

Special Inquiry into St Andrew's Hostel

Hearing

Held at: Courtroom 4, Level 18,
111 St Georges Terrace, Perth

Friday, 13 April 2012 at 2.20pm
(Day 18)

Before: The Hon Peter Blaxell

1 HIS HONOUR: Yes, Mr Dobson?
2
3 MR DOBSON: I appear, may it please your Honour. We call
4 Mr Con Burro, who I believe is available on video link.
5
6 HIS HONOUR: All right.
7
8 <CORNELIUS LEOPOLD BURRO, sworn:
9
10 <EXAMINATION-IN-CHIEF BY MR DOBSON:
11
12 MR DOBSON: Q. Mr Burro, can you hear me?
13 A. Yes, sir.
14
15 Q. My name is Dobson. I will be the counsel taking you
16 through your evidence initially today.
17 A. Yes.
18
19 Q. Is your full name Cornelius Leopold Burro?
20 A. Correct.
21
22 Q. Mr Burro, you live at an address known to the Inquiry
23 and you are retired at the moment; is that right?
24 A. Well, I suppose you could call it retired but I'm
25 looking after seven kids while my wife works but, yeah, you
26 could call it retired.
27
28 Q. Well, it doesn't sound retired if there are seven of
29 them. Now, if I can take you back to 1991 --
30 A. Yes.
31
32 Q. -- were you appointed to be warden at St Andrew's
33 hostel in Katanning on 9 September 1991?
34 A. Yes.
35
36 Q. Prior to that, had you been a supervisor at the Albany
37 hostel?
38 A. Yes.
39
40 Q. That was a hostel that was also run by the hostel
41 authority; is that right?
42 A. Yes, sir.
43
44 Q. How long had you been at Albany, please?
45 A. I started, I think it was - well, I officially arrived
46 there before the kids. December '87, I think, going on to
47 January '88.

1
2 Q. Before that, had you been working in hostels?
3 A. Not in hostels. I'd worked in a private college as
4 head of residence.
5
6 Q. Some time at the end of December '87 or early '88, you
7 commenced at Albany?
8 A. Yes.
9
10 Q. There is a person named Dennis McKenna whose name has
11 come up frequently at this Inquiry. Did you know him while
12 you were at Albany?
13 A. Yes, I did.
14
15 Q. When did you meet him, please?
16 A. I met him probably, I'm guessing, first term '88 but
17 it was as we were going through to a jamboree at Geraldton
18 and we were (indistinct) kids, we were taking kids up
19 there, and the idea was that Esperance, I think, and
20 Katanning and Albany were to meet at Narrogin, which had a
21 coach. So we'd transferred from our Coasters, rather than
22 take the Coasters all the way to Geraldton, and go up in
23 the coach. On the way through, we had morning tea there
24 and that's when I actually met him but I didn't have much
25 to say to him, basically, other than be visible there and
26 see him.
27
28 Q. The first term of 1988 you meet him and that is while
29 you are passing through Katanning?
30 A. That's correct, on the way to Narrogin to go to
31 jamboree up in Geraldton.
32
33 Q. How long did you spend talking with him on that first
34 occasion?
35 A. Oh, very little. I don't even remember. I assume
36 that - I think he just spoke to us, or whatever, but I
37 don't really remember saying much to him at all. I don't
38 know even if I met him on a basis of one-to-one. I just
39 said hello and got introduced, but I think that's about the
40 lot.
41
42 Q. After that, what is the next time you have any sort of
43 contact with Mr McKenna?
44 A. The next time, I think - and I'm not sure - halfway
45 through that year, '88, he came to Albany. He was in the
46 foyer talking to my manager. I passed through and my
47 manager said to Dennis - they were talking - "Do you know

1 Con?", and Dennis said, "Yes." I said, "Hello. How are
2 you?", and a few words, then I kept going because I was
3 going up the stairs with some boys.
4

5 Q. That was a passing, "Hi. How are you?", and that was
6 it?

7 A. That's it, yeah.
8

9 Q. What's the next time you had contact with him?

10 A. The next time, I became acting warden and I think it
11 was 1990. It would have been the third term, because my
12 manager - we used to call them wardens then - had gone on
13 long service and that's when we had a managers meeting at
14 Merriden and I was going to fly, because I fly and I had a
15 flight club aircraft available to me, and he contacted me
16 and said, "Would you mind giving me a lift? I'll pay my
17 share of the cost to go to Merriden." I said, "Fine. No
18 problems." I landed at Katanning airport, he got on and he
19 took a couple of boys with him. We headed to Merriden, we
20 had the meeting, we came back, I landed at Katanning again
21 and he went off in a car. I said, "Would you mind ringing
22 my wife? Tell her I'll only be about 20 minutes to get to
23 Albany with the plane.", and that was it.
24

