. It appears from those minutes
35 that you weren't present at that particular meeting.
- 36 A. I had already left the Consultative Committee by then.
- 37 Q. Did you continue to get the minutes of the meetings.
- 38 A. No.

- 1 Q. If I can just perhaps read to you what those minutes say
2 and asked for your comments on it. And, on that day,
3 under 2.5 `Aboriginal Members. Mike arranged a meeting
4 with George Trevorrow and Henry Rankine to inform them
5 their continued active membership on the Coorong
6 Committee was considered important and their involvement
7 in the Consultative Committee process of value. They
8 were very receptive and indicated they would like to
9 continue participating as members. Mike indicated he
10 was not keen on members having a proxy, but due to the
11 fact they were extremely busy people, he was prepared to
12 consider it.' I suggest perhaps that that is the reason
13 that they may not have attended other meetings.
- 14 A. What was the date of that?
- 15 Q. That they were simply busy. That was 20 July 1992.
- 16 A. 1992. I couldn't comment on that.
- 17 Q. When do you say that there was this power struggle going
18 on.
- 19 A. That was earlier. That was probably -
- 20 Q. In 1988.
- 21 A. 1988?
- 22 Q. 1988.
- 23 A. Yes.
- 24 Q. It was only ever mentioned to you -
- 25 A. It wasn't - it wouldn't be in the minutes, I can assure
26 you. It was merely given as a reason why those people
27 didn't turn up.
- 28 Q. I suggest to you that really it is only on occasions
29 they didn't turn up. When, for example, on 9 February
30 1987 it appears that a Mr L. Jolley gave his apologies.
31 Was there a Mr L. Jolley on the Committee.
- 32 A. Yes.
- 33 Q. Who was that.
- 34 A. Lindsay Jolley.
- 35 Q. Is he a relative of yours.
- 36 A. No.
- 37 Q. It appears on a -
- 38 A. His name is spelt differently to mine.

- 1 Q. There is a Mr M. Jolly recorded as being present and Mr
2 G. Trevorrow being present.
- 3 A. Yes, was that the one being held on the Coorong?
- 4 Q. That was on a field trip to the Murray Mouth.
- 5 A. And that was the first and only time that he ever
6 attended. That was the day I told him about the burial
7 site on the Mundoo Channel.
- 8 Q. When you say that was the only time Mr Trevorrow
9 attended, what you really mean is that is the only time
10 he attended when you did, is that correct.
- 11 A. That is probably so.
- 12 Q. He may have, in fact, attended on other occasions that
13 you are unaware of.
- 14 A. Can you see it there, can you?
- 15 Q. No, I am merely asking you a question.
- 16 COMSR
- 17 Q. How frequently did you attend the meetings, while you
18 were on the Committee.
- 19 A. There were some meetings I couldn't attend towards the
20 end, because I was under pressure. We had no cockles
21 and we had to go to New South Wales in order to get
22 them. And that is the reason why I left the Committee,
23 because I couldn't attend the meetings.
- 24 CONTINUED

1 Q. When you say `towards the end', what time are you -

2 A. I am talking about towards 1989, I should say.

3 Q. Prior to that, how regularly did you attend the
4 meetings.

5 A. Fairly regularly. Probably missed maybe two out of the
6 nine - or eight or nine. But the non-attendance - Mrs
7 Harvey was desperate to involve the Aboriginal group in
8 that consultative committee and she was frustrated -
9 went to the point of frustration that she could not get
10 them involved in it, and yet their input was absolutely
11 critical to it.

12 XXN

13 Q. You are not certain though when Mr George Trevorrow or
14 Mr Henry Rankine actually became members of that
15 committee, are you.

16 A. No. I sort of understood they were supposed to be
17 involved in it as of day one, or certainly one of them.

18 Q. They weren't involved in the inaugural meeting, were
19 they.

20 A. I am afraid it is beyond my memory.

21 Q. You don't recall them being there -

22 COMSR: You mean present or involved?

23 MR KENNY: Might have just been present.

24 XXN

25 Q. I am looking at the minutes of 7 February 1986. I
26 notice `Mr M. Jolly from the South Australian
27 Professional Fishermen's Association'. I presume that
28 was you.

29 A. Yes.

30 Q. There doesn't appear to be anyone representing an
31 Aboriginal group listed as being present. You don't
32 remember anyone being there on that occasion.

33 A. No. No, I can't.

34 Q. When I say `anyone' I mean any Aboriginal person. It
35 appears Monday, 5 May 1986, Mr George Trevorrow was
36 welcomed as a new Aboriginal member, and he was
37 represented by his brother, Tom, in his absence.

