



SPARK AND CANNON

TRANSCRIPT OF PROCEEDINGS

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THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

MS K McMILLAN SC, Counsel Assisting
MR M COPLEY SC, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS INQUIRY ACT 1950
COMMISSIONS OF INQUIRY ORDER (No. 1) 2012
QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

BRISBANE

..DATE 1/02/2013

Continued from 31/01/2013

DAY 20

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complaints in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

THE COMMISSION COMMENCED AT 11.34 AM

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COMMISSIONER: Someone's been sitting in my chair. Yes, Mr Copley.

MR COPLEY: Before Mr Peers is cross-examined by Mr Bosscher there were just two other documents that I wanted to tender into evidence.

COMMISSIONER: Yes.

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MR COPLEY: The first is a photocopy from a government file which contains a number of memos regarding how children in youth detention centres were to be dealt with if they made complaints of abuse.

COMMISSIONER: Yes.

MR COPLEY: The principal memo is dated 9 July 1986 and then there seem to be attachments to that memo, so I tender that as an exhibit.

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COMMISSIONER: Have you seen that, Mr Hanger?

MR HANGER: Yes, just today.

MR COPLEY: No, it was emailed. It was emailed in the past.

MR HANGER: Yes, I saw it on my email today.

COMMISSIONER: That will be exhibit 303 and it will be described as Allegations Abuse Neglect Departmental Institution Procedures.

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ADMITTED AND MARKED: "EXHIBIT 303"

MR COPLEY: And the other document that I tender is also an extract from a government file which contains a memo which was dated 15 August 1986 concerning guidelines to managers about incidents of assault between children in departmental institutions.

COMMISSIONER: Was this also emailed, this one?

MR COPLEY: Did I say an email? Yes, it's been provided.

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MR HANGER: I received it as an email.

COMMISSIONER: All right. The memo of the Department of Children's Services dated 15 August 1986 will be exhibit 304.

ADMITTED AND MARKED: "EXHIBIT 304"

1/2/13

COPLEY, MR

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MR COPLEY: And the purpose of the late start this morning, amongst other things, was to resume hearing evidence from Mr Peers - - - 1

COMMISSIONER: Yes.

MR COPLEY: - - - who is to be cross-examined by Mr Bosscher now.

COMMISSIONER: Yes.

MR COPLEY: And Mr Peers is on the phone. 10

PEERS, IAN COURTNEY: on former oath

MR BOSSCHER: Thank you, Commissioner.

COMMISSIONER: Mr Bosscher. Mr Peers, are you on the phone?---I am.

Excellent. Good morning, welcome?---Good morning, Commissioner.

Yes, Mr Bosscher? 20

MR BOSSCHER: Thank you, Commissioner.

Mr Peers, I want to ask you a few questions. Can you hear me without any difficulty?---I can hear you, yes, thank you.

If that changes at all please let us know?---I will do.

Sir, I've had the benefit of reading the evidence that you gave before this commission some days ago now and I won't take you back over too much of that material, I hope. The first point I want to start with is that when you took over the role that you held you had a very favourable view, as I understand it, of Mr Coyne and his management style?---Yes, I had a favourable view. 30

I think to quote you, that:

He was a well-intentioned manager who was genuinely focused on the welfare of the young people in that centre?

---That's true. 40

However, as time developed his management style became a difficulty for you in the exercise of your particular role? ---I don't know that I'd put it that his management style became a difficulty. I think difficulties arose out of his management style.

And given you were his direct superior that then caused some difficulties for you?---That's right. 1

Because for all intents and purposes you had to deal with that as an issue?---That's right.

As I understand your statement one of the potential causes of the issues that were arising at the centre at John Oxley was the fact that staff from another centre - from Sir Leslie Wilson - transferred to John Oxley and commenced duties there?---Yes. 10

And referring to your statement at paragraph 10, those staff members transferred to JOYC - and I'm quoting you directly now:

And began to have conflict with JOYC management and staff who were running JOYC with a different philosophy from Sir Leslie Wilson?

---Yes.

Can you elaborate, please, on what the competing philosophies were?---I would say that the philosophy of Mr Coyne and senior staff was that the centre should be rehabilitative as much as possible for the young people and that staff in the centre all had active roles in that process. 20

And how did that compete with the philosophy of the staff members coming from the other centre?---I believe that the attitude that probably came across was more of a custodial role.

So the Sir Leslie Wilson Centre had a more traditional custodial focus or a philosophy?---Yes. 30

The people in that centre were there to be locked up and punished?---No, I wouldn't say that.

Was that the philosophy of the employees that you - - -? ---I don't believe so. I would be speculating here, but I would remind the commission that Sir Leslie Wilson Youth Centre had previously been called a youth hospital. It was run by the health department and staffed with psychiatrists and medical staff in that discipline. It then changed and I'm not sure that in the process of change through those years there was any clear change in understanding of roles negotiated with the new staff. That was before my time but that's what I believe to be the case. 40

Okay. Now, as a result of the difficulties that arose, at paragraph 11 you state:

I believe that there were a number of confrontations between the manager, Peter Coyne, and some members of staff at JOYC. I remember that these were about incidences which seemed reasonable to me when they were described to me by the manager and the deputy manager?

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---Yes.

Could you give us some examples of the types of incidences you're referring to that seemed reasonable to you?---Well, one that I recall was that Mr Coyne told me that he went to the centre at night and found one staff member either asleep or in his slippers something to that effect. Mr Coyne told him that he was not to go to sleep, that it was his role to stay awake and pay attention to what was happening. Mr Coyne told me that he left the centre and came back sometime later that night and found the same staff member again asleep. And when Mr Coyne confronted him about that he became angry and said to Mr Coyne that it was not his job - not his role to be there at night, but rather during office hours.

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Were some of the incidences that you recall or had to deal with in relation to the way the inmates were disciplined? ---Could you repeat that, please.

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Some of the incidents or complaints about the management style of Mr Coyne, were they in relation to how the inmates were disciplined?---I don't recall having conversations about discipline of staff. I recall having conversations about management of staff and how best to approach difficulties that were arising.

COMMISSIONER: Was it staff you were asking about?

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MR BOSSCHER: No. I was asking you, Mr Peers, about these, whether some of the concerns of staff members at JOYC related to either the discipline - or alternatively the lack of discipline so far as the inmates were concerned?---I don't know. I don't know. I was not made aware that staff at John Oxley had concerns about the lack of discipline of inmates, not that I can recall.

Okay. Now, so far as the Annette Harding incident that's referred to at paragraph 13 of your statement, having had the benefit of reading your statement and, of course, your transcript, is it a fair comment for me to make that you have very little independent recollection of that today? ---Yes.

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And that you rely heavily on contemporaneous documents to inform yourself as to what occurred?---Yes.

You say in that paragraph that you had a meeting shortly after the incident to ensure that all the proper processes that had to be done were in fact done?---Yes.

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Do you recall being satisfied as a result of that meeting that those things had indeed occurred?---Yes.

Was there ever any dissatisfaction expressed to you from other members of staff as to the thoroughness of that particular - the response to that particular incident by management?---Not that I can recall, no.

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At paragraph 17 you say the following:

In relation to the allegation that this matter was covered up, I don't find it surprising that allegations would have been made by staff at JOYC.

You then go on to say you don't find it surprising because of the dislike that some members of staff had for Peter Coyne?---Yes.

When did you first hear about allegations of a cover up in relation to this particular incident?---I think some time later. I can't recall that while I was in that role I ever heard allegations of a cover up. I think I had vacated that role and moved on elsewhere when those things began to surface.

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And that was after the Heiner inquiry had been established that you moved on, wasn't it?---Yes.

At paragraph 22 you make reference to the fact that you gave evidence before the Forde Inquiry?---Yes.

And that was in relation to matters involving the John Oxley Youth Centre?---Yes.

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You say in that paragraph you don't recall ever being asked about any sexual abuse allegations during the course of that inquiry?---Yes.

Do you have a clear recollection of what you were asked about during that inquiry?---No, I don't have a clear recollection.

Could you have been asked about those types of allegations and not now recall?---It is possible.

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You were involved, as I read your evidence, at least on the periphery in relation to the establishment of the Heiner inquiry?---Yes.

But that once it was effectively established, you had very little to do with the inquiry itself?---Yes.

You weren't aware of what information was given to the Heiner inquiry?---No, I wasn't. 1

You weren't privy or you didn't have access to tapes or transcripts or notes that Mr Heiner made during the course of that inquiry?---No.

In paragraph 29 you say, "I do not recall any issues of sexual abuse being raised in regards to this inquiry." That's in your statement?---Yes.

Would it be fair for me to put this proposition to you: that even if they had been raised, you wouldn't be aware of it simply because you weren't aware of what was told to Mr Heiner?---Yes. 10

Thank you, commissioner. That's all I have for Mr Peers.

COMMISSIONER: Thanks, Mr Bosscher. Mr Copley?

MR COPLEY: No questions, Mr Commissioner.

COMMISSIONER: Thank you.

Mr Peers, thank you very much for coming back by phone. We appreciate it. We will disconnect now?---Thank you. 20

WITNESS WITHDREW

COMMISSIONER: Yes, Mr Copley?

MR COPLEY: Ms Crook was told not before noon so I'm just having inquiries made to see if Ms Crook is outside yet.

COMMISSIONER: See if she didn't believe us. 30

MR COPLEY: Yes. We may be able to go on with another witness if she's not here yet. I'm just having inquiries made.

COMMISSIONER: Okay, thank you.

MR COPLEY: Mr Commissioner, I call [REDACTED].

COMMISSIONER: Yes.

MR COPLEY: With Mr Blumke's assistance he is ready on his landline. 40

██████████ sworn:

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ASSOCIATE: For recording purposes, please state your full name and your occupation?---Yes, ██████████. I'm a storeman for Coles.

Thank you. I'll now pass you over to Mr Woodford.

COMMISSIONER: Thanks for appearing by phone, Mr ██████████. Welcome. Yes, Mr Woodford?

MR WOODFORD: Thank you, Mr Commissioner.

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Mr ██████████, do you have a copy of your four-page statement with you?---Yes, I do.

Just have a look at it. Does it have 19 paragraphs on it? If you go to the last page is it marked 19 paragraphs? ---Yes.

I have some questions for you today about the John Oxley Youth Centre. I understand that you started work there on 31 July 1989. Is that correct?---Correct.

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You finished up on 16 April 1991?---Correct.

You were employed as a youth worker?---Correct.

Just moving through your statement, at paragraph 7 on the second page, we've heard in this inquiry about something called the Heiner inquiry. Do I understand from your statement that you yourself took no part in that inquiry whatsoever?---No, no part.

Your leaving the John Oxley Youth Centre, that took place shortly after some serious allegations being made about you. Is that correct?---That's correct.

30

If I could take you to paragraph 13 of your statement? ---Yes.

At that time Mr Ian McIntyre was the manager of the centre, was he?---Yes, he was.

You note on the third line of paragraph 13 at the time that these allegations were made against you, and I'll quote you, "The place was toxic," end quote. Now, what do you mean by that?---There was big divisions within the place, I thought, yes.

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Divisions between who?---Between management and staff.

That was still ongoing at that stage, was it?---It was lingering, yes. It was the hangover from - yes.

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██████████. XN

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When you say "the hangover", did you work under a Mr Peter Coyne?---I did. 1

When you say "lingering", did it have anything to do with the management of the establishment by Mr Coyne? Do you understand my question?---Yes, I do. I think Peter Coyne's name was mentioned a lot within a lot of the conversations between staff members, yes.

Right, but by the time you resigned you note the place as being toxic. That's a fairly strong word. These staff-management conflicts you've mentioned, they were still ongoing, were they?---They weren't ongoing, they were just hung over, yes. Staff members still a bit bitter, yes. 10

I want to move to these allegations that were made against you - and I should tell you that the commission is not interested in the truth or otherwise of those allegations that have been made. I wanted to make that very clear to you before I ask you some questions. What I am interested in finding out from you is what was done about those allegations. Now, from your statement I understand that Mr McIntyre approached you about some allegations, did he? ---He did, yes. 20

When he approached you did he interview you?---It was he - yes, I guess. I was taken to the office, yes.

Okay, you were in the office. Was it a formal conversation or was it an informal chat about what had been said? How would you describe it?---It was just put straight to me, yes, the allegation; yes.

So he brought you in, shut the door and put to you the allegations that had been made?---Yes. 30

You responded to that?---Yes.

Did he seek anything in writing from you at that stage? ---No, I don't recall, sorry.

Do you ever recall committing anything to writing at the time that you were at the John Oxley Youth Centre about those allegations that had been made?---No. No, I didn't put any pen to paper about them.

At that stage did any police attend the centre to speak with you about the allegations?---No, I wasn't interviewed, but I know the police were informed, yes. 40

How do you know that?---That was hearsay. I didn't - I wasn't told by the centre or anything, yes.

Okay, well, let's just break that down a little bit.
Mr McIntyre, did he tell you whether the police were
called?---No.

1

When you say it was hearsay, is it something you heard just
on the grapevine, the gossip at the centre, was it?---Yes.

So you had no direct knowledge of whether or not the police
were in fact called?---No.

Apart from - - -?---The only direct - - -

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Sorry, I cut you off there?---Sorry.

No, you go ahead. You had something to say?---Yes, the
only direct knowledge I had of it, when the CJC contacted
me, yes.

You made some mention of that in your statement. That's
some seven or so years later in 1998?---Yes.

So from what you've told us, the only interaction that you
had with management or any sort of investigation at the
time about this matter was Mr McIntyre bringing you into
the office and, to use your words, putting the allegations
to you. That was the extent of it?---Yes.

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You left some days after that time?---Yes. I resigned,
yes.

Putting that to one side now and looking at paragraph 17 of
your statement?---Hang on, I'll just go over to it.

It's just on the last page?---Yes.

I understand from what you're saying there that you
yourself during the time that you were at the John Oxley
Youth Centre had no knowledge whatsoever of any child
sexual abuse?---No.

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Thank you, Mr [REDACTED]. I don't have any further
questions for you but some others may.

COMMISSIONER: Yes, Mr Hanger?

MR HANGER: Mr [REDACTED], I'm going to ask you one
question that my friend hasn't. Did you sexually abuse the
girl referred to in paragraph 13?---No.

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No, so why really did you resign?---Why did I resign? Yes,
I just felt very uneasy. Didn't feel like I could work
under that environment, yes, when allegations had been made
against me.

1/2/13

[REDACTED] . XN
[REDACTED] . XXN

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Can I ask you a little more about what you refer to as toxic? You obviously didn't buy into making any submissions to Mr Heiner. You wanted to stay out of politics there, did you?---Yes, I just stayed right out of - yes.

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But when you refer to the place being toxic, can I press you a bit further on the atmosphere?---The atmosphere wasn't real pleasant, no.

COMMISSIONER: In what way? What made it unpleasant? ---Just morale.

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What, it was low, was it?---Morale was very poor, I thought, yes.

Yes?---Yes, I'd never worked in an institution before, so it was very eye-opening, yes.

What do you think from your experience impacted negatively on morale to lower it?---Yes, I don't really understand it all. It was just - just negativity, yes, like a - - -

MR HANGER: Were there issues between people who had come across from the Wilson youth establishment and other people who were in sort of different camps? I mean, was the place divided into camps or anything like that?---I couldn't really say about the Wilson - I didn't know much about people's history there, yes, so.

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Were there differences between unions on site? We understand there were several unions on site?---Yes, there was a - no, I couldn't say on that.

Okay, thank you. Thank you, I have nothing further.

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COMMISSIONER: Mr Harris?

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MR WOODFORD: Just before Mr Harris starts, Mr Commissioner, Mr Hanger referred to a question I didn't ask and that was purposeful, because we've had legal argument about that a number of days ago and I did set that up at the start of questioning, as to why I wasn't asking this gentleman about those matters. I only raise that really for - not as an attack on my friend Mr Hanger, but really just foreshadowing to Mr Harris that objection would be taken to his exploring any of those matters. I think Mr Harris understands what I'm talking about.