25 From then on, he phoned me and he said, you know,
26 "Come up. You haven't been, you haven't really seen
27 Katanning. Come up. Come and visit.", etc, etc. So he
28 welcomed me up there. I went up there and I think during
29 that period of my acting warden, I went up there about
30 three times. One time I remember him taking me down to
31 Reidy House, where I met some staff there and some kids.
32 It was around midday or so. I think it was in time with
33 the kids coming out of school. That's basically it.
34

35 Q. You subsequently gave character evidence at Dennis
36 McKenna's trial at Albany in June 1991; is that right?

37 A. Yes, I did.
38

39 Q. Would it be a fair summary to say you gave positive
40 character evidence about Mr McKenna?

41 A. Yes, I did.
42

43 Q. You should have before you some documents. If you
44 need to refer to them, I will discuss that with his Honour,
45 but do you recall when you gave evidence you said you had
46 known Dennis McKenna for going on four years?

47 A. Correct.

1
2 Q. You said that you had known him for about three years
3 before that?
4 A. No, I didn't say I knew him three years before that.
5
6 Q. Sorry, "knew of him"?
7 A. I said I knew of him before that.
8
9 Q. "Knew of him"?
10 A. That's correct. Let's get it right.
11
12 Q. We will get it right, Mr Burro, I can assure you.
13 A. Thank you.
14
15 Q. What did you know of him?
16 A. Well, I knew of two college managers before I went
17 there because (indistinct), which is close to us, we didn't
18 visit but sometimes the chief supervisor there would come
19 down often to where we worked. I knew of Laurie - I can't
20 remember his name - who ran Narrogin and I also knew him
21 because he phoned me about stuff going on (indistinct) I
22 was hearing of this wonderful hostel that was - you know,
23 had great standards and a very caring person, etc, etc. It
24 was all positive. I heard no negatives about it. That was
25 before I went into the hostel system.
26
27 Then when I went into the hostel system, I didn't
28 really associate much with the gossiping, or whatever, but
29 I did hear, from time to time, wonderful things and I heard
30 about their strict standards on what they saw, and I
31 assumed what they saw was in their theatre up there where
32 the public went to. I now find out that they showed movies
33 elsewhere. I had no idea of that. I just was hearing, oh,
34 they're putting on movies and they're actually busing
35 people from the towns around, and it's fantastic and the
36 standards are great. So that's about all I heard.
37
38 Q. Do you recall when you gave character evidence you
39 said that, knowing Dennis - you made the comment that his
40 moral values have always been excellent. Do you remember
41 saying that?
42 A. Yes, I say that but I also followed on in that
43 evidence, if you read it, saying that was based on the
44 behaviour of the children there, on what they did, and
45 that's the basis, because I couldn't really say that about
46 him, so I added - an addition there was that it was based
47 on how the children behaved, the standards, the

1 respectability of the children.
2
3 Q. The difficulty with that though, Mr Burro, is that you
4 actually said it about him. You said that his moral values
5 have always been excellent. You could have described --
6 A. Okay.
7
8 Q. You could have described what you observed without
9 saying that. Do you agree?
10 A. Yes, I agree.
11
12 Q. It would be fair to say now that his moral values at
13 the time were not excellent?
14 A. Definitely.
15
16 Q. You also told the District Court then that Katanning
17 had higher standards in their viewing material, and things
18 like that?
19 A. Yes.
20
21 Q. That was in relation to watching the movies?
22 A. That's right.
23
24 Q. It follows that you were not aware of Mr McKenna
25 showing the children pornography?
26 A. Well, I wasn't aware of that but I was hearing from
27 all our colleges, which were quite jealous of Katanning at
28 that stage, and that's the information I was getting and to
29 the extent that they were also saying they regarded him as
30 a bit of a square and a wowser because he didn't show
31 movies that might have even been a little bit robust. You
32 know, this is what was going around in our system and
33 that's what I based what I said on. I didn't say it for
34 any other reason. I wasn't aware. All I was aware of was
35 that they had a picture theatre and the quality of the
36 movies were excellent and they were regarding the standards
37 required for children. So that's what I based my evidence
38 on.
39
40 Q. You went on to speak, in the context of when you were
41 at the St Andrew's hostel, that you never received any
42 complaints and you were saying that you cannot keep secrets
43 where there are kids?
44 A. Yes.
45
46 Q. Do you remember saying that?
47 A. Yes, I said that.