38 A. That's right.

- 1 Q. In fact, that occurred again on a later occasion as
2 well, didn't it, on 11 May 1987, I presume.
- 3 A. Which only goes to show that the aborigines were
4 involved in that consultative committee.
- 5 Q. It looks like on 5 October 1987, Mr George Trevorrow was
6 again present. You don't appear to have been present on
7 that occasion.
- 8 A. Maybe so.
- 9 Q. On 9 May 1988, Mr Trevorrow is represented again by a
10 proxy, presumably his brother, Tom.
- 11 A. Presumably.
- 12 Q. Mr Tom Trevorrow or Mr T. Trevorrow is mentioned, with a
13 mention of a proxy alongside. So it appears to me, from
14 looking at these minutes, there is a regular attendance
15 by either Mr George Trevorrow or his brother, Tom.
16 Would that be fair to say.
- 17 A. What I was saying was that how many times can you see
18 Henry Rankine on that list?
- 19 Q. I have got to July 1988 and there is no mention of Henry
20 Rankine even -
- 21 A. That's what I am saying -
- 22 Q. Can you hold on. There is no mention of Mr Henry
23 Rankine actually being a member of that consultative
24 committee yet.
- 25 A. And that was the frustration of Mrs Harvey, that she
26 couldn't involve the two sides of the Aboriginal groups,
27 because one wouldn't attend without the other one being
28 there - if the other one was there.
- 29 Q. What I am saying to you is that doesn't appear anywhere
30 in the minutes.
- 31 A. No, it probably wouldn't.
- 32 Q. In fact, again on 18 July 1988, Mr George Trevorrow is
33 mentioned as being present and you are listed as
34 providing an apology. Just for the record, 6 August
35 1988, Mr Henry Rankine and Mr G. Trevorrow both provided
36 apologies at a meeting it doesn't appear you are present
37 at. I think you have also told us that you are

1 currently the Chairperson of the Friends of Hindmarsh
2 Island Incorporated, is that correct.

3 A. That's correct.

4 Q. Was that, essentially set up as a pro-bridge lobby.

5 A. It was set up in response to another group who called
6 themselves the Friends of Hindmarsh Island, and we
7 considered them not to be the friends of Hindmarsh
8 Island, so we did something practical about it and
9 registered a name in order to show who were the friends
10 of Hindmarsh Island.

11 Q. So there was another group called the Friends of
12 Hindmarsh Island.

13 A. Yes, there were.

14 Q. I take it that was the group that was against the
15 bridge, is that correct.

16 A. The bridge was their sole commitment, to get rid of. We
17 have embraced other areas, such as general welfare of
18 Hindmarsh Island, rather than just the bridge issue.

19 Q. You, I take it, registered the name 'Friends of
20 Hindmarsh Island'.

21 A. Incorporated, yes.

22 Q. Incorporated.

23 A. Yes.

24 Q. Then I presume you stopped them using their name, is
25 that correct.

26 A. Of course.

27 Q. Did you take court action over that.

28 A. Did they?

29 Q. Did you.

30 A. Take court action over that, no.

31 Q. How did you let them know that they couldn't continue to
32 use that name.

33 A. Well, we registered the name. It was our name.

34 Q. What did you do about it after you'd registered it.

35 (NOT ANSWERED)

36 COMSR

37 Q. Did you do anything about advising the other group, as
38 it were, of the fact that you were now registered.

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- 1 A. We considered our - us to be the friends of Hindmarsh
2 Island. We notified them that we were using that name
3 and we considered ourselves to be the friends of
4 Hindmarsh Island, and we notified them as such.
5 XXN
6 Q. Did you arrange for solicitors to notify them.
7 A. We notified them. I don't think through solicitors.
8 Q. Do you know how you notified them.
9 OBJECTION My Meyer objects on the grounds
10 of relevance.
11 MR MEYER: We are really straying now into matters
12 of peripheral interest, aren't we?
13 MR KENNY: I am not taking it terribly much
14 further, but it appears there were two opposing forces
15 in relation to the bridge.
16 COMSR: I don't think there is any doubt about
17 that.
18 MR KENNY: I was looking at the relationship
19 between the two groups.
20 MR MEYER: Does Mr Kenny mean two forces opposing
21 each other, rather than opposing the bridge?
22 MR KENNY: Yes.
23 MR MEYER: I think that's right. I am willing to
24 concede that from the point of view of my client, if
25 that saves Mr Kenny any further trouble.
26 QUESTION NOT PURSUED
27 XXN
28 Q. It appears from the minutes that have been tendered and
29 marked MFI 182, that there was no meetings of the
30 Friends of Hindmarsh Island between 20 October 1993 and
31 3 November 1994.
32 A. That's correct.
33 Q. So that there were no meetings during that period.
34 A. Not of the Friends of Hindmarsh Island.
35 Q. The last meeting appears to be 23 May 1995. Was that
36 the last meeting that the organisation held.
37 A. Yes.