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COMMISSIONER: Your position is it's not relevant if it is taken as read.

MR WOODFORD: It's in the statement, that's why I let it go with Mr Hanger. I just don't want Mr Harris to be in a position to think: oh, it's been opened up and in I go.

COMMISSIONER: Yes, okay. Do you understand, Mr Harris?

MR HARRIS: Yes, I understand, Commissioner, thank you.

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Mr [REDACTED], at paragraph 13 of your statement you say, "I had done my best to stay out of the politics." Now, what do you mean by the politics within the John Oxley Centre? ---Just the talking, the gossip, the - yes, that's what I'm referring to; yes.

The politics, as I could read it is a staff/client issue, so that means staff members making complaints against - sorry, clients making complaints against staff members. Would you describe that as politics?---No; no comment - no, no.

30

But in the centre it is a centre where we've got - it's a juvenile detention centre where you've got a lot of young juveniles there, isn't it?---Yes.

And many of them are in there for serious criminal matters, if I could say that?---Yes, that's true.

And they would be prone to making allegations, would they not?---There was proper documentation in place for allegations like that, yes.

So if a client made an allegation against a staff member it would be documented?---Pretty well, yes. I mean, I've (indistinct) reports and everything, yes. Everything - yes.

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Apart from the allegations made against you, do you know of any other allegations made by a client against a staff member whilst you were there?---No.

1/2/13

[REDACTED]. XXN

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I just want to go on a little bit further. You say that Mr McIntyre - your words are:

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Ian never gave me any kind of ultimatum to resign or be sacked. I'd just had enough and over the next couple of days I decided to resign.

With respect to that, your resignation came about because of the actual allegation made against you, or was it a combination of the allegation made against you and the toxicity of the centre?---No, is mainly (indistinct) everything, yes, I just - I guess I'd never worked in a detention centre before so I was just, yes, just leave there. That's it.

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So in the end it just got too much for you. Is that what you're saying?---Yes, it - I was quite young at the time, yes.

Yes?---Inexperienced.

Do you recall if Mr McIntyre ever gave you any documentation or anything like that?---No.

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Paperwork?---No.

Nothing at all?---No.

Thank you, Mr [REDACTED], I have no further questions?
---Thank you.

MR BOSSCHER: I've no questions, thank you.

COMMISSIONER: Thanks, Mr Bosscher. Thanks, Mr Woodford.

MR WOODFORD: May Mr [REDACTED] be excused, Mr Commissioner?

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COMMISSIONER: Yes, sure. Mr [REDACTED], thanks for appearing by phone. I know it would have been an inconvenience. It's appreciated. We'll disconnect the call now. Thank you?---Thank you.

WITNESS WITHDREW

MR WOODFORD: Commissioner, I tender Mr [REDACTED]'s statement. There are a number of matters I'd like to take you to in that statement in terms of publication.

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COMMISSIONER: Yes.

MR WOODFORD: You have paragraph 10, there's the name of a detainee there on the second line; my submission is that would not be published.

COMMISSIONER: Yes.

1/2/13 [REDACTED]. XXN

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MR WOODFORD: Moving down in paragraph 11, there is a name there that appears in the last two lines; my submission is that would not be published. 1

COMMISSIONER: The one in inverted commas or in italics?

MR WOODFORD: Yes, that's the one.

COMMISSIONER: Yes.

MR WOODFORD: And then moving forward to paragraph 16 there is a name there that appears in the second line; my submission is that would not be published. And there's a name in the last line; my submission is that would not be published either. 10

COMMISSIONER: All right. The name in paragraph 10 on the second line, the name in paragraph 11 on the sixth and seventh line, and the name on the second line and the Christian name on the last line of paragraph 16 will be deleted before publication.

MR WOODFORD: Thank you. 20

COMMISSIONER: When that's done the document can be published. And it's exhibit 305, for the record.

ADMITTED AND MARKED: "EXHIBIT 305"

MR WOODFORD: Thank you, Mr Commissioner. Mr Copley has the next witness.

MR COPLEY: I can now return to (indistinct) Commissioner.

COMMISSIONER: Yes, thank you. 30

CROOK, SUZANNE JANE on former affirmation:

MR COPLEY: Mr Commissioner, could Ms Crook have back exhibit 151, please?

COMMISSIONER: Yes. Good morning, Ms Crook?
---Good morning.

Thank you for coming back.

MR COPLEY: Ms Crook, yesterday you said that you would have done an initial draft, possibly of that whole document - - -?---Mm'hm. 40

- - - exhibit 151. Remember that?---Yes.

The question I want to ask you now is why would you have done a draft of that document?---Because I was asked to.

Who asked you to do so?---It would have been Ruth Matchett.

1/2/13

CROOK, S.J. REXN

Did she say why she wanted you to do it?---I can't recall. 1

COMMISSIONER: Had you worked with Ms Matchett before?
---Not closely. I'd had dealings with her previously.

How did you come to be in the office - - -?---In her office?

- - - ask for it? Were you picked?---Well, I wasn't attached to her office, I was - she asked me to give her some briefing. Upon the change of government she asked for some briefings on union matters because I was the industrial relations person. 10

Industrial - - -?---And it flowed from there, I guess. So my involvement in this was on a - - -

Co-opted - - -?--- - - - periodic basis, so she would call me up and say, "I need some advice on this. Can you do this? Can you do that?"

So you were co-opted for that purpose. Why you?---I'm not sure. 20

Righto?---I mean, I do have some background in law. I have a law degree; I'm not a lawyer, and whether she wanted some technical advice or thought she wanted some - - -

So you get the best of both worlds, having a law degree and not being a lawyer?---Yes. All care, no responsibility, but I was very careful about that, that I didn't give advice, because, you know, I'm not a qualified barrister or solicitor.

But she knew you well enough to actually pick you out of the crowd and ask for you to give her the help that she needed?---Yes, but it would be more the - it would be as much the position as - - - 30

The person?--- - - - a personal thing yes.

Yes, I see.

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MR COPLEY: So would you say that the idea to do the submission to take it to cabinet was not your idea?---No, no - yes, I would say that it wasn't my idea.

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Yes?---Sorry.

That's okay, but you understood that in order for Mr Heiner to be indemnified the cabinet would need to make a decision about that?---Yes.

Ms Matchett asked you to do the submission?---Yes.

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Did she say where she got the idea for doing a submission to cabinet from? For example, did she say, "This is a matter that we must take to cabinet in order to get Mr Heiner indemnity. Would you do up a submission"?---I can't remember what she said.

Or did she say, "Someone from the cabinet office has advised me that we need to do a submission on this topic"? ---I don't recall. I don't recall either. I can't say.

COMMISSIONER: Had you done a cabinet submission for her before?---I'd done cabinet submissions before. I mean, that had been part of my role in various - to contribute cabinet submissions and that - - -

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But was this the first one you had done for Ms Matchett? ---For her personally?

Yes, at her request?---Yes, it would've been as DG; yes.

MR HANGER: Can I just interrupt you because it may be significant. My recollection - and I wasn't here yesterday, but my recollection in an answer about two minutes ago to Mr Copley was not, "Ruth Matchett asked me to do this"; the answer was actually, "Ruth Matchett would have asked me to do this."

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COMMISSIONER: All right.

MR HANGER: There is a significant difference.

COMMISSIONER: Yes, sure. Do you want to clear that up, please, Mr Copley?

You understand the difference?---Yes, I do.

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MR COPLEY: Okay. What is your recollection? Who asked you to do the submission?---I don't have a specific recollection other than by process of elimination it wouldn't have been anybody other than Ruth Matchett.

Right, because it wasn't any of your subordinates that would have asked you to do a cabinet submission, was it? ---No.

1/2/13

CROOK, S.J. REXN

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And it wasn't your idea that you would take the initiative with the matter and generate a submission for the minister to take to cabinet, was it?---No.

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And you don't have, I take it, any recollection of getting a telephone call from anyone in the cabinet office saying, "We think we would like to have a submission about Mr Noel Heiner's position," do you?---I've never had calls from the cabinet office.

Ever?---I can say that I've never - - -

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COMMISSIONER: When you say "a process of elimination", if anybody else other than the director-general had asked you to do a cabinet submission, would you have?---It's quite common to be asked to have a contribution to a cabinet submission by a superior to you to - and they may be coordinating that submission before it goes further up the line.

Was this your role in relation to this submission, that you were making a contribution to it?---Yes.

What contribution were you making?---Well, in terms of having input to a draft of the submission and then it would've gone to the DG - I don't know whether she showed it to other people - and then she would have finalised that document to her satisfaction. I wouldn't necessarily have had it sent back to me.

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So what you have just described - is that the normal routine process of a cabinet submission?---It's not uncommon. It can go to a number of people. It can go through the hierarchy on occasions and undergo a number of changes. In some cases it may be returned to the original author.

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The final form of the submission to cabinet - who ticks off on that as a matter of procedure?---The final form would have been the minister, but it wouldn't go to the minister before the director-general of a department has signed off on it.

Was there anyone between the director-general and the minister according to the procedures for the preparation of cabinet submissions?---Not that I'm aware of at the time.

MR COPLEY: Your contribution was to do an initial draft of the whole document you told me yesterday?---Yes, I think so; yes.

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In preparing the initial draft of the whole document, was there any draft that you worked off that had been provided by anybody else or did you start from scratch and generate a draft of a cabinet submission?---I don't think there

would've been a draft as such but I don't specifically recall. There may have been some notes and I would have referred to the legal advices that had been received.

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Yes?---I would've been briefed as to what was required.

And who would have brief you as to what was required?
---Ruth.

Did she say anything to suggest that she was having the submission prepared at the behest of the cabinet secretariat or the cabinet office or someone in the Premier's Department?---Not that I recall.

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Did you hear any suggestion or do you recall hearing any suggestion around the time that you were preparing this document that somebody in the cabinet office wanted or desired or had sought a submission about Noel Heiner and/or the destruction of documents?---I can't recall. I can't recall anything.

All right. Could you have a look at exhibit 151A? Would you just look at the contents of that, please, and when you're finished looking at the contents and ready, let me know and I'll ask you some questions?---I've looked through.

20

Now, did you contribute in any way to the creation of that document?---I actually have no recollection of this particular document.

So you don't recall ever seeing it, let alone, of course, drafting it?---No.

How would you characterise it, in the sense of have you seen a document like this before?---Sorry, have I seen a document like this before?

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All right. Just look at the top of it. It's addressed to some called "Honourable the Minister"?---Right.

And then it says "Submission number 00100" and there's an eerie coincidence between the words "Submission number 00100" and what's on exhibit 151 - - -?---Right.

- - - which says "Submission number" and stamped on it is "100"?---Yes.

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So speaking about it in the abstract for the moment, forgetting about the contents of this particular exhibit 151A, if there's a correspondence between a number on a document like 151A that matches a number on a cabinet submission, does that help you in telling us how we should characterise this document exhibit 151A?---It could be briefing notes that the minister may have asked for,

cabinet briefing notes. It could've been personal briefing notes that the minister herself said, "Can you give me some briefing notes on?" It's not uncommon for a minister to ask for background briefing, you know, just for their use only. 1

Yes?---It may be that the minister asked for speaking notes. It varies. I've had a number of requests over the years for different materials. It's not always the person that drafted the document that prepares these either. I've prepared this type of document on submissions I've never had anything to do with. 10

Okay?---You know, at the last minute they may ask for that.

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All right. So from time to time over the years you've prepared documents like exhibit number 151A even though you may not have been the person who contributed in any way to the preparation of the cabinet submission?---May have, yes. Yes, that's happened on occasion.

1

In that case, when you had to prepare a document like exhibit 151A, not having prepared the actual submission, where would you go to get the information to put into a document like 151A?---The submission.

The cabinet submission, would you?---Yes.

10

Does the formatting, the print size, the typing size, anything help you in determining whether this was a document that was created in the Department of Family Services as opposed to somewhere else?---The only thing that would suggest that is that it says, "The Honourable the Minister," and it's about - relates to a submission that would have been produced by the minister for family services at the time, because that was her portfolio area, but other than that, I mean, that's just assumptions. However, somebody, if they had an interest from another department, could have asked for some briefing notes. Another minister could.

20

Yes?---So I guess - I mean, I'd err towards - but I'd be guessing, I'd be speculating. The type, the font, is pretty standard. I mean, it doesn't strike me as anything outstanding that would relate to that department.

If we go to the second page of the document there's a heading 17/1/1990 at the top left, isn't there?---Yes.

In the second paragraph it says:

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Also on 17 January 1990 solicitors on behalf of the manager and the deputy manager indicated their intention to seek a writ of prohibition to injunct Mr Heiner from proceeding further with the inquiry. To date no such writ has been sought.

Now, that detail did not appear in the cabinet submission, exhibit 151, did it?---No.

We actually discussed its presence or absence yesterday, didn't we, in evidence here?---Yes.

40

So in order for that detail to find its way into this document the person who compiled this document would either have to have been told that by somebody in the Department of Family Services who knew of the solicitor's letter or the compiler of the document would have had to have had access to family services records and letters to be able to put the effect of the solicitor's letter into the document, wouldn't they?---Yes.

So what would you say to the proposition that more likely than not this was a document created by somebody in the family services department?---I would say that it was reasonably likely, but material could have been shown - material could have been shown to anybody. I mean - - -

1

Well, theoretically it's possible, isn't it?---It is, yes.

That letters from a solicitor to a director-general could have been shown to absolutely anybody in the city of Brisbane?---I don't know whose advise was being sought.

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I'm not even asking you that?---Yes.

I'm just asking you to comment on whether or not - what do you say as to the probability - that having regard to that paragraph I read out to you, it's more probable than not that the document was created by some officer of the family services department as opposed to some officer from some other part of the public service?---I would say it's possible.

It's possible?---Yes.

20

That it was created in family services?---Yes.

But it's probable, isn't it?---Not necessarily, given that there's already been evidence produced that Ms Matchett was seeking advice from Crown Law, for example. It could have come from - it could have originated from there.

I see, so Crown Law is a possible source of this document? ---It could, I don't know. I'm just speculating as much as you are.

COMMISSIONER: Well, I suppose it's not really speculation, it's looking to see what the range of possibilities are because of your familiarity with the system?---Yes.

30

So you can say, well, the catering department at Parliament House isn't going to do it, but Crown Law might?---Yes, and I'm saying it's just as possible that Crown Law may have had input as the Department of Family Services given the close interaction between the two.

Any other possibilities?---I don't think so, no.

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MR COPLEY: There's no other sensible possibilities that you could offer?---No.

No, because whoever compiled it would have needed to have had access to family services' records to compile it, wouldn't they?---Yes.

Yes, all right, but your position is you have not seen it before and therefore you weren't the drafter of the document? ---I don't believe I was, no, and it doesn't look like my style of writing.

1

You mean the turn of phrase in it isn't the way you would express things?---Yes, and things like it says "Acting director-general". I would have tended to put the acting director. I mean, small things like that.

All right, well, that can be returned now. The compilation of a cabinet submission seeking indemnity and seeking authority to destroy the records, that contribution by you to that exhibit 151 was not the only cabinet submission that you contributed to on this subject, was it?---No, I don't think so.

10

There were others, weren't there?---There were others, but, yes, I'd have to look at them to recall.

Before I take you to those I just want to see if you know who wrote this document that's exhibit 160. We've heard some evidence as to who wrote the tiny writing at the top so forget about that, but looking at it from where it says, "Meeting with senior staff JOYC, 14/2/1990. I met with the following staff," onwards, do you recognise that handwriting?---No.

20

Okay, thank you. Could the witness now have a look at exhibit number 168, please? The first page of it records a decision of cabinet on 19 February 1990 numbered 118, doesn't it?---Yes.