1
2 Q. Were you aware at the time of the number of family
3 members of Dennis McKenna working at St Andrew's hostel?
4 A. I knew there was some. I didn't know that there was
5 as many as I found out recently. All I knew was that he
6 had his brother there.
7
8 Q. At one stage there were five to six family members,
9 weren't there?
10 A. I wasn't aware of that.
11
12 Q. That may not have been all at once, in fairness to
13 you. Now, I am not trying to split hairs but at the time
14 you gave evidence, you had probably known McKenna for just
15 on three years?
16 A. Yeah, it would have been just, yeah, three years or
17 more. Could have been getting on to four years.
18
19 Q. You had hardly had any real meaningful personal
20 contact with him?
21 A. Correct.
22
23 Q. I think there has been an email that you sent to the
24 Inquiry, saying that you formed the view that you were
25 chosen to give evidence because you were a clean skin. Do
26 you recall sending that?
27 A. Correct. Yes, I do.
28
29 Q. What did you mean by that, please?
30 A. By that I meant that I didn't get into the gossip that
31 was going on. A lot of gossip used to go around the
32 college about what's happening here and there, or whatever,
33 and I wouldn't discredit anybody unless I had evidence. I
34 would speak what was on my mind if I thought it was correct
35 and honest, and it didn't matter to me whether the public
36 or anybody saw me any less or worse. If I felt it was just
37 and right to say, I would say it. I wasn't into worrying
38 about protocol or politics in what I said. I said,
39 basically, what I believed in my heart and that's the way
40 I've been brought up by my parents.
41
42 Q. You actually said in your email to us that you had
43 never been involved in rumour mongering. Is that right?
44 A. That's correct, yes.
45
46 Q. "Rumour mongering", the very nature of those words
47 indicates that it is not positive comment that is being

1 made, is it?
2 A. I'm not sure what you're getting at.
3
4 Q. When you refer to someone being a rumour mongerer it
5 is not normally that they are passing on good comments
6 about someone, is it?
7 A. That's correct.
8
9 Q. They are gossiping?
10 A. I'd say so.
11
12 Q. What rumour mongering did you hear about Dennis
13 McKenna at Katanning hostel?
14 A. Well, I didn't hear any rumour mongering but there was
15 a lot of rumours about all other staff, etc, around the
16 colleges, but I didn't actually hear because I didn't get
17 involved in discussions about Dennis McKenna.
18
19 Q. Do you remember in that same email of 11 March 2012
20 saying that you had only got to know Dennis over the third
21 term --
22 A. Correct.
23
24 Q. -- of 1990?
25 A. Yes.
26
27 Q. Were you a bit mistaken there about your times?
28 A. What do you mean?
29
30 Q. Well, you met him in 1988 but very briefly?
31 A. Yeah. Well, basically it wasn't really meeting him
32 because we were going through and he spoke to all of us
33 there, so I didn't officially go up and shake his hand.
34 There is a difference.
35
36 Q. We might say this with the benefit of looking back,
37 but is it fair to say that when you gave character evidence
38 --
39 A. Yes.
40
41 Q. -- you hardly knew Dennis McKenna at all, did you?
42 A. As a person, but all I'd heard about him basically
43 made you feel like you did know him, but you're right, what
44 you're saying; I don't disagree with that.
45
46 Q. You had no knowledge about his moral values, did you?
47 A. Well, technically, no, but based on what I was

1 hearing, you would assume that he's a good quality person.
2 I mean, people who were there with him believed that. I
3 was hearing all this positive information and that's what I
4 based my judgment on.

5

6 Q. I asked about your personal knowledge, Mr Burro.

7 A. Well, no, I suppose - with my personal knowledge, you
8 could say "no".

9

10 Q. Again with the benefit of hindsight, looking back, do
11 you wish you never gave that character evidence?

12 A. Well, knowing now what's happened, of course I
13 wouldn't want to say things like that.

14

15 Q. Did you actually get involved and give character
16 evidence out of a desire to protect the name of the Country
17 High Schools Hostels Authority?