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1 Q. I just note in here it was resolved to write to the Law
2 Society regarding lawyer involved in alleged conspiracy,
3 as referred to in the media. Was that a written letter.

4 A. Yes.

5 COMSR: Has that got anything to do with your
6 clients?

7 MR KENNY: I presume the lawyer they are talking
8 about is the lawyer who was representing my clients at
9 the relevant time.

10 WITNESS: If I can just tell you -

11 COMSR: Perhaps don't tell us at this stage. Mr
12 Smith can ask any question if he feels it needs to be
13 expanded upon in any way.

14 XXN

15 Q. Without telling us the details of that letter, I presume
16 that was a letter of complaint to the Law Society about
17 the solicitor's involvement.

18 A. It was asking the Law Society to -

19 COMSR

20 Q. Without giving any detail. You were asked was it a
21 letter of complaint.

22 A. Yes. EXHIBIT 182 MFI 182 tendered by Mr Smith.
23 Admitted.

24 EXHIBIT 184 MFI 184 tendered by Mr Smith.

25 Admitted.

26 NO RE-EXAMINATION

27 NO FURTHER QUESTIONS

28 WITNESS RELEASED

1 MR SMITH: I am now asking you to adjourn the
2 hearing of this commission until next Thursday, 5
3 October. By way of explanation, I indicate that when
4 the Section 35 authorisations were held invalid by the
5 Supreme Court on 25 August of this year, the commission
6 took the view that it could proceed for a week to a
7 fortnight before reaching evidence which arguably
8 required a valid authorisation.

9 In fact, we have sat now taking evidence for
10 approximately a month. It is now necessary for the
11 commission to pause, at least insofar as taking evidence
12 in the hearing room is concerned. There is some
13 investigative work to be done and a need to structure
14 the next and final section of the evidence to be taken
15 by the commission.

16 So I ask you then to adjourn the hearing of taking
17 of evidence in the hearing room until Thursday of next
18 week, 5 October 1995 at 10.15 a.m.. I indicate that
19 counsel and interested parties will be notified of a
20 tentative program in the interim.

21 COMSR: Yes, because, of course, we are not in
22 the situation of knowing the outcome of the application
23 for Section 35 authorisation. The commission doesn't
24 have one, of course.

25 MR SMITH: No. At this juncture, as I understand
26 it, the consultative process is finished. The Minister
27 hasn't communicated his decision to the commission about
28 the authorisation.

29 COMSR: Before we adjourn, is there anything in
30 the evidence of the last witness which potentially ought
31 to be considered confidential?

32 MR SMITH: Yes. Thank you for reminding me of
33 that. The statement of evidence of Michael Jolly -

34 COMSR: It just might. As we are situated as we
35 are, I would prefer to be overly cautious, and it
36 certainly will not interfere terribly much with the
37 publication of the evidence of the witness if I indicate

1 that I think it advisable to suppress specific mention
2 of sites and locations.
3 MR SMITH: Perhaps I can pinpoint them for you. It
4 is Exhibit 173, the statement of Michael Jolly, page 2.
5 COMSR: I suppose I could really only suppress
6 the statement for the time being.
7 MR SMITH: Of course, the statement does not,
8 because of the confidentiality undertakings, go beyond
9 counsel and solicitors in terms of seeking instructions
10 from their clients. So it is not as if a statement is
11 going to enter the public arena in any event.
12 CONTINUED

1 But you might perhaps suppress from publication, it's
2 really -

3 COMSR: Any evidence which might tend to
4 specifically indicate sites.

5 MR SMITH: The location of sacred sites on Mr
6 Jolly's property.

7 MR MEYER: I take it there is no objection, for
8 example - I'm only trying to help the press - no
9 specific problem to a reference to Mr Jolly giving
10 evidence that there were sites on Hindmarsh Island?

11 COMSR: No, I'm saying anything which might tend
12 to specifically identify the position is what I have in
13 mind at the present time. Is there any problem as far
14 as the press is concerned in understanding what I'm
15 referring to? I doubt if it was going to feature in any
16 case, but just out of an abundance of caution it would
17 be desirable to make that order at the present time.

18 Now, you are asking for an adjournment until Thursday of
19 next week?

20 MR SMITH: Yes, Thursday, 5 October.

21 ADJOURNED 12.58 P.M. TO THURSDAY, 5 OCTOBER 1995 AT
22 10.15 A.M.