You didn't type that document, did you?---No.

Thank you. Put that part of the exhibit to one side and then look at the balance off it. Now, have you seen a copy of - because I'm not suggesting that's the original, but a copy of that document headed Cabinet in Confidence, Cabinet Memorandum before?---I saw it last week on the Internet but prior to that I don't recall actually seeing the document.

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All right. Whenever I ask you if you have seen something before, take it as read now that I know that you have been looking on the Internet at these exhibits that I mean an occasion prior to looking on the Internet?---All right. Okay, fair enough, yes.

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Yes, and that will save time for you and me?---All right. Yes, that's fine.

So prior to seeing it on the Internet you have not seen it before?---I don't recall it.

10

All right. It canvasses on the second page a number of options regarding what might become of the material gathered by Mr Heiner, doesn't it?---Yes, it does.

My suggestion to you is this if you would like to comment on it: that at 9 am on 16 February 1990 Trevor Walsh confirmed with you that you and he would prepare options for the minister in relation to the cabinet memorandum. What do you say to that suggestion?---It's possible. I just don't recall.

We have heard evidence from Trevor Walsh that what I just read out to you was written in his handwriting in exhibit 157 and the handwritten note was a note that he made about developments that were occurring in connection with this matter from day to day?---Right.

20

So he's got a note in his own handwriting in a document that has got consecutive days worth of notes in it that he confirmed with you that the two of you were going to prepare some options for the minister?---He may have done that. I don't recall.

Well, of course, he may have written the note and he said that he did, but that's the basis for my suggestion to you that you made a material contribution to that exhibit that you're holding now?---And I don't recall. I don't recall whether that actually occurred, whether we did.

30

Okay?---It may have. I don't recall.

I'm trying to illustrate to you that it's not just an assertion made for the sake of making an assertion. It's an assertion put to you which has some basis in the evidence we have heard so far?---And that may be the case but it doesn't make me remember.

40

Okay. So your position simply is if that's what Trevor Walsh's note says, you're not in a position now to dispute it because you can't remember one way or the other?---I'm not in a position to dispute it or agree with it.

Fair enough; you can neither accept nor reject that proposition?---Yes, because I can't recall; yes.

Looking at the way the document is worded, is there anything that helps you in the way the English language is used or how it's expressed that helps you in determining whether you made a contribution now, leaving aside the suggestion I have made to you?---Not specifically other than that - I mean, some of this looks as if it's based on the cabinet submission that was made, but that doesn't necessarily mean that I wrote this particular document. Somebody could have taken extracts of that and effectively done a cut and paste.

1

Yes, they could have done?---So there is nothing - there is nothing specific that - - -

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But just focus upon the options part. Look at the language that's used there in these four paragraphs and see if that assists. It may or may not?---It doesn't assist.

Not one way or the other?---No.

Okay. So your evidence is that you don't know - well, maybe I will ask you. Do you know who compiled this memorandum to cabinet?---No.

20

Do you have any recollection of there being discussion in the department about the need to compile a second submission to the cabinet about the fate of these documents?---I don't have specific recollections of which discussions took place in relation to which submissions.

Were you aware after the cabinet met on 12 February 1990 that the indemnity for Mr Heiner had been approved and that all was okay on that front?---Yes, I think I was.

Someone made you aware of that?---Somebody would've made me aware of that, yes.

30

Okay?---Yes, I do recall that.

All right. So that's one thing?---Yes.

After the cabinet decision on 12 February 1990, do you have any recollection of anyone saying, "However, the issue of the documents isn't settled yet. There's more work to be done on that front"?---I don't remember that in the specific sequence of events.

Have you ever seen or do you recall ever seeing in 1990, 1991, 1992, 1993 and so on a document such as a cabinet memorandum on any subject?---A cabinet memorandum.

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I'm only using that word because that's what appears at the top of it, see. It doesn't say "submission" or "cover sheet" - well, it does say "cover sheet" but above that it says "cabinet memorandum" so whether you want to call it a

memorandum or a cover sheet, leaving aside exhibit 151, have you ever seen documents like this before?---I actually don't recall - I don't actually recall that term.

1

Okay?---No, I don't actually.

Now, I want you to have a look at exhibit 180, please. Just take your time and have a bit of a look through that? ---Okay.

That is addressed to "The Honourable the Minister", isn't it?---Mm.

10

And the subject here is "Material gathered by Mr Heiner"? ---Yes.

And the first paragraph says, "Matter considered by cabinet on two previous occasions"?---Yes.

So that logically would suggest that this document was made after 19 February 1990?---Yes.

Now, are you able to tell us whether you have seen that before, aside from possibly seeing it on the Internet in the last couple of weeks or months?---Not even on the Internet I don't think, no. I don't recall seeing this document.

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Right. So you have no recollection of creating it?---No, I do not.

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Is there anything in the way it is typed or the way it is set out that would assist you in helping us determine where it may have come from in terms of what part of the Queensland government?---Probably the department.

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Of?---Families.

Right. And what do you base that probability on?---The note at the bottom that - actually, I don't know.

You're referring to the second page and the last paragraph? ---The last paragraph - that last note, "The recommendation applies only to the material covered by Mr Heiner. Certain departmental working papers" - blah blah blah.

10

Well, it says, "Certain departmental working papers related to the initiation of the inquiry would be maintained"? ---Sorry, yes.

That's the note, isn't it?---Yes.

Yes?---And the department would have - they would be the department's papers because they initiated the inquiry.

20

Right?---I suppose.

Yes?---So that's the assumption - that's my train of thought.

Did you ever at any stage see the departmental - or see papers which initiated the inquiry?---I don't believe so.

Okay. Did you at any stage ever see a bundle of handwritten letters in ink or in typing from members of the staff at John Oxley complaining about various aspects of Mr Coyne's regime?---No. I knew there were some letters but I never saw them.

30

How did you know there were some?---Because Ruth told me.

Ruth told you?---Yes.

Right. How would you, with your experience of working in the department at that time, characterise this document, exhibit 180?---A briefing note to the minister.

Okay. Moving forward a little bit in time to the present, do you do briefing notes to ministers in your job now as a policy person in Justice and Attorney General?---Yes.

40

That's a pretty - is it correct to say that a briefing note to a minister is a document that is important?---Yes.

COMMISSIONER: What's it for?---It could be for information or it could be requiring a decision for the minister. There are two sorts of briefing notes that we would do.

1

So how does the minister get the information he or she needs to make the right decision or to do something useful with the information?---I would do - if I was preparing something we would get a request for information or a request for a submission, we would - - -

What sort of information is the minister after? Rubbish or reliable information or useful information?---Well, reliable information.

10

Of course.

MR COPLEY: And in the present time - that is now, in this day and age - it's important to know who gave the minister the advice, isn't it?---Yes, it is.

So briefing notes contain some means of knowing who prepared the briefing note, don't they?---There is a standard format now across - well, not a standard format but there is a standard format certainly across the agency.

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Yes.

COMMISSIONER: It could become more important to know who did these things with the variant of the Westminster system and the ministerial responsibility we have these days. Ministers don't always go just because their department makes a mistake, somebody else might go instead of the minister these days?---Having said that, I would be, for example, recorded as the author. By the time it gets to the minister it may not be what I wrote.

30

MR COPLEY: No, but where the - let's talk about now. Where would you be recorded as the author?---On the document.

On the document?---In a footer, yes.

Right. Well, on this document from - we assume, sometime after 19 February 1990?---Yes.

There's nothing on it that the records who created it or initially wrote it, is there?---No, there isn't.

40

How long have they, in the public service, had that mechanism in place - that sensible mechanism, I'd suggest - of being able to always know who's responsible for telling the minister the information in the briefing note?---I don't recall the exact date, but it could possibly have

been after this. There was a lot of work done on standardising correspondence and submissions in terms of the format by the government at that time.

1

Do you remember how long - - -?---But I don't - - -

Sorry?---Sorry, I don't remember when it actually was brought into effect.

Okay. By telling me that you think that sometime after this - by this you have in mind after January-February 1990, do you?---Well, yes. I mean, it was after the change of government and there was an increased focus on accountability and as a result of that there were a number of initiatives that were developed. I just can't remember exactly when, though.

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And so was there an increased focus on accountability at least to this extent, of making sure that the bureaucrat who gave the minister of briefing paper would be held accountable if anything he wrote in it was wrong?---Well, there were some - there were certainly mechanisms put in place to record the people who had - you know, to provide for recording of who was responsible for documentation and so on and so forth.

20

Because giving a minister a briefing about anything was important. It had to be accurate and relevant, didn't it, to what they want briefing on?---Yes, yes.

Now, are you asserting positively that in January-February 1990 there was no mechanism in place to know who generated a briefing note, or are you simply observing or agreeing with my suggestion there's no mechanism - there's nothing apparent on the face of this document to show who developed it?---The latter. I can't absolutely assert the former.

30

So there could have been some mechanism in place as early as January 1990 so that the hierarchy would know who created the night went to the minister?---There could have been, but there were also informal requests for: give me a few dot points on blah blah blah as well. So sometimes there are less formal processes that are gone through in terms of providing information, but I wouldn't have thought that. That doesn't seem to fit into that group.

No. Well, this document records not only the fact that cabinet has considered on two occasions, it is also recorded that in paragraph 7 the state archivist has given written approval for destruction of the material. Do you see that, paragraph 7?---Yes.

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Yes. So unless the author was clairvoyant and knew in advance that the state archivist would do that, it would tend to help narrow down that if we know the date the state

archivist gave the approval we'd be able to close or make more narrow the window of time in which this document was created?---Yes.

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Yes. Looking at the terms of the document, because it speaks in terms of what cabinet has been doing or considering in terms of it it has deferred its decision and it gives reason for why cabinet has deferred its decision; it speaks of advice from the Crown solicitor which indicated certain things; it speaks of cabinet deferring, pending liaison between the cabinet secretariat and the state archivist; it speaks of the state archivist giving approval; and it speaks of concurrent events going on in terms of a request being received from the Queensland Teachers Union?---Mm.

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And then it speaks about departmental procedures for handling grievances in accordance with legislation and it speaks about allocations of funds to various - for a purpose. The person who wrote this document would have to have been a person who had access to all that sort of information, wouldn't they?---Yes.

So it's probably not a secretary who does the typing, is it?---No, no, no.

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It must have been written by some person who had knowledge of all of this or was able to get access to all these sorts of records, mustn't it?---Yes, yes. 1

Looking at the topics that are covered in there, are you able to assist us on this: who in February 1990 in the Department Family Services, if indeed this is where the document came from, would have had the knowledge or access to the information to be able to compile a document with this sort of detail in it?---Do we know it was February 1990, because there was additional staff members started in the department - well, in Ruth's office shortly after that; I understand Don Smith. 10

Are you referring now to Don Smith?---Yes, I am.

He has been mentioned before a couple of times as being a man who might have been involved?---Right, yes.

But Trevor Walsh gave evidence that his diary contained a note that Don Smith didn't start till 7 March 1990?---Okay, yes.

He's accepted that's in his diary?---Yes. 20

And if I show you exhibit number 181 now, you'll see that cabinet made its third decision authorising destruction or its third decision on this matter which authorised destruction on the fifth day of March 1990?---Right.

So if you know that, which you do now presumably, you would have to agree with me that it's not likely that Don Smith was involved in the compilation of this. Don't worry; we'll call him and ask him but - - -?---Well, no, but that's confirming - that's dated 5 March. 30

Yes?---Confirming that the state archivist had approved the destruction of the documents.

Correct?---And this document here makes mention that the state archivist has given written approval.

Yes?---So I assume that that was written after 5 March.

Except that that theory which might be otherwise fair enough would seem to be undone by the fact that the first paragraph says, "Matter considered by cabinet on two previous occasions," not three occasions, doesn't it? ---Well, the other - one of those documents was that cabinet memorandum, wasn't it, which may not - I mean, that may have been regarded as a consideration of the initial submission. 40

Okay?---You know, because it wasn't a cabinet submission, all I can assume is that whoever wrote this said, "Right.

Here's a" - there's one submission here and then there was the original submission, two submissions. That's two considerations by cabinet. I think "consideration by cabinet" often will mean consideration with a view to making a decision rather than noting.

1

All right?---I mean, it can mean that.

Would you agree with me then that if this was written after 5 March after paragraph 6 which says, "Cabinet reconsidered the matter and deferred once more pending liaison" - but after paragraph 6 or 7, if it was to be a helpful briefing note, it would say paragraph 8 and, "On 5 March 1990 cabinet authorised destruction of the documents"?--Well, it might've been, yes.

10

Yes, because there would be no point - - -?---I don't know. I'm just - you know, I'm just - - -

I'm just positing that for your consideration about your assumption that it might have been written after 5 March? ---Mm.

My suggestion to you is it would be a pretty useless document if written after 5 March it didn't tell the minister what she already knew which was that cabinet had decided to destroy the documents. Do you agree?---Yes.

20

Now, you may know something about this Don Smith that we don't. If you accept for the moment that he came to work in the office of the director-general on 7 March 1990, where was he working before then? Do you remember?---He was, I believe, in a position principal child care or child safety officer. I believe it was attached to court services.

30

And was it even in the building that - - -?---No, I don't think it was.

It wasn't in Ruth Matchett's building?---I don't think so. Court services at that time was in another location.

A courthouse?---No, it was in - - -

Was it in a courthouse?---It was in an undisclosed location for security reasons. I believe that it was on Coronation Drive but I'm not sure.

40

Okay?---There were a couple of offices within Child Safety because of the sensitivity of the issues they dealt with that the address wasn't disclosed.

So what was Smith's title? He was the - - -?---I think principal child safety officer. I'm not sure of the exact title.

All right?---I only really knew him after he came to Ruth's office. I'd not had contact with him prior to that. 1

Right. Exhibit 180 can be returned. Now, you have got exhibit 181 with you already, I think, which is the cabinet decision of 5 March 1990?---Yes.

That's good. Mr Commissioner, would this be the correct time to adjourn?

COMMISSIONER: Yes, it would. 10

MR COPLEY: Thank you.

COMMISSIONER: Now, what are our future plans for the afternoon? Where are we?

MR COPLEY: The future plan is this: that we will resume after lunch, be it 2.15 or 2.30, probably 2.15, to continue to receive evidence from Ms Crook and hopefully finish her today and then after Ms Crook has testified I will call Ms McGregor who was the state archivist to give evidence and then that will complete the evidence today, but hopefully before we adjourn today I will provide to you and to those with authority to appear a list which sets out the names of the remaining witnesses that I intend to call in connection with this term of reference. 20

The submission that I will be making to you is that between now and, say, next Wednesday all those with authority to appear might turn their mind to that list with a view to seeing whether or not there's any name not on the list that they consider should be on the list who might be in a position to offer - and I emphasise this word - relevant evidence; not opinion evidence, not a theory evidence, but relevant evidence because my submission will be to you this afternoon that this is not a trial. This is not an adversarial proceeding. This is a commission of inquiry and all of those who have authority to appear, including the crown have a duty on them to assist the commission to understand and uncover all of the relevant facts concerning this matter. 30

COMMISSIONER: So we are inquiring into the truth of events rather than the proof of events.

MR COPLEY: We're inquiring into, amongst other things, allegations of criminal conduct by government associated with their response to allegations of child sexual abuse and who better, for example, than the crown with its knowledge of all of these events to be able to assist on the question of identification of relevant witnesses that I may have overlooked. 40

COMMISSIONER: We are partners in discharging the commission's remit.

1/2/13

CROOK, S.J. REXN

MR COPLEY: My submission is that you should regard everyone at the bar table as having a duty to assist on that point at least because we don't want to get to a situation where I say, "Well, that's it. That's all the evidence we're going to lead" and somebody says, "Hang on; you should have called X or Y or Z."