18 A. No, no, definitely not. I felt, based on situations
19 that occurred before they used - had the hostel system,
20 where people had been set up, I felt that - at that stage,
21 I didn't even know what the charge was that he went to and
22 I didn't follow the court case when I actually gave
23 evidence. I was talking to Katanning and I said, "What the
24 hell's going on up there?", and I said, "Can I speak to
25 Dennis? What's the story?" They said, "Oh look, he's" - I
26 can't remember the exact words but, "He's not available,
27 he's not" - you know, "He's traumatised" or something or
28 other. They said, "Can we put your name down as you feel"
29 - "as a supporter, as such?" I said, "Well, you know, it
30 sounds" - "all this" --

31

32 Q. I will just stop you there, please. Who asked you to
33 give character evidence?

34 A. I'm not sure who I was speaking to at Katanning, but
35 they said they'd put my name on the list. Then later on I
36 got a call from - I'm not sure - the junior solicitor, or
37 whoever it was, saying that he was having meetings and
38 could I come around and meet him. Then when I went round
39 there, I said, "I'm not very comfortable about this because
40 technically I've heard all this good stuff but really I
41 don't know that much about it and I certainly won't go to
42 court unless you make me go to court.", the same as I
43 wouldn't be here. Because you've made me, that's why I'm
44 here. So the same reason.

45

46 Q. You cannot recall who from the community asked you to
47 be a character --

1 A. No, no, no. There was somebody from Katanning on the
2 phone - phoned me.
3
4 Q. I'm not sure if I misunderstood you. Are you saying
5 that at the time you gave evidence, you did not know what
6 he had been charged with?
7 A. All I knew at the time I gave evidence - and I hadn't
8 followed it and I don't follow it in the papers now, unless
9 somebody mentions that my name is there. All I heard was
10 that he had assaulted some boy in the dormitory and in the
11 process had ripped his jumper off, and that's all I'd
12 heard. Then later on there was allegations around - I
13 mean, in the actual hostel where I was - that he has
14 apparently sexually assaulted somebody. But that's about
15 all I knew.
16
17 Q. Before you gave evidence, did you ask anyone what are
18 the names of the charges? Did you actually bother to ask?
19 A. No, I didn't.
20
21 Q. Why not?
22 A. Oh, because I couldn't believe even what I'd heard was
23 true.
24
25 Q. Why couldn't you believe that?
26 A. Because of all the - the portrait that had been
27 painted for years about that college and the person running
28 it.
29
30 Q. We will move on now. You were employed at St Andrew's
31 at Katanning and I said it was 9 September 1991. Does that
32 sound right?
33 A. Yeah, I'm pretty sure that's right. Yes, 9 September
34 1991, yeah.
35
36 Q. You were appointed to the St Andrew's hostel board on
37 26 September 1991?
38 A. No, I wasn't appointed to the board.
39
40 Q. Pardon?
41 A. I wasn't a member of the board.
42
43 Q. You were a member of the board?
44 A. No, I wasn't a member of the board.
45
46 Q. All right.
47 A. I was appointed as warden of the hostel.

1
2 Q. Yes?
3 A. Who is not a member of the board.
4
5 Q. Well, you went to the board meetings, didn't you?
6 A. Yes, but I am not a board member. There's a total
7 difference. Nor was the secretary, I don't think,
8 classified as a board member.
9
10 Q. I think our records indicate that you were a member,
11 but are you saying it was your understanding that you were
12 not a member?
13 A. No. The manager of a college or the warden is not
14 part of - a board member. He does go to board meetings and
15 has to give reports to them --
16
17 Q. I asked you about your understanding.
18 A. -- and they give him directions.
19
20 Q. Mr Burro.
21 A. Well, my understanding was that I wasn't a member of
22 the board.
23
24 Q. Did you prepare the warden's reports before the board
25 meetings?
26 A. Yes, I did.
27
28 Q. Then when you had the meetings, someone takes notes,
29 usually the secretary?
30 A. Yes.
31
32 Q. Subsequently, those notes are used to prepare
33 typewritten minutes of the meeting?
34 A. Yes.
35
36 Q. Then they are circulated?
37 A. Yes.
38
39 Q. You received a copy of those circulated minutes?
40 A. Yes.
41
42 Q. I just want to take you now to the events at
43 St Andrew's hostel and this is leading up to Wednesday,
44 23 October 1991.
45 A. All right, yes.
46
47 Q. You are familiar with that day?