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COMMISSIONER: No.

MR COPLEY: And then inquiries have to be made to find them, find out their availability and get them here because another week or a fortnight might elapse before all that can occur.

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COMMISSIONER: So you're envisaging giving a balance witness list to all those with leave to appear - - -

MR COPLEY: After lunch.

COMMISSIONER: - - - and if they have any witnesses, they will give you a list.

MR COPLEY: Yes.

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COMMISSIONER: All right.

MR COPLEY: It may be a good idea if they attach a brief note explaining if they have got a proof of evidence from that witness. As the procedural guidelines suggest, give us the proof of evidence; if not, explain in brief form why you say that witness should be called to give evidence.

COMMISSIONER: Yes, haven't I issued - - -

MR COPLEY: You have; you have issued - procedural guideline number 2 and number 5, I think, cover those issues.

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COMMISSIONER: All right. Anyway, this is what you are going to tell me after lunch.

MR COPLEY: Yes. So I have spent five minutes telling you - - -

COMMISSIONER: Telling me what you are about to tell me. Okay, that's fair enough. Why I asked you the question was to know whether I should expect to be sitting till 6 o'clock, in which case I will start at 1.30.

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MR COPLEY: No, I don't think that's at all likely, Mr Commissioner.

COMMISSIONER: Right. So you think we will finish both witnesses today by a reasonable time.

MR COPLEY: I do. I think if we start at 2.15 we should finish, if not at 4.30, by 5.00. I don't have very much longer to go with Ms Crook in my questioning of her.

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COMMISSIONER: All right.

MR COPLEY: I might be finished with her in another five to 10 minutes.

COMMISSIONER: Good. On that basis we will adjourn till - - -

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MR BOSSCHER: Just before you do, commissioner - - -

COMMISSIONER: Yes, Mr Bosscher?

MR BOSSCHER: - - - I have another matter at 1.30 which may go beyond 2.15 but I would be content for the matter to continue in my absence.

COMMISSIONER: All right, excellent. We will resume at 2 o'clock.

THE COMMISSION ADJOURNED AT 1.06 PM UNTIL 2 PM

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THE COMMISSION RESUMED AT 2.05 PM

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MR COPLEY: Mr Commissioner, Mr Bosscher is not here but my impression was that he was content for us to continue without him.

COMMISSIONER: Yes

MR COPLEY: However, I notice Mr Harris isn't here either. My assessment of the matter is that - the impression is that Mr Harris does not seem to have demonstrated any interest in witnesses that are relevant to the letters, memoranda, legal advices of 1990, so I say we can proceed in his absence.

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COMMISSIONER: Yes. It's being live streamed if they want to catch it.

MR COPLEY: Well, he knew you were resuming at 2.00 and he didn't mention any difficulty with that.

Ms Crook, could you now look at exhibit 181, which you may have there, I can't remember. It's the cabinet decision of 5 March 1990?---Yes.

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Again, you played no role in the drafting of the first page headed Cabinet Decision, did you?---No.

Okay, so we put that to one side. Then if you look at the pages which follow, it's described as Cabinet Submission under that cover sheet. Now, leaving aside having seen it on the Internet in recent weeks, have you ever seen that document before?---I can't remember this specific document. I may have seen it.

30

All right. Well, the next question is did you play any part in the drafting of it or the creation of it?---I don't know. I really can't recall.

Is it possible that you did?---It's possible, yes.

Thinking back to February - January, February, March of 1990, apart from submissions the minister took to cabinet regarding what we'll call the Heiner matter, were there any other submissions from the minister for family services that were going up to cabinet between January 1 and the beginning of March, say March 5, 1990, that you can recall?---Not that I recall, but I don't know. There may have been.

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If there were any other ones you weren't working on any of those others, I take it?---No.

1/2/13

CROOK, S.J. REXN

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If there were others you simply don't know of them? 1
---That's right.

If you did not prepare this document or contribute to it, is it safe to assume that nobody subordinate to you in the industrial relations area contributed to it?---Yes, I would say so.

Did you ever have any discussions with the minister Anne Warner about this cabinet submission or either of the other two that I've shown you in the last day or so?---Possibly. 10
I met with the minister to brief the minister on a range of industrial relations issues at that time as part of the incoming government process.

Okay?---So, yes, I can't recall specifically.

So it's possible that as the minister - see, we've tendered a Government Gazette notice that shows that Anne Warner was appointed the minister on 7 December 1989?---Right.

So it's quite probable that after she took up as the minister various members of the department had to meet with her to explain their role and what they were working on or what the issues were confronting the department?---Yes. 20

So is it possible that you might have told her, for example, in a meeting, that, look, there's an investigation that's been going on at the John Oxley Centre into various things being done by a retired magistrate?---I wouldn't have advised her of that because I - not as part of that briefing.

Right, because the briefing that I'm suggesting you might be thinking of is one in the days or weeks after she took over before Christmas where you just told her information for the sake of her being aware of it. I'm asking you is that the possible briefings that you're thinking about? 30
---It could be those. I also acted in positions up in that office from - in the D-G's office from time to time which involved administrative supervision of positions that reported to the minister so I had regular contact with the minister on that basis as well. So I had a reasonable amount of contact with her during my time in the department.

Let's try to narrow that down a bit?---Yes. 40

Were you acting - - -?---And I don't recall this.

Okay, were you acting in any administrative positions up there in the office of the director-general in January, February, up until 5 March 1990?---No.

No?---No.

You were doing your job in the industrial relations area at least up until 5 March 1990?---Yes. 1

So any contact that you may have had with the minister, if indeed you even had any, in January, February, up to 5 March 1990, was when you were wearing your hat as the industrial relations manager?---Yes.

Well, I'll ask you again. Thinking back about it, do you recall one way or the other whether you had any contact - any face-to-face contact with the minister or telephone contact with her to discuss matters at John Oxley to do with Mr Heiner and Mr Coyne?---I may have. I probably did have some contact with her in terms of John Oxley and Heiner, but it wouldn't have been on my own; it would have been with Ruth Matchett. 10

Was that simply the way things worked, that a person like you didn't get to see the minister without being accompanied by the most senior bureaucrat in the department?---It was, usually, yes.

It was usually the case?---With the exception of the situation I outlined in terms of having administrative supervision of a particular personnel position - - - 20

Yes, and that didn't occur - - -?---But that didn't occur - but the usual - it would be unusual to have gone to the minister's office - well, for somebody at my level to have - - -

Did the minister - well, I'm trying to question you now about things that possibly occurred?---Yes.

So I'm not trying to trick you into saying that they did occur - - -?---No. 30

- - - but I've got to ask you the question. If there were possibly meetings or a meeting with the minister about this matter, did the minister reveal to you her thoughts about, for example, what should be done with the documents that Mr Heiner had gathered?---I honestly can't recall whether she said anything.

What about Ms Matchett? Did she ever reveal to you her thoughts about what she thought should be the fate of the material that Mr Heiner had gathered?---I can't - I don't recall whether she expressed it as her opinion or whether we had discussions about that in the context of the legal advice, which had been that the documents - or one of the legal advices from Crown Law was advising, you know, destruction of the documentation. 40

Mr Barry Thomas was the lawyer that you met with Ms Matchett?---Yes.

Mr Barry Thomas has testified that he thought that out of the two of you, Ms Matchett and Ms Crook, that it was Ms Matchett that raised for his consideration the avenue of destruction of the documents?---It may have been, and I am aware that Ms Matchett had discussions with representatives of Crown Law that I wasn't party to, so I don't know whether that actual proposal was initiated - whether it came from her or whether it would have been as a result of some discussions with crown law.

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You're not suggesting, are you, that Mr Barry Thomas, in the meeting that you were at, suggested, "Hey, why don't I look into the possibility of simply destroying these documents for you"?---No, I'm not suggesting that.

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No, you've got no - - -?---I'm suggesting that the legal advice that came included that.

Yes, and of course legal - - -?---But I can't recall the discussion - specific discussions that were had with Mr Thomas.

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And you'd agree with this, having some background to some extent in law?---Mm.

That legal advice can sometimes come on a topic because the person seeking the advice has raised that as an issue that they'd like advice on?---Yes, it may have, yes.

Yes, all right.

COMMISSIONER: Do you claim to have suggested to Mr Thomas that any advice he gives include destruction of the documents as an option?---No.

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MR COPLEY: No further questions, thank you.

COMMISSIONER: All right.

MR WOODFORD: Mr Commissioner, may I just raise - - -

COMMISSIONER: Sorry, Mr Hanger.

MR WOODFORD: May I just raise a matter before Mr Hanger starts?

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COMMISSIONER: Yes.

MR WOODFORD: It's in relation to the witness we had over the telephone this morning.

COMMISSIONER: Yes.

MR WOODFORD: If I could take you back to exhibit 305, which was his statement, upon some deeper reflection I have some submissions for some further nonpublication orders being made.

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COMMISSIONER: Yes.

MR WOODFORD: In particular the name of the gentleman that appears on that statement, his date of birth and his signature as it appears throughout the document. That's the first matter. The other matter is his name of course

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will appear in the transcript. My submission is that that name would not be published in the transcript either.

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COMMISSIONER: Because?

MR WOODFORD: Because it may be injurious to his reputation.

COMMISSIONER: Something he says will injure is reputation?

MR WOODFORD: Well, not something he says, but something others may infer.

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COMMISSIONER: It wasn't something put to him which he denied - - -

MR WOODFORD: Well - - -

COMMISSIONER: - - - in which case there's no evidence of anything? I don't want to tarnish anybody's reputation, but sometimes it's unavoidable. I mean, telling the truth can sometimes involve that inevitably.

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MR WOODFORD: Yes.

COMMISSIONER: But I'm just not sure why I would do that.

MR WOODFORD: Well, inferences may be drawn.

COMMISSIONER: Are we trying to protect his reputation or the reputation of somebody else? I thought we were trying to protect the reputation of the young lady with whom he might be inferentially connected, rather than protecting his identity.

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MR WOODFORD: Well, my submission both, because you're not making findings of fact - - -

COMMISSIONER: But we're protecting his identity to protect hers, aren't we?

MR WOODFORD: You are.

COMMISSIONER: Right, and if he doesn't mention her in her statement, then she can't be connected with him and therefore her identity is protected.

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MR WOODFORD: That's so.

COMMISSIONER: So that leaves him.

MR WOODFORD: That leaves him.

COMMISSIONER: What inference are we protecting his reputation against?

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MR WOODFORD: An inference that he's been involved in some particular conduct, which he denies, as I say. 1

COMMISSIONER: With the particular woman, or generally?

MR WOODFORD: Generally.

COMMISSIONER: Generally.

MR WOODFORD: As we say, we dealt with the particular person by the orders that are already made, so that's not in the equation. 10

COMMISSIONER: So there's still - excluding her name still leaves open an inference that he may have been involved in some disreputable conduct generally.

MR WOODFORD: Particularly in the context of the statement and - - -

COMMISSIONER: Can you direct me to a paragraph that might be - - -

MR WOODFORD: It's not even a particular paragraph that I'd submit that you not publish. What I'm referring to is rather his evidence that he left the centre shortly thereafter. 20

COMMISSIONER: Right.

MR WOODFORD: And that in terms gives reference may lead to really unfortunate inferences being drawn - - -

COMMISSIONER: What, connecting the timing of his leaving with something else? 30

MR WOODFORD: Yes.

COMMISSIONER: Where does he say that he left shortly after?

MR WOODFORD: Paragraph 13. Yes, paragraph 13.

COMMISSIONER: He says there was no connection between the allegation and his resignation there, doesn't he?

MR WOODFORD: Yes. Yes, he says that. Maybe I'm starting at shadows. Maybe others won't draw inferences that I thought perhaps may be drawn. 40

COMMISSIONER: I don't want to needlessly expose him to condemnation or even public speculation either, but - thanks Mr Woodford. Mr Hanger, do you want to be heard?

MR HANGER: Well, again, I support what my friend said. Don't forget this isn't somebody who's volunteered a statement; he's been compelled, I presume, by our learned friends to come here.

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MR COPLEY: No, he is compelled to the extent that he gets a summons to give evidence so that he is protected. But in terms of providing the statement, there was no compulsion on him to provide the statement.

MR HANGER: Well, I don't quibble with that. That makes no difference. This person has given evidence here under compulsion. And while he denies any allegation of impropriety, mud sticks.

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COMMISSIONER: I suppose the question is is there any forensic advantage in publishing his name?

MR HANGER: Exactly. He can be called X, and may I say, don't forget his name has been blotted out throughout the whole of this inquiry. It seems inconsistent now to reveal it. It's either - - -

COMMISSIONER: It's been blocked out only because of his connection with the girl - - -

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MR HANGER: Yes.

COMMISSIONER: - - - whose identity was what I wanted to suppress because of the legal requirement not to identify a minor. So as often happens, ironically, adults get the unintended benefit of measures to protect children. He can't be identified because the child can't be identified, and identifying him identifies the child and he gets the benefit. It always seemed strange to me, but however.

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MR HANGER: It is strange but I suppose - and we're being theoretical now - identifying him now will identify the female.

COMMISSIONER: I don't think it will, see, because I think there's a missing link, which is what I tried to achieve by deleting her name in the statement. Look, if it's taking up this much time it means it's finely balanced, and in that event I'll take the precautionary rather than the adventurous step and unless someone wants to argue that his name should be published, I'll accede to Mr Woodford's submission and direct that his name, signature, date of birth and any other identifying feature be deleted before publication.

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MR WOODFORD: In the transcript and in his statement.

COMMISSIONER: In the transcript and in his statement.

MR WOODFORD: Thank you. 1

COMMISSIONER: All right, thank you.

MR HANGER: I just wanted to ask you about Beryce Nelson. Did you have any dealings with her in which the issue of sexual abuse was discussed?---No, I had no dealings with Beryce Nelson at all.

No dealings - - -?---I had no dealings whatsoever with Beryce Nelson. 10

Thank you. And you didn't become aware of sexual abuse at John Oxley?---No.

No, thank you.

COMMISSIONER: Thanks, Mr Hanger. Mr Harris?

MR HARRIS: I have no questions, Mr Commissioner.

COMMISSIONER: Sorry we started without you, but we didn't think there'd be any harm done or that you'd be offended. 20

MR HARRIS: No, no harm done, Commissioner. I just got tied up.

COMMISSIONER: Thank you. Yes. Mr Copley?

MR COPLEY: Well, I don't know what to make of the fact Mr Bosscher is not here. We don't want to be in a situation where he arrives and tells us that he did want to cross-examine this witness.

COMMISSIONER: Will he, Mr Lindeberg? 30

MR LINDEBERG: Commissioner, no.

COMMISSIONER: No. Okay, thank you.

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MR COPLEY: All right then. Did he say that? 1

MR LINDEBERG: I'm pretty sure he did.

MR COPLEY: I'm sorry.

COMMISSIONER: Mr Lindeberg has just confirmed that anyway.

MR COPLEY: Okay. It just doesn't hurt to be sure before we excuse her. 10

COMMISSIONER: Certainly does not.

MR COPLEY: So I have no more questions of the witness. May she be excused?

COMMISSIONER: Yes.

Ms Crook, you are excused. Thank you very much for the time you have spent in giving your evidence. It is much appreciated. You are formally excused from your summons. 20

WITNESS WITHDREW

MR COPLEY: Now I'm ready to call the next witness.

COMMISSIONER: Yes.

MR COPLEY: The next witness could possibly be - or she is Ms McGregor, the former state archivist.

COMMISSIONER: Yes.

MR COPLEY: Mr Bosscher is now here. 30

COMMISSIONER: Right.

MR COPLEY: So I raise that matter for you to consider, Mr Commissioner. Given what has been said, written and ventilated over the years, it's possible that Mr Bosscher would regard her as an important witness. He did know she was going to be called today and he is aware of who has been called so he would have known she was getting closer and closer down the list.

COMMISSIONER: What about if I ask Mr Lindeberg if he wants to step into the breach? 40

MR COPLEY: Yes.

COMMISSIONER: Mr Lindeberg, would you - - -

MR LINDEBERG: I only expect to sit there for about five minutes.

COMMISSIONER: Okay. Would you be content that your interests will be protected by you sitting in place till Mr Bosscher came back?

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MR LINDEBERG: Yes, Mr Commissioner.

COMMISSIONER: Excellent. That is what we will do then.

MR COPLEY: Okay, thank you. I call Lesley Alexandria McGregor.

McGREGOR, LESLEY ALEXANDRIA affirmed:

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ASSOCIATE: For recording purposes please state your full name and your occupation?---Lesley Alexandria McGregor and I'm retired.

Please be seated.

MR COPLEY: Could Ms McGregor be shown her statement, Mr Commissioner?

Ms McGregor, would you, please, look through that document to confirm that it's a statement you signed on 21 December 2012?---Yes, that's the statement.

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I tender that statement, Mr Commissioner.

COMMISSIONER: Ms McGregor's statement will be 306.

ADMITTED AND MARKED: "EXHIBIT 306"

MR COPLEY: Thank you.

Ms McGregor, the statement doesn't tell me two things. First of all, when were you appointed the state archivist? ---I'm not sure; late 1980's.

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If you can't remember the date, can you remember the year? ---Late 1980s.

You can't remember the year any better than that?---It's so long ago now. It might've been about 1986 or 87 or 88.

Okay?---I'm not really sure.

When did you relinquish the role?---2000.

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So you were there for a substantial period of time?---Yes.

And is it correct that in the period of time that you were the state archivist your role was governed by two different pieces of legislation; first of all, the Libraries and Archives Act and then another piece of legislation. Is

that the case or was it always the Libraries and Archives Act?---I'm not sure what other piece of legislation you're referring to.

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I just wondered if the Libraries and Archives Act was repealed at some point and replaced by another act?
---There's a different act now.

Yes?---It's a new act now.

It's called?---I presume it's just called the Libraries Act - sorry, the Archives Act.

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Okay, and that didn't come into effect when you were the state archivist at all?---No.

Is that what you're saying?---We were working on it but I left well before it came into effect, yes.

Fair enough. Right. Now, in your statement you state that it was up to government departments or agencies to identify the records that they did not want to keep?---Yes.

So it wasn't your responsibility to receive all their records and sort out in your own mind what they should be keeping and what they shouldn't be keeping?---No; no, every agency knows that or should know what need it has for its own records so it was really their responsibility to retain them for as long as they felt they needed them and then at that point they should approach us and ask for permission if they wish to destroy.

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Okay; and the process of destruction was not one that you undertook at the archives?---No, no.

Why was that?---Well, we had no facilities for it for a start and in any case it just wouldn't make good sense. I mean, destruction often involved rooms full of records. There would be no point in transporting them all the way over to archives, loading them up on trucks and then taking them somewhere else to be disposed of. It just wouldn't make any sense.

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So it was unusual so far as you were concerned that one of your staff members had to destroy some records in 1990?
---We were asked to send a person to be there when the records were destroyed, yes, and that was unusual.

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Had you ever before received a request of that nature, to have someone present when records were destroyed?---Not that I can recall but agencies generally didn't have much idea about how to go about destroying records. I mean, people move on from one job to another and destruction in most departments at that stage, because this is nearly a

quarter of a century ago, was not carried on very routinely. It was just basically - it was usually storage problems more than anything else that would result in a request for disposal.

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COMMISSIONER: Were there established procedures back then?---Sorry, I'm a little bit deaf.

Were there established procedures back then?---I'd say it was fairly unsophisticated. Basically we received a request. We would normally discuss it with the agency and evaluate the records usually onsite and because the nature of the records is so different from department to department, it's really hard to be - to have a sort of routine that covers everything.

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But I'm assuming if you were the official executioner, if you like, that you had the equipment necessary to destroy documents available to you?---No, no, no.

MR COPLEY: That's her evidence, that she didn't have that equipment available?---No, no, we didn't do any disposal. That was the responsibility of the agency. Our responsibility was to say, "Yes, we require this record for permanent retention," or we don't.

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COMMISSIONER: Then it was over to them?---Yes.

MR COPLEY: Now, apart from certain categories of records which the statute required to be kept for a certain period of time such as court or tribunal records, is it the case that before you could determine whether records should be permitted to be destroyed you needed to either see them or have someone describe to you what the nature of the records was?---Well, you'd certainly have to have somebody at least describe to you what the nature of the record was, yes.

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Thinking back to this time in 1989-1990, was it always a procedure you insisted upon that you see the records before you authorised destruction?---No, no, there were - we did have some continuing disposals in place, for example, so where we had assessed records previously and perhaps put a retention period on a certain category of record, the agency could then just each year destroy another year of that record - for that type of record.

So to take an example completely divorced from this case, if, for example, the archivist had at some point said, "After 67 years the enrolment records for state schools can be destroyed," would you expect that every year there would be occurring some destruction of records that were 68 years or more old from state schools involving enrolment records that you wouldn't know about?---I wouldn't know about it and the point about it is really we merely gave approval

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for destruction. There was no mandatory destruction after approval had been given. So if an agency then decided that it wanted to hold its records for whatever reason, legal or operational or whatever, there's nothing to stop them holding that record for as long as they want.

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So your permission for destruction didn't also see you chasing them up to find out if they had acted on your permission?---No.

It was basically a matter of no concern of yours whether they acted on your permission to destruct or not?---That's right, because my concern was basically to ensure that we captured those key records which were required for permanent retention and which would then come into the archives.

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Okay; and can you tell us now, thinking back to 1990, what the key records were that you were concerned to capture? ---Well, that's - - -

Perhaps by category?---Essentially we were looking for records that document the major responsibilities of state and local government and state courts. It's hard - I can't give you a list of categories. I can say the sorts of things that we were looking at, the sort of criteria that we were looking at - - -

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Well, can you tell us the criteria that you would look at?
---Potential research use both now and in the future would
be one issue that we would be looking at - not always easy
to determine, of course, but that's based on a lot of years
of experience with researchers coming in.

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So just on that point, in determining if you thought it was
likely someone would want document X for research in the
future did you have regard to the nature of the requests
from researchers for access to records in the past to look
into the future?---That would be one thing you'd look at,
yes, of course.

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Yes, go on?---We'd also look to try and capture key records
that protect people's civil or property rights. So I'm
thinking of things like records of births, deaths and
marriages. I mean, another example would be people who
don't have a birth certificate find it quite difficult, and
when they come to apply for an age pension, for example,
trying to prove their age is quite difficult. So we were
very keen to get all the records of school admission
registers, because social services will actually accept
that as a record of a person's age. If they enrolled in
such and such a school at such and such a time when they
were aged five, let's say, that would be taken or accepted
as a proof of age for people who didn't have a birth
certificate. So those sort of categories. We'd look
broadly to try and look at issues of duplication. Huge
amounts of records are compiled by government and in many
cases massive duplication. So you might have a central
office which brings in information from local offices. Do
you take both sets of records or do you just look for one
set of records, do you look for summary type records that
have key information rather than full detail of whatever
the transaction was. We'd look for situations where we had
holes in our existing collection, where for one reason or
another records had not been - or had not survived and we
had a hole in that sort of functional area. We would look
for anything that might give us that data which would then
be available for researchers who were interested in that
particular function. So it's a really - it's a very broad
thing and it is very much a matter of judgment. It
certainly was then. It wasn't a very formalised process, I
must say. It was very much a matter of judgment and of
discussion with the agency wherever possible to try and
work out as much - get as much information as possible from
the agency about the nature of the records.

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What if somebody said to you, for example, "I'm the
custodian of these records. My department doesn't want
them anymore. We want your authority to destroy, however
you might like to be aware that there is a member of the
community who has been threatening to take us to court,"
for example, "to obtain access to the documents"? Would
you authorise their destruction in that circumstance?---If
I thought that the action had actually taken place, certain

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McGREGOR, L.A. XN

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not. If there was even a concern about it I think you would go back and talk to the agency and maybe get some legal advice, or ask them to - presumably they would be getting legal advice in circumstances like that.

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Did you ever speak with a man called Stuart Tait?---Yes - well, I think so. I certainly had correspondence with him.

Right?---Did I speak to him? I just - I'm not certain about that. I think so.

In your statement in paragraph 11 you say that in 1990 you became involved in a matter relating to the retired magistrate Mr Heiner when, from the best of your memory, you got a telephone call from Stuart Tait at the cabinet secretariat?---Yes.

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Does that refresh your memory?---It does, and I've seen a note that I put on the file and that's where this is coming from.

Was that the first contact you had ever had with that gentleman?---Yes, as far as I can remember. I don't recall ever having spoken to him before.

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After speaking with you on the telephone did he send you a letter?---There was a letter, yes.

Now, I'm not suggesting that this is the original. In fact, it's only a copy, but I'll get you to have a look at exhibit 173, please. Ignore the handwriting on it and the stamps. Just concentrate on the typed part?---Yes.

Is that the first letter that you ever received from Mr Tait?---As far as I can recall, yes. Certainly on this matter it's the first letter I'd received.

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Because it begins by telling you what he's seeking advice about, doesn't it?---Yes.

It outlines basically the history. You would have taken this to be a history of these documents?---Yes.

Then over the page it tells you that the government was of the view that the material was no longer pertinent to the public record and the question of destruction was a matter for you under section 55 of the Archives Act and your urgent advice was sought as to the appropriate action to take?---Yes.

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Prior to getting the letter from him had he said anything in the phone call to suggest that there was any element of urgency about your examination of these documents?---Well, he had asked me to make a decision as soon as possible.

Did he say why that was necessary?---Well, just that the government - or he or the department was concerned that the proper legal provisions weren't in place to protect witnesses.

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Was the fact - did you have any - when you received the call from him did he identify himself as coming from the cabinet office or being - - -?---Yes, he must have, because I've got a note of it; yes.

Did the fact that a person from the cabinet office - did that have any effect upon the attitude that you took towards his request for urgent consideration?---No, it's not unusual, actually, for us to be asked for urgent consideration. That's actually quite a common thing, but more often than not we're not able to give a quick answer, simply because of the nature of the size and the complexity of the records. In this particular case it was a small amount of records and on the face of it a fairly straightforward case.

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Okay, and were those records in your possession when he phoned?---No, I don't think so.

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Did you see them?---Yes, I did see them.

How did they get to you?---They were delivered.

By whom? You don't remember?---Do you mean - well, I was told that they would be coming and they arrived. I mean, I - - -

Well, I'll get you to have a look at exhibit 174, please. Is this a note that you made?---It is, yes.

It speaks about a telephone call from a Ken Littleboy from the cabinet office?---That's true, yes.

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In the second paragraph it speaks of a carton of records being delivered to you?---Yes.

You're not asserting in terms there that it was Mr Ken Littleboy who delivered the records to you?---No.

But looking at that file note does that assist you in recalling how the records came to your office?---It doesn't, no.

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Does that file note assist you in determining which came first, Mr Tait's telephone call to you or Mr Littleboy's telephone call?---Well, you don't have the State Archive's file references on these so I can't tell which went on to the file first, if you see what I mean, which might give a clue.

Yes?---I would think it was probably Stuart Tait first, but I can't say that categorically. **1**

This file note is dated 23 February 1990 up at the top?
---Yes.

From that it's possible, perhaps, to conclude that it therefore concerns events that occurred on that date, would you agree?---Yes.

Are we also able to be sure from your recollection that the file note was made no 23 February 1990, or could it have been made the next day or the day after that or what was the case there?---I think it was likely it was made that day. I mean, again, I can't tell you categorically, but I think it's likely it was that day. **10**

Okay, so therefore it was a note made soon after the events to which it refers occurred?---Mm.

You state that only one carton of records was delivered to your office. Do you recall what that carton of records - do you recall whether the carton was sealed up or was it open? You don't remember?---No. **20**

Okay?---We have records coming in all the time in all shapes and sizes, in all sorts of containers.

Yes?---You wouldn't be worrying about the containers, you'd be looking at the content.

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So when records came to you in all shapes and sizes all the time, did you make file notes like this?---Often, yes. 1

All right. You and Ms McGuckin went through these records? ---Well, went through is one of those things that you've got to just - basically what we did was - - -

I'm just using your words?---Yes, we're just dipping into them basically to get a bit of an idea of what was there.

All right. So where you say "went through", we could transpose to "dipped into the records"?---Yes, I certainly didn't sit down and read every item. I didn't listen to every tape. I think there were computer tapes, weren't there? We certainly didn't look at those. 10

There were tapes and you state in your statement at paragraph 19, "I know that I did not listen to the tapes"? ---Yes.

So is that accurate in paragraph 19 of your statement, the words, "I know that I did not listen to the tapes"?---That is true, yes. 20

So there were cassette tapes, were there, audio-cassette tapes?---Yes. As far as I can recall, there were cassette tapes and I think there were some computer disks. 1990 - what did we use then? Floppy disks probably, yes. I don't know.

Whatever sort of compute disks they were, did you take them, put them in a computer and see what was on them? ---No.

Now, you state in your statement that there were transcripts, letters and documents in general. Now, by "transcripts" that perhaps conjures up an interview between people where there were questions being asked by one person and answers being given by the other. Is that what you mean by "transcripts"?---Yes, that is what I meant. 30

Did you read any of those transcripts?---Just, as I say, dipped into them here and there. I didn't sit down and read through them, you know, from start to finish.

Right. To the extent that you dipped into them, were you able to form a view as to what the subject matter of the transcripts concerned?---It appeared to be that there were a lot of staffing conflicts in the John Oxley Centre. 40

Yes?---There were a lot of complaints about the management style. It sounded like a fairly unhappy workplace basically.

So far as letters were concerned, were they original letters or photocopies of letters?---No, they would only have been copies.

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Why do you say, "They would only have been copies"?---I think I'd have noticed if there was anything original - well, yes, I think I would.

Okay. Do you recall the title of the person to whom the letters were addressed, either by their name or by their office?---No; no.

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Were they handwritten letters or typed letters?---I really can't answer that at this point.

Now, according to your file note, Ms Kate McGuckin looked at them or dipped into them with you?---Mm'hm.

Is that so?---Yes, that's true.

Okay; and you state in the last paragraph of file note 174, "The state librarian was notified of the situation"?---Yes.

Now, what situation was the state librarian notified of? ---That there was a dealing with cabinet basically. I mean, you know the rule in public service. You've got to keep your boss apprised of any actions that are going on that might be relevant.

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So to take another example, if someone from the DPI had brought some records out to do with the Registrar of Brands Office where they keep all the records of the brands that go on sheep and cattle and said, "Look, we want these to be destroyed," would you ring the state librarian and tell him that?---I wouldn't, but I did make a monthly report to the Library Board in which I did outline any significant transfers that had come in.

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So what was the difference between the example of sheep and cattle brand records getting destroyed and these records that required you or made you feel you should notify the state librarian?---Essentially that the request or the dealings came from cabinet or cabinet office secretariat

So was it unusual for you to have dealings with the cabinet office?---It was; it was, yes. Mind you, that's early 1990. There were a lot of unusual things going on in government at that point.

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Were there?---Yes.

Had you ever before encountered an occasion where the cabinet secretariat or the cabinet office had sent correspondence about departmental records and about a cabinet decision that they should be destroyed?---In 1990 probably not, no.

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Okay?---I don't think so.

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Now, was it your decision and your decision alone that the records could be destroyed?---Yes.

Were you required to apply any statutory or legislative criteria to that exercise of judgment about destruction? ---Unfortunately there was nothing in the Libraries and Archives Act at that stage that gave any guidance on what should be retained and what shouldn't.