1 A. Yes.
2
3 Q. Was there a board meeting leading up to that date
4 where some issues were raised by the parent of a boy?
5 A. Yes.
6
7 Q. Was that parent's name Tom?
8 A. I think it was Tom. I'm not a hundred percent sure
9 that it was Tom.
10
11 Q. Can you tell me your recollection, please, of what
12 that parent raised at the board meeting?
13 A. Well, I think we had just expelled his son and he'd
14 come to pick up his son and the gear from the college. He
15 asked to see us, because we were having a board meeting,
16 and he came inside, we welcomed him in and he said, "This
17 may sound like sour grapes, but the person you should be
18 worried about is Neil McKenna.", and then he explained that
19 a certain student there was terrified of him, he had
20 control over the boys because the boys knew what he was
21 doing with the female students; that was basically the line
22 of what he advised us.
23
24 Q. In relation to that, did he mention - I don't want you
25 to say the full name, but did he mention the name of any
26 particular girl?
27 A. Yes, he did.
28
29 Q. Does that girl's first name start with "T"?
30 A. Yes.
31
32 MR URQUHART: Your Honour, can I just check something for
33 one moment, please?
34
35 HIS HONOUR: Yes.
36
37 MR URQUHART: Q. This will be one name that I can use
38 with you. We will be careful when we get to the other
39 girl.
40 A. Yes.
41
42 Q. That particular girl we are talking about now, that is
43 Tania Groves; is that correct?
44 A. Yes, correct.
45
46 Q. This father, Tom, told you that Neil McKenna had been
47 doing what type of activities with Tania Groves?

1 A. He didn't actually say the activities, all he said was
2 "You shouldn't be worried about my son, you should be
3 worried about Neil McKenna because Tania is terrified of
4 him", and he said, "and the other girls don't want to be
5 near him either, but Tania is terrified of him." He didn't
6 actually go on to say what was happening with her.

7

8 Q. Did anyone ask him why Tania was terrified?

9 A. I don't recall. I don't recall it. I don't remember
10 it. I think I would've remembered if they had, but I don't
11 remember anybody asking him what exactly. He just said
12 that she was terrified to be near him.

13

14 Q. This board meeting that we are talking about, about
15 how long before 23 October 1991 was this board meeting?

16 A. I'd say it's - oh, that should be easy to answer, that
17 one, because we acted immediately. After the board meeting
18 I got together with - I mean, nothing happened in the board
19 meeting. So that would've been - I reckon that would've
20 been around the 22nd. No, that board meeting probably was
21 - I think that board meeting was on the 23rd, before we saw
22 the girls, because we acted immediately after that board
23 meeting.

24

25 Q. Are you able to say where Mr Neil McKenna was at this
26 time?

27 A. Yes. He was in Merriden. He was relieving senior
28 supervisor in Merriden.

29

30 Q. How long had he been there, please?

31 A. Oh, I'm not honestly sure of that but probably a week
32 or two. But I could be wrong. I'm not a hundred percent.

33

34 Q. Is Merriden another Country High School --

35 A. Hostel, yes.

36

37 Q. -- Hostels Authority facility?

38 A. Yes. It used to be called St Michaels.

39

40 Q. Was that a hostel facility for girls and boys?

41 A. Yes.

42

43 Q. Prior to the board meeting, Mr Neil McKenna had been
44 there a week?

45 A. Yes.

46

47 Q. You had the board meeting and this chap named Tom

1 tells you some information?
2 A. Yes.
3
4 Q. What was resolved? What did you decide to do about
5 Neil McKenna?
6 A. Well, nothing was resolved in the board meeting but
7 when we went outside, Bernie Clayton and myself - because
8 we were always very conscious - we got together and we
9 said, you know, "We can't just let this lie. We've got to
10 do something about this immediately." So we decided we'd
11 invite the girl and the mother to just have some casual
12 discussion, if there's any hassles at the college or
13 whatever, and ask them if there's - how do you get on with
14 Neil McKenna? Is there any problems? Etc, etc. Basically
15 the first time, that evening, we got the, "Oh no, there's
16 no real problems" --
17
18 Q. Can I just stop you? Sorry. We will return to this
19 in just a moment.
20 A. Yes.
21
22 Q. Whose decision was it to send Neil McKenna to
23 Merriden?
24 A. I can't really answer that. I think they needed a
25 senior supervisor, so they contacted us and we said, "Yeah,
26 we can spare him for a week or so", it might have been. I
27 don't really know
28
29 Q. Who contacted you?
30 A. The warden of Merriden because his senior supervisor
31 had just cracked a job at Northam, which I had also applied
32 for and missed out on, unfortunately, otherwise I wouldn't
33 have been at Katanning. So the warden would have said,
34 "Look, I'm stuck because I don't have a senior. Can we
35 borrow him for a while?" We said, "Yep, no problems." But
36 I couldn't tell you exactly.
37
38 Q. When you arrived at Katanning in September 1991 --
39 A. Yes.
40
41 Q. -- Neil McKenna had been acting warden; is that right?
42 A. That's correct, yes, for almost a year.
43
44 Q. For about 12 months?
45 A. Yes.
46
47 Q. Is it fair to say you identified some issues arising