So the criteria that you would have applied would therefore have been the criteria that you mentioned earlier this afternoon about: did they have historical value, would they be useful to researchers, would they assist a person establish his identity or something of that nature?---Yes; yes.

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And your view from looking at them was that there was no reason, as far as you were concerned, why they couldn't be disposed of?---Well, you wouldn't normally seek to keep every record of staffing disputes within government agencies. I mean, frankly, there would be an awful lot of them and I don't think by and large that they would have historical value.

20

And so for that reason you said that as far as you were concerned the way was open. If they wanted to destroy them, they could destroy them?---Yes.

Were you required to put that determination in writing? ---Yes, I always did.

You always did?---Yes.

There was nothing unusual about you doing it in writing? ---No, no, I always did that.

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All right, but you also state here that you notified Mr Littleboy that disposal would be approved?---Yes, yes.

And you said that a letter of reply would be provided later in the afternoon?---Yes.

Now, I'll get you to have a look at this document which is exhibit 175?---Thank you.

Is that a copy of the letter that you faxed across later in the afternoon?---Yes.

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And in fact it bears a facsimile time of 1344 which would be 1.44 pm on 23 February 1990?---Yes.

So that would presumably represent the time at which this letter was faxed off to the cabinet office?---Yes.

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Because it's addressed to the acting secretary to cabinet? 1
---Yes.

After you gave permission in writing for - well, actually we will go back a step. Was there anyone else present when you examined these records besides Ms McGuckin?---Kate McGuckin, yes.

Anyone else?---No, not that I can recall; no.

Well, you told Ken Littleboy the way was open to destroy them and you sent a fax off saying they could be destroyed. 10
What became of the documents in the carton after those two events had occurred?---We returned them. Now, you're going to ask me where to.

No, I'm going to ask you when you returned them first?
---Straightaway.

Okay?---Straightaway.

How did you return them?---That I don't remember.

To whom did you return them? By "return" suggests from the 20
use of that word you gave them back to the people that gave them to you?---Yes; yes. Isn't there a - - -

Because it just says down the bottom of exhibit 175, "Arrangements have been made for the records to be returned to the cabinet secretariat"?---If we got the records from the cabinet secretariat, which I think we did, then they probably would've gone back there. I mean, I would basically have just got the archives driver to take them back to wherever they came from.

So you had the means available to you?---Yes, because we 30
had records coming in and out all the time; yes.

All right; and it wasn't unusual for your man to take records back to government departments?---No; no, we did a regular run every day.

Okay, thank you?---Records going in and out.

All right. Now, could you have a look at exhibit 188? This is a letter to your from Mr Tait, isn't it?---It is, 40
yes.

Now, you will see the date is 22 March?---Mm'hm.

He tells you that on 5 March cabinet decided the material should be handed to the archivist for destruction and, accordingly, he was forwarding it to you for necessary action?---I don't remember seeing this letter. Now, if it was sent to us, it would be an archives file, but I have to say I don't remember this letter.

Is there anything on the copy that I have given to you to suggest that it's come off an archives file?---No.

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So the fact you don't remember it doesn't mean you didn't actually see it. You just don't remember?---I just don't remember it, no.

Well, it says here, "I am forwarding the material to you for necessary action." Did you actually have that carton of things come back to you?---No; no; no. There would be no point. I mean, as I've said, we don't have any facilities for disposal so - - -

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Okay. Well, what do you say to this proposition, that you telephoned a man called Trevor Walsh and said, "We're going to destroy the documents. We don't have a shredder. Can we use yours? We don't own a shredder"?---I would certainly never have said we are going to destroy the records. That's not a job. The job was to make a decision about disposal.

1

All right?---The actual carrying out of it was not our role at all.

Well, what do you say to the proposition that you told Trevor Walsh that you didn't have a shredder?---Yes, I did do that. I did.

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Why was it that you contacted Trevor Walsh and informed him you didn't have a shredder?---I think he contacted me. I'm not sure about that. You know, again, without having the files in front of me, but I would think he contacted me.

Okay.

COMMISSIONER: Well, the reason you didn't have a shredder was for the very reason that you didn't involve yourself in destruction?---Exactly.

20

You didn't have a use for it?---No.

MR COPLEY: So it's possible that he called you to inquire about destruction and you said, "Well, I can't help you. We don't destroy. We have no shredder"?---Yes, exactly.

Now, there has been a document tendered in evidence that would suggest that a Mr Ken Littleboy from the cabinet office collected Ms McGuckin from the state archives at 2.30 on 23 March 1990 and took her into town?---Yes.

30

Now, do you know anything about that?---Certainly Kate was taken into town. We were asked basically could we have someone come in and be with them in destruction took place, basically.

All right. Now, were you the person - - -?---And Kate was the person who did that, yes.

Fair enough. Were you the person that someone phoned or contacted and said, "We need someone from your office to come and be present for destruction"?---Yes.

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Do you remember who ring you and said that?---Well, I think it was with Ken Littleboy, but again, you know, I don't have the files in front of me so - and this is nearly a quarter of a century ago.

Okay. Well, no doubt this was a pretty regular event, that someone would ring and say, "We're going to destroy some records. Can you just make available an archivist officer to come in and watch"?--No, that wasn't a usual thing. That wasn't a usual thing. 1

Had that ever been asked of you before?---Certainly had some odd queries about this production, you know, could we do the destruction; we've certainly been asked that before - - -

Yes?--- - - - on a number of occasions. 10

But what - - -?---I don't know that I've been asked to specifically have someone come in and be present at the destruction.

Well, did you react and say, "Well, hang on a second, we just give permission things to be destroyed. We gave our permission. Whatever cabinet has decided, it is decided. I don't have the time. My people don't have the time to be coming into town to watch you destroy things." Did you say that?---I didn't, no. 20

But you regard the request as unusual?---I did, yes.

COMMISSIONER: And acceding to it was exceptional from your point of view?---It was unusual. I mean, we did have people going in and out of departments all the time looking at records so that wasn't in itself unusual.

But was it exceptional for you to send someone to supervise or observe the destruction of documents?---Yes, that's right.

Had you ever done before?---Not that I can recall. 30

Since?---No, I don't think so.

MR COPLEY: Did you acquiesce on it because the request was coming from cabinet as you understood it?---Well, you could say that. I mean, you know, really, you're a public servant and if you get a request from cabinet, if it's something that you can accede to and it doesn't cause real problems - and this was, as I say, we send people into the departments to look at records all the time.

Yes?---It wasn't any great workload, if I can put it that way. 40

COMMISSIONER: Except that you weren't experts at supervising destruction of documents, were you?---No, no.

In fact, you didn't do it; it's one thing you didn't do? ---No.

So where were you value-adding to this process?---We were asked to do it so we did.

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MR COPLEY: Did you say, "Why do you want someone from archives to come in and watch this"?---I probably did. I don't really recall, you know, the detail of the conversation.

And you don't really recall now who you had the conversation with, but it's possibly Littleboy. Is that the case?---Without the notes in front of me - - -

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You can't help on that?---No, not unless you can give me the file note or whatever.

I could if I would. I would if I could.

COMMISSIONER: Is there one?

MR COPLEY: I haven't seen one in the material.

COMMISSIONER: But are you saying there is one?---No, I'm saying anything that I recorded would be on the state archives file and the commission will have access and no doubt has checked all of those files very thoroughly.

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MR COPLEY: Okay. Well, I'll just get you to look at this file note we do have, which is numbered 189.

COMMISSIONER: So if there was a note it would have been on the file?---Exactly.

If it was on the file we would have had it?---Yes.

Is that right, Mr Copley?

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MR COPLEY: That's the effect of Ms McGregor's evidence.

Now, this is a file note made by Kate McGuckin, isn't it? ---Yes.

And it's dated 23 March 1990?---Yes.

Leaving aside the possibility that you saw it last week, the week before, or in 2000; going back to March of 1990 did you see that file note after she made it?---It's got my initials on it.

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Has it? Okay, where are they?---Just down the bottom, LMCG.

And what inference to be drawn from the fact you're initials are on that?---Just that I saw it.

Okay, it doesn't tell me when you saw it, though?---It doesn't, no.

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Can you remember? Do you remember when you saw it to initial it?---I don't. 1

Okay. All right. Certainly the file note suggests that the records were collected from the executive building, doesn't it?---It does, yes.

And you weren't with her at that event occurred so you can't comment on that?---No.

But can you confirm that the records were not taken by Ms McGuckin from archives into town?---Yes. 10

Okay. Now, I'll just get you to look at exhibit 196? ---Yes.

Now, that's a facsimile from you to Trevor Walsh?---It is, yes.

Attaching a letter that you've received from Peter Coyne the day before on 17 May 1990?---Yes.

Okay. And you sent that in on 18 May 1990 at 9.40 in the morning?---Right. 20

According to the thing at the top?---Yes.

Was your purpose in bringing it to Mr Walsh's attention simply because you thought it was a matter he needed to know about?---Yes. I mean, the records no longer existed and I had no way of making any comment on them. I mean, the logical thing would be to refer it back to the department.

Right. Because in the letter Mr Coyne said that the Sun newspaper had asserted on 11 April 1990 that all of the records had been destroyed?---Mm'hm. 30

So did that suggest to you that fact that Coyne wrote to you and was referring to something in the newspaper, that this might be a topical or a controversial issue and therefore Mr Walsh should know about it?---Just from the - you could gather that from the tone of the letter, certainly.

Yes. Commonsense told you that this was something - - -? ---Yes. 40

- - - these people who owned the records need to be aware of?---Yes.

And that's why you brought it to their attention. Okay, thank you. Now, the last document I just want to show you is exhibit 197 - the second-last document, sorry. Now,

this is a file note made by you, isn't it?---No, I think that's actually a report to the Library Board of Queensland.

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Okay?---That's what it looks like to me.

Right. Well, that's okay, but does it bear your signature?---It does, yes.

So when I call it a file note, it's to be characterised as a report to the library board?---Yes.

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Okay. Excuse me for a second. Was that report to the library board simply a routine piece of correspondence that you were required to do from time to time to the board?---The board met monthly and I reported on matters of interest to the board monthly.

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All right?---So that might be significant transfers, it might be to do with negotiating for a new building or it might be something like this. Anything that I thought was significant or interesting to the board in some way I would make a report on.

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This document concerns events as late as 17 May 1990, so can we therefore assume that this was the monthly report for May?---Well, it certainly can't have been any earlier, can it?

No, it can't?---No. May or June. I mean, I don't - it's not dated, unfortunately, so I can't give you a date.

10

Okay, but because it might have been the monthly report for May or June but it's referring to incidents that happened in February and even April, is it possible that this was not the first report you made to the board about the subject matter?---No, this would be the first report, simply because, as I said, the commissioner has had access to all the archives records, and any report that I made to the board would be on the archives files.

You're confident we wouldn't have missed it?---Well, I have to - I have to - - -

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A compliment - - -?---I have to be - you know, hope that's so, let's put it that way.

Well, I'm just going to ask you, because I'm not infallible.

COMMISSIONER: Me too?---Yes. Well, you've certainly had access to the archives files and I would assume that if there was any earlier one you would have picked it up.

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MR COPLEY: Well, I'm just asking you, do you have a recollection of making - it's the subject of a - do you have any recollection of including in your February or March monthly reports to the library board the question of the fate of these documents that cabinet asked you - - -? ---I don't have any recollection of that, no.

Thanks for that. The last document I'll show you, for the sake of completeness, because we've tendered it, is exhibit 199. I'll get you to confirm that your signature appears on it. Your signature is on that?---My signature is on that, yes.

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That is a memorandum to the state librarian reporting to him on 18 May the fact that you had received the phone call and the fax and the letter from Peter Coyne?---Yes. I'm just having a quick read of it because I don't remember it.

Sure, yes?---Yes, okay.

Thank you. All right, that can be returned. In your statement, Ms McGregor, you say that you recall the name Peter Coyne from when you examined the records. You said, "I remember that he was the manager at John Oxley and was quite young." Is that information that you gathered from when you examined that carton of records?---No, I don't think so. I think I was told that.

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You go on to state, "I can say that in the documents I reviewed there was never any mention of sexual abuse at John Oxley"?---I certainly didn't see anything like that.

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With the caveat that you only, as you put it, dipped into the documents?---Exactly.

So you're not warranting that it wasn't there but you didn't see it if it was?---That's right.

You then state, "I would never authorise destruction of this type of information"?---Certainly unresolved information of that type. I mean, court records once they go through long processes and all matters are dealt with, court records are - a lot of court records are eventually destroyed.

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So are you saying that if when you dipped into these records you'd seen someone saying something about having seen or witnessed or been involved in some sort of child sexual activity you would have stopped and paused to seriously consider whether these documents should be destroyed?---Yes.

Okay?---Go back to the agency and discuss it, talk it over, what's - - -

"What's going on here?" All right. No further - - -

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COMMISSIONER: Because your job was to make sure that public documents weren't destroyed, wasn't it?---My job really at that stage, because is a long time ago now, was to pick out those key things which ought to be retained permanently.

That's right?---That was really the focus of my attention.

You would be failing if you had authorised or released for destruction something that you should have preserved? ---Yes.

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MR COPLEY: Can you just think - - -?---Although, you know, it's a matter of judgment what you preserve. That's the difficulty.

COMMISSIONER: I know?---Yes.

But that was your remit?---Yes.

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MR COPLEY: Can you just think carefully about the proposition that the commissioner put to you when he said your job is to make sure public documents weren't destroyed? Just think about that for a moment so that I can clarify with you, was that your understanding, that you were the guardian of public documents, or that there was a prima facie starting point that public documents, as far as you were concerned, weren't going to be destroyed? What attitude did you bring to this role?--Most records are eventually destroyed. Only a small proportion of records will eventually end up in archives. I felt my role was to try and identify, target those things that had enduring value and capture them and bring them into the archives. I really was not so concerned about the remainder of the records.

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So in targeting things you've talked about looking for things where you might have had missing records from the past or keeping things that you thought might be important to establish identity. Were there any constraints of a practical nature on any wish that you might have had to keep as much as possible?--Yes.

What was that?--Resources. If you kept what you would like to keep you would need, you know, three or four more buildings, you would need three or four times the number of staff. I mean, there are practical restraints. We all live, you know, in the real world and you can't take in everything that you perhaps would like to take in. That's unfortunately true.

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Okay. No further questions.

COMMISSIONER: Thank you. Mr Hanger?

MR HANGER: Yes. I appear for the state. You mentioned you had a new government and that some unusual things were occurring. I think my learned friend was suggesting to you that some of the things that occurred here were unusual, but the cabinet was ultimately at the top of the tree? --Of course.

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When cabinet wants things done you do them quickly, I presume, and efficiently, consistent with your duty?--Yes.

Yes, of course. Go back, would you, to exhibit 173? I think that's the first one my learned friend showed you. This is in effect what I'm going to call a briefing to you. This is in your initial letter. You were informed there in the third paragraph of an issue. "During the course of the investigation questions were raised concerning the possibility of legal action against Mr Heiner and informants to the investigation because of the potentially defamatory nature of the material gathered. Because of the

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limited value of its continuation, the Department of Family Services has decided to terminate the investigation"?---Yes. 1

That was obviously material that you had in your mind at the time?---Yes.

Then having looked at the material you went through it, you've said, and we've heard it for some months now, that there were management issues at the John Oxley Detention Centre and you say it just looked like a fairly typical staffing issue that you'd come across in government all the time, I imagine?---Yes. 10

So exercising your discretion, you were satisfied these weren't records that needed to be kept?---Yes.

You were aware of the concern that you'd been told of of potential defamation proceedings?---I was. I'm not a lawyer. I can't give legal advice. I was aware that the agency was taking legal advice and would presumably follow it.

I just wanted to check on one thing you said. I'm not putting something to you, but I thought in your evidence here this afternoon you said that you did listen to some tape and then I thought Mr Copley took you to - did I misunderstand? All right, I misheard?---No, I didn't listen to any tapes; no. 20

So you didn't listen to the tapes?---No.

You didn't look at the - - -?---Computer - - -

The CDs. I presume they were five-inch CDs?---I'm just really trying to remember but I think there was - I think there was just some computer disks or something like that. It was just a mishmash of stuff, you know. It wasn't in any great order or - - - 30

Yes, but you looked at the written documents?---I just looked at some of the written material.

And ascertained there was an industrial dispute and the complaints about the management style?---Mm.

You saw nothing, as you told my learned friend, about sexual abuse?---No. 40

No, thank you.

COMMISSIONER: Thanks, Mr Hanger. Mr Harris?

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MR HARRIS: I have no questions, commissioner.

COMMISSIONER: Mr Bosscher?

MR BOSSCHER: Thank you, commissioner.

Just following on from the question Mr Hanger asked you, when you were giving evidence to Mr Copley, you said you didn't listen to every tape but, as I understand your statement, you didn't listen to any tapes, did you?
---That's correct.

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And you didn't examine any of the computer disks?---That's correct.

How long did you examine these documents for? How long did you spend looking through them?---I can't give you an exact figure but it wouldn't have been very long, I wouldn't think, no. I relied more on the letter that I received; the discussion that I had with Stuart Tait and Ken Littleboy in terms of the content.

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Whose documents were they?---Well, according to the legal advice, they were public records under the act so from my point of view it's not - it actually isn't at all unusual not to be quite sure whose documents they are because government tends to be fluid and functions move from agency to agency. So you're sometimes dealing with the creator of the records and you're sometimes dealing with the inheritor of the records.

Now, in these circumstances though you were aware which department had ownership of the records, weren't you?
---Well, my understanding was Family Services.

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Yes, that was the relevant department?---Yes.

It was that department you're aware that had retained Mr Heiner?---Yes.

And it was that department that was expressing concerns about possible defamation action?---Yes.

Now, in the normal course of events when a department brings documents to you and asks your permission as the state archivist for them to be destroyed, you rely on them to tell you what's contained within the material to an extent?---Very largely; yes, very much so. The sheer complexity and range of records that are generated across state and local government and state courts is so huge and often it's so specialised in nature you really have to rely on the agency to kind of lead you through what records there are and how they function and what they do.

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Had Mr Tait prior to this time ever asked your authority to destroy documents?---No. 1

Subsequent to this time?---Not that I recall, no.

Was it the case that the archivist received that type of request from cabinet regularly?---No, certainly not regularly; no.

Do you recall another time when cabinet has requested of you when you were the state archivist permission to destroy documents?---Well, we did start working on a disposal schedule for cabinet records. I can't give you an exact date, but, you know, some time fairly early on in that new government's term. 10

That was a mechanism for disposing of records after a period of time?---Yes.

But I'm asking you this: do you recall ever receiving another specific request from the office of cabinet for permission to destroy particular documents?---Not that I can recall, no. 20

So this was a first and a one off?---As far as I can remember, yes.

If a department were to ask for your authority to destroy documents, they would provide you with the documents and an explanation as to what they contained?---No, usually we'd go out onsite and look at the records.

You wouldn't do it that same day that you received the request, I presume?---Not unless we were asked for an urgent response. 30

I'm struggling to understand where an urgent response would be required. Do you ever have requests for urgent responses for destruction?---Yes, we often do urgent - we often did have requests for very quick responses. Agencies aren't very thoughtful by and large about their records and we did frequently get requests to do disposal decisions fairly quickly, but we couldn't - more often than not you couldn't acceded to it simply because of the quantity and the range of the records.

But so far as the request from the office of cabinet is concerned you responded to that in a matter of hours? ---Yes. 40

The rapid response, I suggest to you, is no doubt in part by the fact that it's a cabinet request?---Of course; I was a public servant, yes.

"If it's coming from the boss's office, then I'm going to do what it says"?---Well, you know, I'd like to think we'd respond to anybody as quickly as we possibly could, but certainly the fact that it's cabinet you do respond quickly, yes.

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Some departments are more equal than others, for example. Do you agree with that?---I can only say again I would like to think that we would respond to anybody as quickly as we reasonably could.

Thank you. Now, there's no issue at any time in relation to these documents that we're discussing that they were public records as defined by the Libraries and Archives Act. Is that right?---The advice in this document from Crown Law said that they were and I accepted that advice.

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Now, is it the case - I will come back to that in a moment. So far as these documents were concerned, other than the brief look that you had at them, they were - the contents of them you relied upon Department of Cabinet and Mr Tait for that information?---Yes, and Mr Littleboy too, I think; yes.

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Again from the Department of Cabinet?---Yes.

At no time were you given any information by the Department of Families?---Well, we did - I'm pretty sure there's a memo somewhere of a contact with Trevor Walsh from the department. As to exact timing of that, I - you know, without looking at it I couldn't tell you.

Was that in relation to the contents of the documents themselves?---It may have been. Again I'm not sure.

Were you aware as to why such urgent advice in relation to the destruction of these documents was being sought from you?---I was told there was a concern that the inquiry hadn't been set up properly in such a way as to give legal protection for witnesses giving evidence. That's very much a legal matter and I relied on the department going to Crown Law to get legal advice on the subject.

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As to whether or not any claim of defamation, for example, was something that was valid?---That certainly - as I say, I'm not a lawyer. I can't really comment on legal issues.

No, I accept that, and you were relying on Crown Law and others to form views on that and you simply adopted the position as per the relevant act that governed your activities?---Yes. My concern was: are these records required for permanent retention for state archives? Is that the sort of record that we would want to take into the archives? The answer being no, it then went back to the department to make decisions about what to do with the records.

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McGREGOR, L.A. XXN

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But - sorry?---I was just going to say that the fact of a disposal authority being given does not mean that destruction is mandatory. If an agency decides to keep the records after a disposal authority is given, there's nothing to stop them doing that.

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No, but you as the state archivist have certain governing maxims as to whether or not something ought to be disposed of or be allowed to be disposed of?---Well, I've talked about the sort of criteria that we were looking at for determining what might be for permanent retention.

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Now, at paragraph 28 of your statement you say this:

I can say that in the documents I reviewed that there was never any mention of sexual abuse at the John Oxley Centre. I would never authorise destruction of this type of information.

Why is that?---Because it's likely to be a criminal matter.

Likely to be required for court process?---Could be and in any case, one would think, required for departmental action.

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So if you're aware of that type of information in the documentation, you would never have authorised the destruction?---No, I wouldn't have. I would've gone back to the department and discussed it further.

COMMISSIONER: How would you know whether to do that or not unless you went through each document and listened to the tapes?---Basically you have to be able to rely on the agency to give you fair and complete information. There's really no alternative to that just because of the sheer quantity involved.

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MR BOSSCHER: Now, that obviously presupposes that they're acting in good faith?---Yes.

One of the things that you were asked to do was to consider this matter urgently and to render a decision urgently? ---Yes.

Which you did?---Yes.

Do you concede or will you concede that you didn't do a thorough examination of these documents before you authorised their destruction?

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MR HANGER: She said that. She said that.

COMMISSIONER: Yes, she has said that before.

MR BOSSCHER: I must have missed it.

So you have conceded that?---I didn't read every document, 1
no.

No, that's not what I'm asking you. I'm asking you whether
you concede that you did a thorough and proper examination
of these documents before you authorised their destruction.

COMMISSIONER: Well, see, I'm not sure whether there is
such a thing as a proper - that qualifies for that because
the witness has said that she doesn't do any checking
beyond acting on what she is told from the department so
what is proper to her may not be what you think should be 10
proper. Do you know what I mean?

MR BOSSCHER: That's a fair comment, yes.

COMMISSIONER: What is puzzling though is you're the one
who ticks off, "Yes, you can," "No, you can't," but in
order to do that you have to trust the person asking you to
tick it off as to what is in it?---The vast majority of
disposal is really just a space issue. People just want to
get rid of the records.

I know, but you're not really a check on it if you're 20
acting - if your information in making the decision not to
retain is based or as good as the information you're given
by the person who doesn't want you to retain it, do you see
what I mean?---I do see what you mean, but I guess that's
not usually the case that we run into.

But this was the case here, wasn't it? You were asked to
make a decision urgently about whether to keep documents
that you were told didn't need to be kept. Is that right?
---Yes, yes.

And which you acted on as if it was true?---Well, I 30
certainly took their word for it that these were the
records of essentially a staffing dispute within the agency
and that was not the type of records that we would want.
Perhaps I should just say that when the Libraries and
Archives Act was formed, it was essentially - the archives
section was set up essentially as a way of capturing
records for historical research.

Yes?---It was really at the behest of historians and
academics who were concerned that public records which were
very valuable for historical research were being destroyed
and so that really was the primary purpose of the act when 40
it was established.

Right?---It had evolved a little bit by 1990 and it
certainly evolved a lot more. I'm sure what happens today
is quite different, but really our primary purpose was just
trying to establish what is of historical value and make
sure it comes in.

The sort of analysis that you did of that wouldn't be such that you could warrant that the documents that were destroyed had the same character as the documents you were told they were?---That's true, yes.

1

MR BOSSCHER: Thank you, commissioner.

Paragraph 27, the last sentence you say this:

I can say that if I was aware of the documents being sought, I would have provided advice to the department that the documents should not be destroyed?

10

---Yes.

So, for example, if you were aware upon your examination of the documents of there being any allegations of child abuse, you would not have authorised their destruction?---I would certainly have gone straight back to the department and discussed it with them.

The department or the office of cabinet?---Either or both really.

20

COMMISSIONER: Sorry, I just want to clarify something again. Given that your primary purpose was to preserve at that time historically relevant and important documents, why would the fact that child abuse allegations were in these documents have qualified them for the sorts of documents that you thought you were there to preserve? ---Because just from general knowledge, not archival knowledge if records or if information is around of sexual abuse, that's not something that should be destroyed.

No, no dispute there, but the question is: are they something that you would be expected to preserve because of your role as opposed to what you would preserve as being a good citizen and anti-child abuse?---Well, as I said, there's nothing in the legislation that actually tells you what you should retain so it's something that's come about partly as a result of the way the archives was formed and just partly over time becoming more and more concerned in terms of how records are managed within government.

30

So just again to be very clear, although it may not have been an explicit part of your remit and although they may not have necessarily been of historical significance or relevance - if you knew that the documents you were being asked to release for destruction contained child sexual abuse material, whether it was explicitly expected of you under the act or not, you would have not released them for destruction?---Yes.

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And that's because of the view you took of child sexual abuse in documents?---It's my view that records relating to criminal matters you need to be very careful destruction.

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Right, and not because they might have historical significance under the Libraries and Archives Act but because - - -?---Just as a citizen you're very cautious about destroying anything that relates to criminal action.

1

Okay. So now I understand, thank you.

MR BOSSCHER: The reality is, isn't it, you were really being asked to give permission for these to be destroyed because there was no intent clearly from the letter to you from Mr Tait that the government wanted to retain them? They have told you they want to destroy them, but they need your permission to do so?---That's true.

10

So really, leaving aside the niceties of the legislation, they wanted your tick as the archivist that they could shred these documents?---I guess so, yes.

Yes, and, as you indicated, you had a look at at least some of them and it didn't seem to you that they contained any long-term historical value. That's correct, isn't it? ---Yes.

And other than that you relied on the information you were given by the department?---Yes.

20

You also say in your statement here at paragraph 27:

I can say that if I was aware of the documents being sought, I would have provided advice to the department that the documents should not be destroyed.

Paragraph 27, last sentence?---Yes; yes, I've got it; yes, okay.

What do you mean by "being sought"?---If somebody - Mr Heiner or anybody else - had said that they wanted access to those records, I would have gone back to the department and pointed that out to them.

30

Back to cabinet or back to the Department of Families? ---Probably both. I don't know; probably both.

Now, if somebody was actively pursuing access to that documentation, is that something that either the Department of Cabinet or the Department of Families should have told you to enable you to make your decision?---I can't answer that really.

40

Perhaps I'll put it to you this way: if the Department of Cabinet had told you in their letter that these documents were actively being sought by a member of the public, potentially to commence a legal action, would your advice have changed?---I think my advice would be to discuss that with Crown Law - to discuss that with your lawyers. Because as I say, I'm not a lawyer.

1

But I'm relying on your statement here:

I can say that if I was aware of that document is being sought I would have provided advice to the department that the documents should not be destroyed?

10

---I guess that wording is probably a bit careless. "Being sought" is a pretty wide-ranging way of expressing that. If I was aware that legal action was being taken - let's put it that way - I would certainly have advised them not to destroy the records.

Could I ask you to have a look at this document, please.

COMMISSIONER: Sorry, can I just understand this: it's not a question of you advising them what to do, is it? They can't destroy them if they're public documents without your tick?---That's true, yes.

20

Okay, so if they wanted to be legal and they wanted to destroy their documents they need you to agree?---Yes.

Right. So they could reject your advice - they don't care about your advice, they just want to know whether you're going to tick it off or not?---I don't think I would have ticked it off. I mean, I'd probably at that point would feel that I needed to get some legal advice of my own.

30

Right. So it is not the question of you giving them advice, it's you saying yay or nay?---Well, a better way of saying that would be I would go back to discuss it further.

And then you keep pushing it and see how far you got, and then at some point you might have to consider your position?---Yes.

Even though you're a public servant if you could see yourself getting into a situation where you might have to defy cabinet to do your job?---Yes.

40

MR HANGER: Well, I haven't got the act in front of me but she'd have to read the act and from what I've heard it's fairly vague as to what she should - - -

COMMISSIONER: No, but I'm asking her her position.

MR HANGER: Yes.

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COMMISSIONER: I don't think the act is the key because as she said, she might not have ticked it off because it had child sexual abuse, which the act doesn't - - -

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MR HANGER: No, that's right. And she might have been contrary to the act in doing that. She might have been an admirable citizen but she might be - - -

COMMISSIONER: So it's a question of what she would have done rather than what the act expected her to do that I'm interested in.

10

MR HANGER: Yes. But part of the answer to that might be, "I have to abide by the law."

COMMISSIONER: She has to?

MR HANGER: Yes.

COMMISSIONER: Yes, we all do.

MR HANGER: "And therefore I have to do what the act says, not what I think."

20

COMMISSIONER: Yes, but because she's not a lawyer she's going to find out exactly what the legal position is before she ticks off an item she feels that she shouldn't be doing what she's being asked to do. Is that right?---Yes.

That's what I thought you said.

MR BOSSCHER: Thank you, Commissioner.

I've asked you to be shown a document. I'd be surprised if you haven't seen that before?---It doesn't have a date on it.

30

Have you seen the contents of it before?---Well, it's a general disposal schedule for administrative records. I don't recall it but without a date - I've been retired for 12 years now so, you know, what might have been written since then, I have no idea. I don't know whether this is a schedule that was done when I was there or not.

Let me ask you this question, reading from that document:

Public records must be retained for longer if (i) the public record is or may be needed in evidence in a judicial proceeding, including any reasonable possible judicial proceeding.

40

My question is was that the state of your understanding at the time that you were the state archivist?---I don't know how you define "reasonably possible judicial proceeding".

I accept that. I don't either, but was there something similar in place at the time you were the state archivist? ---I really don't recognise this document and I am wondering if it's something that's subsequent to the period that I was there.

1

It is?---It is, okay.

And I'm asking you whether the same maxim applied then seems to apply now?---Again, I think - if I thought there was pending legal action - I'll just read the wording again, "Any public record is or may be needed" - when I look at the way that's worded, I don't think I'd have worded anything quite as widely as that because that is very, very widely worded.

10

Perhaps if I give you a different wording. I'll have that back, if I may?---Yes, sure.

Would you agree with this: in general the records should be retained long enough to ensure that the rights of government and of any individual is concerned are fully protected?---We certainly aim for that, yes.