1 out of the way he had been acting as warden?
2 A. Yes, there were a lot of issues. There didn't seem to
3 be any control in the place. I had a tough time initially
4 and that created conflict with the parents because kids
5 just seemed to be basically doing their own thing, you
6 know.
7
8 Q. When you say "doing their own thing", Mr Burro, can
9 you give us an example, please?
10 A. Do you want the graphic details?
11
12 Q. Yes.
13 A. Okay. Well, for example, one boy went up to the
14 girls' wing and had sex; another girl came down to the
15 boys' wing to have sex with the same boy, etc. What amazed
16 me was the lack of security in the place during the
17 night-time. You know, there's no way - I thought it was
18 locked up, but the kids could get in and out willy-nilly in
19 the place. So that was one of them.
20
21 Q. I will just stop you there. In relation to this sex,
22 was it consensual sex, I assume?
23 A. I assume it was. We didn't go into details but we
24 were, sort of - I remember in the meeting that we had at
25 the school to interview both these parties, the boy and the
26 girl, we were sort of commenting and wondering how the heck
27 this - it was consensual sex because the actual boy
28 concerned had given the girl money to go and get herself on
29 the pill. Then later on they had a fight and he demanded
30 his money back because he was with another girlfriend. So
31 they're the sorts of things that were going on and the
32 things I had to put up with.
33
34 Q. What are some other examples that you noticed when you
35 took over?
36 A. Well, I picked up kids that had bottles of Scotch.
37 The unfortunate part, also, was that one of the supervisors
38 that had been there before I arrived there, who was a young
39 supervisor who had been a student there, had actually known
40 about it and, sort of, assisted in the kids getting the
41 alcohol. When I approached that supervisor, because the
42 person concerned - the boy concerned, or there were a
43 couple of boys, in the end - I wanted to know how they'd
44 get a bottle of Scotch. I said, "You're underage", and
45 then they finally told me after a lengthy time. I said,
46 "You're going home anyhow, so you might as well front up.",
47 and they told me that this supervisor had given them the

1 Scotch. When I fronted the supervisor, he denied it
2 initially and then he said yes, he'd got it. So that's the
3 sort of thing.
4

5 Q. Was there also an issue with bullying when you took
6 over?

7 A. There was a lot of bullying. That was the other
8 matter that occurred and I think that's the reason we
9 expelled that boy when the father came to the board
10 meeting. We weren't getting much. We knew something was
11 going on, and as soon as we expel that Hoy, the Year 11
12 boys apparently had been total lackeys, they were supposed
13 to shine the shoes, make the beds for him - you name it,
14 they were supposed to do it for this Year 12 boy and
15 there's a few others, and we only found that after we
16 expelled him, because then parents brought one of the boys
17 back, Elan boys who was having trouble and was continually
18 homesick and crying, and said, "Now we know what his
19 problem is", and we sat down and they took me through what
20 had been happening. I hadn't known that.
21

22 Q. All right. Now, the drinking - was that going on on
23 the hostel premises?

24 A. I'd say so, and I'd - but I'd say a lot of the
25 activities that they - when they had broken the rules,
26 happened down in the rec centre. We'd go down - we had
27 like we call the rec shed, where there was - you could play
28 basketball and things like that. A lot of it would happen
29 down there, and I actually said to the - to kids, you know,
30 because I said, you know, "What's going on, guys? How come
31 all this is happening? Have you been --", and they said,
32 "Oh, we've, you know, had a ball for - for a while." And I
33 said, "Well, why?" He said, "Well, the staff are doing
34 their thing, and we were doing our thing", and that's
35 basically what I came into.
36

37 Q. All right. And there was also - I understand there
38 was also smoking of marijuana by the students.

39 A. Yes, there was smoking of marijuana, and I got a group
40 outside next to the laundry about a week after I was there.
41

42 Q. And did you form the view that all of these cultural
43 issues had arisen because of Neil McKenna's approach to his
44 wardenship?

45 A. Well, I knew Neil, and I - I - I got to know - I
46 didn't really know him very well before I got there, but
47 basically I don't think - although he came across him as a

1 decent sort of a guy, which we - now we know he wasn't, he
2 basically - I couldn't understand why he was put in the
3 position, because he didn't seem to have the capacity to be
4 in a management position. He worked - he was very good
5 with his hands, like, you know, maintaining the swimming
6 pool and driving buses and things, but as a manager I found
7 it difficult to understand how he would have got the job.
8