20

That's the best practice?---You would aim for that, yes.

I'll ask you to have a look at this document, please, page 11?---Okay.

COMMISSIONER: Just while that's being - before you ask the next question, could you tell me, just to extend on Mr Hanger's point, leaving aside the legislation for the moment because it might have been a bit vague and leaving aside your own interpretations or values for the moment, did you have any practice manual to help guide you in working out what the act meant or how to implement it? ---No.

30

MR BOSSCHER: That document you have in front of you, have you seen that before, the general document?---Yes, yes.

Is that something that you co-authored?---I wouldn't say I co-authored it. I mean, I was certainly involved in it, yes.

And I'm referring to you to page 11, paragraph marked number 1, legal values?---Page 11 - - -

40

Paragraph 1?---Paragraph 1, legal value, okay.

That's the paragraph I just read to you, other than I substituted the word "government" for the work "council"? ---"- - - ensure that the rights of the Council and of any individuals concerned are fully protected." Well, as I say, that's what you would aim for, yes.

Yes. And if there were documents and material that you were given by Cabinet that were to be utilised or being sought by an individual to protect their legal rights you wouldn't have ticked it off for cabinet to destroy, would you?---Again, I would have gone back and discussed it further with the agency - with the department. These things aren't straightforward and simple, you really have to go and negotiate and see what the situation is and talk it over, really.

1

All right. But clearly if you were aware that the potential of that existed, you wouldn't have turned it around in a few hours and given - regardless of it being cabinet - given that the ticked to destroy the documents?-- -If I'd been aware, yes, I would have certainly taken more time and perhaps referred to different people for further discussion.

10

And potentially even got your own legal advice as the archivist?---Well, potentially, I suppose, yes.

Now, again, I'm of the view that you're relying on the information that you're given, and you weren't given any information of potential or pending or possible legal action?---No.

20

But in your statement it seems fairly clear to me that if you were aware of it you would not have acted as quickly as you did in giving permission, effectively, for those documents to be destroyed?---Yes.

COMMISSIONER: Now, did you have any reason to believe that there was any material in the documents that would have led you not to agree to their destruction?---No.

MR BOSSCHER: You can pop that down now, thank you.

30

COMMISSIONER: So just to clarify that, you wouldn't have readily ticked off their destruction if you thought that they included child sexual abuse allegations or that there was pending litigation involving the documents; but you had no reason to believe that the documents you were asked to release for destruction contained child sex allegations or anything to do with pending litigation?---That's right.

40

Subsequently, obviously, you've become aware that there are real concerns about the destruction of these documents? ---After they're destroyed, yes. 1

Yes, by certain individuals and bodies, et cetera?---Well, I had the letter from Peter Coyne and I think there started to be material in the press. I can't give you exact dates, but there started to be material coming through in the press, yes.

It's a result of that type of activity that you've written that memorandum to your board that you were shown earlier? ---Yes, although I think I probably would have - that's one of the things that I would have reported on just generally, yes. 10

I'll get you to have a look at it. 197, please, commissioner.

That's the memo that you wrote?---Yes.

Again, with the greatest of respect, it seems a fairly long memo to simply advise of the destruction of what were nothing documents, pretty much?---It's actually a report to the board. So this is an agenda item and I would just - any item that I thought would be of interest to the board or that they would ask me about or anything like that, I would write a memo. It would normally be one or two pages. 20

It would, even in relation to the destruction of documents that were taking up space?---Well, I'd be much more likely to report on the retention of records that I thought were significant, because that would be of interest to the board. There were a number of historians, I think, at that stage on the board. 30

Why would this particular authorisation for destruction be of interest to the board?---Because it was becoming a controversial matter. There was material in the press and so on.

So the generation of the memo was not just a routine memo about the destruction of documents, it had become an issue, and has it had become an issue either the board asked or you thought that you should give them further information?---Yes.

You can hand that back now, if you wouldn't mind. You would accept it's not your role to blindly follow a request simply because it's made of you as the state archivist? ---Yes. 40

You need to satisfy yourself that what you're doing is the appropriate thing to be doing by virtue of your role and the legislation that governs your role?---Yes.

After Mr Coyne telephoned you did you smell a rat at the time, that maybe you hadn't been told everything that you should have been told? 1

MR COPLEY: Well, in my submission - my objection is that the question just isn't relevant to anything that you've got to determine. Whether this lady, as my friend put it, smelt a rat - - -

COMMISSIONER: Yes, I think that's right, isn't it, Mr Bosscher? I mean, what does it matter that she smelt a rat after Mister - whether she did or she didn't, after she received the letter from Mr Coyne? 10

MR BOSSCHER: Subsequent to her getting the telephone call from Mr Coyne then there is the report to the board and then there's been a number of times where this matter has been visited and revisited.

COMMISSIONER: All right, then that's really - okay, that's fair enough. I mean, if your question is, "Look, were you motivated to do something after you smelt a rat, after you got Mr Coyne's letter?" that's fair enough, but - you probably don't even need the rat. As long as you put it that Mr Coyne's letter prompted her to do something, that would be sufficient for the purpose. 20

MR BOSSCHER: It was actually a phone call.

COMMISSIONER: Okay.

MR BOSSCHER: After the phone call from Mr Coyne - I'll put it a different way - did you then - well, you passed on that information to the department?---Yes.

I don't recall now, was that the Department of Families or back to Mr Tait?---No, I think that was back to family services. I think that was to Trevor Walsh. 30

COMMISSIONER: Was that because you got Mr Coyne's phone call?---Yes.

MR BOSSCHER: You didn't feel it appropriate to discuss the matter with Mr Coyne?---Well, there wasn't really much I could say. I mean, he was - as far as I can recall, what he said to me was that he was interested in getting access to the records. Did I know where they were, if they were still in existence, and I basically said, "I think you need to go back to the department." 40

You did know the answer to his question, though, whether they were still in existence?---Yes, I did.

But you didn't feel it your place to pass that information on?---No, I don't suppose I did.

Why is it you sent him back to Mr Walsh and not back to Mr Tait? 1

MR COPLEY: It's irrelevant, isn't it? It's just absolutely irrelevant.

COMMISSIONER: What's the relevance of where she sent him to?

MR BOSSCHER: Well, up until this point in time she's been dealing with Mr Tait in relation to these records. 10

COMMISSIONER: Yes.

MR BOSSCHER: All of a sudden she's now dealing with the department.

MR COPLEY: That's not actually what the evidence is. She had had some discussion with Mr Walsh, she said in her evidence, earlier on, around February, March, around shredding time.

COMMISSIONER: Look, I see your point, Mr Copley, but I'll let you develop it, Mr Bosscher. 20

MR BOSSCHER: Thank you, commissioner.

COMMISSIONER: You've got to have a win now and again.

MR BOSSCHER: Sorry?

COMMISSIONER: You have to have a win now and again.

MR BOSSCHER: Thank you, commissioner.

Why was it you sent him back to Mr Walsh and not Mr Tait? ---I don't really recall. It just seemed the logical thing to do, I suppose. I don't - I really don't recall. 30

Did you then discuss the matter yourself with Mr Tait? ---No, I don't think - I don't think I had any - - -

Sorry, Mr Walsh. I apologise, with Mr Walsh?---I did speak to Mr Walsh and I think it was after Mr Coyne's letter - or maybe it was a memo. Maybe I simply contacted him by fax. I just can't really recall, but I think there was a contact, let's put it that way. 40

COMMISSIONER: The evidence is that Mr Walsh was the last one to see the documents intact, isn't it, and Mr Coyne was asking you about whether the documents still existed? ---Yes.

There seems to be a logical connection between those things.

MR BOSSCHER: Can I take you back to paragraph 27 of your statement? The second sentence starts as follows: "Detective Collis showed me the document which I believe was the Morris/Howard review which indicated that my decision to authorise the destruction of the documents was made legally but may not have been informed of all matters pertinent to this decision." Knowing what you know now, would you agree with that?---That I wasn't informed of all matters pertinent to the decision?

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Yes?---Well, how do I know what I didn't know, if you see what I mean.

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But you're aware now that people were actively, or a - no, people were actively seeking those documents, and you weren't told that?---I wasn't told that people were actively seeking those documents.

No, you weren't then, but you're aware of that now?---I am aware of that now.

COMMISSIONER: Why was that pertinent to you?---Sorry, could I have the question again? I've got a bit confused here.

20

Well, yes, I'm a bit confused too. What did you say in that memo?

MR COPLEY: It's paragraph 26?---Do you want me to read it out? "I am aware that there was a review after the government changed but I'm not sure who completed this review. Detective Collis showed me the document which I believe was the Howard/Morris review which indicated that my decision to authorise the destruction of the documents was made legally but may not have been informed of all matters pertinent to this decision."

30

COMMISSIONER: That statement assumes the correctness of the Morris/Howard report?---Yes.

Because it's your statement. I'm wanting to know why you made it. Why did you think that you may not have been told everything pertinent, having seen the Morris/Howard report? ---No, I think that's quoting from the - or summarising what's in the Morris/Howard report.

MR BOSSCHER: Yes, that's a finding in the Morris/Howard report that the detective showed this witness.

40

COMMISSIONER: I see. That's their opinion?---Yes.

MR BOSSCHER: Yes, that's their finding. It's in her statement.

COMMISSIONER: Well, what's the good of - why am I interested in that?

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MR BOSSCHER: Because my question was, "Do you agree with that?" 1

COMMISSIONER: Well, as she said, how does she know?

MR BOSSCHER: No, but she knows now.

I'm putting to you you're aware now that those document were being sought by other people.

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MR COPLEY: So my learned friend wants to ask this lady who made a decision years ago based on information that she has revealed to us today whether or not with the benefit of hindsight she now agrees with the opinion of Morris and Howard and my submission is it's irrelevant.

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COMMISSIONER: That's right.

MR COPLEY: Whether she agrees with Morris and Howard or not.

COMMISSIONER: In any event, the opinion of Morris and Howard is only that she may have not been told something pertinent. She may also have, so how can she comment on that?

10

MR BOSSCHER: I'm not going to push it. As you said - - -

COMMISSIONER: They haven't found that she was misled or anything like that and even if they had, it's only their opinion and even if it is their opinion, the fact that she agrees with it is not relevant to me.

MR BOSSCHER: Thank you, commissioner, I have nothing further.

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COMMISSIONER: Neither is it if she disagrees with it. It's completely neutral.

MR BOSSCHER: I have nothing further.

COMMISSIONER: Good.

MR COPLEY: No further questions. May the witness be excused?

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COMMISSIONER: Yes, you may be excused. Thank you very much for coming and spending the afternoon with us?--- Thank you.

We appreciate the time you have taken. You are formally excused from your obligations of the summons?---Thank you.

WITNESS WITHDREW

MR COPLEY: There's no reason why exhibit 306 can't be published.

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COMMISSIONER: Exhibit 306 will be published in its entirety.

MR COPLEY: I will hand up to you now a list of names which I have provided to everybody who has authority to appear which is a list of names of people from whom we have not yet heard evidence but who I believe may have relevant

evidence to offer, Mr Commissioner. This is the document that I foreshadowed in some detail before lunch. Now, some of these persons haven't actually been spoken to yet.

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COMMISSIONER: Right.

MR COPLEY: Some have been spoken to, but this represents the list of persons that I consider, as I said, might have relevant evidence to offer, but my submission is that you should take the view that everybody who has authority to appear - because it's a commission of inquiry designed to uncover all of the facts of the matter, all those with authority to appear have a duty to positively assist and if any of them think that any other name should be added to that list, then they should advise the commission, in my submission, by the close of business on Tuesday afternoon next.

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COMMISSIONER: I don't think that's controversial. Is that controversial anyone?

MR HANGER: No.

MR HARRIS: No, commissioner.

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MR BOSSCHER: No, commissioner.

COMMISSIONER: Okay. Yes, Mr Harris?

MR HARRIS: I have just got one issue, commissioner. Just for the record, as of today, commissioner, the firm Family Law Doyle Keyworth and Harris ceases to exist and the firm Keyworth Harris and Lowe Family Law is now representing through me Ms Annette Harding and Ms (indistinct).

COMMISSIONER: Thank you, Mr Harris.

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MR HARRIS: Thank you.

COMMISSIONER: I'm operating on the basis that because it's a commission of inquiry, everybody is interested in the same objective and everyone has got a public duty to help me discharge the requirements of my commission in the Order in Council and that that duty is not discharged - it's a positive one and it's not fully discharged simply by handing over a document which may or may not appear to have the same significance to the commission as it might to other interests. So if the significance of something in a document that we have in our possession seems to be escaping us, it would be incumbent on somebody who knew the true significance of that document to point it out to us. Is that what you are saying, Mr Copley?

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MR COPLEY: Yes, yes, Mr Commissioner, it is.

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COMMISSIONER: Does anyone disagree with that proposition? 1

MR HANGER: No.

COMMISSIONER: So by next Wednesday anything you have missed, Mr Copley, will be supplemented. Any name that other parties want to hear from or say is relevant or is relevant because of some document that we may or may not have or for some reason that we may not even know should be added to that list.

MR COPLEY: Will be drawn to our attention, yes, and then we will be able to look at the document, if it's a document, or if it's a person who's a witness and there's a statement sent in from that person, we can look at the statement or alternatively those with authority can appear and might briefly be able to explain the relevance of what a witness might be able to offer and we will consider it. 10

COMMISSIONER: But it's not only witnesses, that is, humans, it's also any document that is relevant but has not yet been tendered by you.

MR COPLEY: Yes. 20

COMMISSIONER: Not only that, it is not only a witness or a document, but it includes any statement in a document, the significance of which might have escaped you.

MR COPLEY: Yes.

COMMISSIONER: Okay. Do we all agree about that?

MR BOSSCHER: Yes.

COMMISSIONER: Now, that leaves us with Monday. Am I adjourning 3E now? 30

MR COPLEY: Yes. My submission is that the matter of the further hearing of this term of reference will need to be adjourned, as I recall it, to Monday, the 11th day of February. We will resume on that day, call a number of witnesses and then probably have to adjourn at the end of that day until Wednesday, 13 February to then continue the matter because I think on Tuesday the 12th you have to complete hearing something else.

COMMISSIONER: Yes, all right. I think we have got to play it a little bit by ear because hearing dates are starting to converge and I think next Tuesday the 12th is day five of next week's hearings - - - 40

MR COPLEY: Yes.

COMMISSIONER: - - - which don't relate to 3E.

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MR COPLEY: No. 1

COMMISSIONER: So next week we will be sitting in non-3E hearings - - -

MR COPLEY: Correct.

COMMISSIONER: - - - Monday to Thursday and then resuming with 3E on the following Monday.

MR COPLEY: Yes. 10

COMMISSIONER: Then back with non-3E on the Tuesday and back with 3E on the Wednesday.

MR COPLEY: Yes.

COMMISSIONER: Right. That will be Wednesday the 13th.

MR HANGER: There are no sittings next Friday then.

COMMISSIONER: No, that's right. That's a quicker way of putting it, yes. If anyone could find a shortcut to it, you did, Mr Hanger. All right. I will adjourn 3E until Monday the 11th. 20

MR BOSSCHER: One matter?

COMMISSIONER: Sorry, Mr Bosscher.

MR BOSSCHER: Sorry, commissioner, that week of the 11th my availability will be extremely limited. I'm in a committal proceeding.

COMMISSIONER: Right. 30

MR BOSSCHER: That's the second week of the two-week block that has been allocated.

COMMISSIONER: We will just default to the previous arrangement.

MR BOSSCHER: Thank you.

COMMISSIONER: Thank you very much for your help. See you on Monday, but I will see you for 3E on the following Monday. 40

THE COMMISSION ADJOURNED AT 4.03 PM UNTIL MONDAY, 4 FEBRUARY 2013

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