9 Q. All right. And you formed the view that he had no
10 control over the kids; is that correct?

11 A. Correct, yes.
12

13 Q. And is it also correct during this first period you
14 arrived there, you suspended at least a dozen students?

15 A. Probably more, I'm guessing, but I know at least a
16 dozen.
17

18 Q. You expelled about five?

19 A. I think so, yes.
20

21 Q. What did you do about Neil McKenna?

22 A. What did I do about Neil McKenna?
23

24 Q. Yes.

25 A. Nothing, except to keep an eye on him, as I do with
26 all my staff, and offer assistance.
27

28 Q. But you formed the view that this --

29 A. There was not much I could --
30

31 Q. You formed a view that all these cultural issues arose
32 because of his performance while warden?

33 A. Management, but he - but he - but he wasn't the
34 manager then, he was a supervisor, which is totally
35 different.
36

37 Q. Then you allowed him to go off, you allowed him to go
38 off and be Senior Supervisor at Merriden?

39 A. Well, that's - you know, that's something that he's
40 done with the consents of the Board, and discussion with
41 the Board, not - not my total decision. I - I don't have
42 the authority --
43

44 Q. Well, did you tell the board about all the problems
45 that you attributed to Mr McKenna?

46 A. Well, I didn't say attributed. I didn't go around
47 saying because Neil McKenna was here doing the job this

1 happened, but I would like to believe that - I think the
2 Board knew it was all happening because when they
3 interviewed me --
4
5 Q. Did you tell them --
6 A. -- they said, "Oh, well" --
7
8 Q. Just stop, please, Mr Burro. Did you tell them?
9 A. Yes.
10
11 Q. You, personally - forget what you think they knew -
12 did you tell them? You did, did you?
13 A. Did I tell them?
14
15 Q. Did you tell them about your views as to the cultural
16 issues - the drinking, the bullying, the smoking dope and
17 the sex?
18 A. Well, there was - yes, it was discussed at Board
19 meetings, that the reason it was this because there'd been
20 chaos for 12 months, there's no management at the head.
21 Yes, that was his custom at regular Board meetings, and
22 that's why they were hoping that he would leave.
23
24 Q. Was it discussed as a result of you telling them?
25 A. Well, unfortunately when I went there the Board was
26 not talking to themselves very much --
27
28 Q. Mr Burro, Mr Burro, can I just stop you. Mr Burro?
29 A. Yes. Yes.
30
31 Q. Just try "Yes" or "No", or "I can't recall". Was it
32 discussed as a result of you telling them?
33 A. I can't recall what they did. It's - it was me
34 telling them --
35
36 Q. All right.
37 A. -- because I wasn't always invited there.
38
39 Q. What, to the Board meetings?
40 A. Well, they had a lot of meetings when I wasn't
41 present.
42
43 Q. All right.
44 A. A lot of meetings --
45
46 Q. Okay. Let's move on from --
47 A. -- because they've also discussed (indistinct) the

1 fullness.
2
3 Q. Let's move on from that. As to the meeting where Tom
4 spoke, the father of Tom spoke, and alerted --
5 A. Yes.
6
7 Q. -- alerted the Board to difficulties, issues about
8 Neil McKenna --
9 A. Yes.
10
11 Q. -- I cut you off earlier, Mr Burro, when you got to
12 the point of saying you were going to speak with Mr Bernard
13 Clayton, is that right?
14 A. Yes; that's correct, yes.
15
16 Q. So what did you do?
17 A. Well, we went into my office after the meeting because
18 nothing had been discussed at the Board meeting to alter
19 that, and we had a chat and we said, "Listen, you know,
20 we've got to do something about this, we can't do what
21 people have been doing and ignoring things, so let's get
22 the girl and mother and have a chat and just find out. We
23 didn't - and we did have the meeting, where the initial
24 meeting was --
25
26 Q. Just --
27 A. -- the - having seemed like - yes?
28
29 Q. Just slow down a touch, please. So you spoke with Mr
30 Clayton?
31 A. Yes.
32
33 Q. Where was that, please?
34 A. That was outside my office initially, then we moved
35 into my office.
36
37 Q. And that was immediately after the Board meeting?
38 A. This meeting you're talking about was we came out of
39 the Board meeting, the Board members left, we went - we
40 were just in the foyer and then we discussed what we'd
41 heard, and we decided to go into my office to maintain
42 confidentiality, so kids wouldn't be around listening, and
43 we both came to the consensus of we had to do something
44 immediately, and even if it was a false rumour, to do
45 something about it.
46
47 Q. All right. And is it fair to say that because Ms

1 Tania Groves had been named, you decided to speak with her?
2 A. Correct. That's the only one that was actually named.
3
4 Q. And so what did you do? Did something happen that
5 night, or did you move into the next day?
6 A. No, no, we - we acted immediately. We went and met
7 him. That's why now the Board meeting would have been on
8 the 23rd. We found out then for most. We immediately
9 acted, and we asked the girl. We did it late in the
10 evening or afternoon because we wanted to protect so kids
11 wouldn't be gossiping and talking. We got the mother up
12 and we had a casual discussion about if there's any issues
13 or whatever --
14
15 Q. Okay.
16 A. -- and --
17
18 Q. I'll just slow you down. You do speak quite quickly.
19 A. Yes, yes.
20
21 Q. How did you go about getting the mother up? I assume
22 you're talking about the mother of Tania Groves?
23 A. Yes, Barbara Groves.
24
25 Q. How did that happen?
26 A. We telephoned her.
27
28 Q. When you say "we"?
29 A. We telephoned --
30
31 Q. Who?
32 A. Well, Bernie. Bernie - in his office we telephoned -
33 Bernie Clayton. We went to the principal's office at the
34 school.
35
36 Q. All right.
37 A. That's where the meeting was.
38
39 Q. Now, I think I cut you off because we've got a bit of
40 an overlap, Mr Burro, but did you mention the name --
41 A. Sure.
42
43 Q. -- Barbara Groves?
44 A. Yes, I did.
45
46 Q. So Mr --
47 A. She's the mother of Tania.

1
2 Q. Yes. Mr Clayton telephoned Barbara Groves?
3 A. Yes.
4
5 Q. Were you with him? Were you beside him when he made
6 that call?
7 A. Yes.
8
9 Q. Can you recall what Mr Clayton told Barbara Groves?
10 A. Not 100% sure, but basically that we'd heard a rumour
11 and we just wanted to have a chat, and she could come down
12 and talk and - which she did.
13
14 Q. All right. And I think you mentioned then - you were
15 beginning to mention earlier, something about having a
16 meeting at Mr Clayton's office?
17 A. Yes, that's where we were when he made the phone call.
18
19 Q. All right. Did you have Tania with you then?
20 A. No, I'm not 100% sure on that, but I think she may
21 have been there, and we were waiting for the mother.
22
23 Q. All right. And did Barbara Groves subsequently
24 attend?
25 A. Yes, she did.
26
27 Q. At Mr Clayton's office?
28 A. Yes, that - at the principal's office at the high
29 school.
30
31 Q. So what happened then, please?
32 A. Well, we - well, Bernie Clayton was asking questions
33 saying, you know, "How do you get on?", and I'm sort of
34 putting a few in myself, "How is it at school? How do you
35 get on at the hostel?", et cetera, "Do you get on with the
36 staff and the supervisors? Do you get on okay with Neil
37 McKenna?", and basically I think Tania said words to the
38 effect, "Oh, you know, not always 100%, but, no, there's no
39 real problems. You know, may have sometimes had a bit of
40 an argument, whatever, but everything's fine". That was
41 the end of it. We went, and Ms Groves left. And then we
42 were sitting there and we were saying, "Well, thank god
43 there was nothing in that", and that's what we discussed.
44
45 Q. All right. Let's just slow - let's just slow it down
46 for a second, please.
47 A. Yes.

1
2 Q. Can you recall exactly how things were put to Tania?
3 Who did most of the talking?
4 A. Mr Clayton.
5
6 Q. All right. And do you recall what he actually asked
7 her?
8 A. Well, basically what I said. He asked her if she was
9 happy, if she had any issues at the hostel; did she get on
10 all right with Neil McKenna - those sort of questions. I
11 don't remember all of them, but basically along those
12 lines, because we didn't want to give the girl a hard time,
13 but we wanted to give her the opportunity, if there was
14 something, because she was away from the college, she would
15 let us know if she didn't.
16
17 Q. All right. And do you recall that Mr Clayton was
18 making notes?
19 A. Yes, he was. I am sure he was taking some notes.
20
21 Q. Of the conversation with Tania Groves?
22 A. Yes.
23
24 Q. All right. Is it correct to say that she told you -
25 Tania Groves told both of you that she felt uncomfortable
26 around Neil McKenna?
27 A. You're talking - after we got Mrs Groves - she left,
28 and then about 10 minutes after Mrs Groves left, Tania came
29 into the office again - this is after telling us there
30 wasn't any issues - with another girl, and they were very
31 distressed --
32
33 Q. No, I'll stop --
34 A. -- and that's when she told us.
35
36 Q. Yes, I'll just stop you there.
37 A. Yes.
38
39 Q. No, I'm talking about the first meeting.
40 A. The first meeting - I don't remember it really,
41 because when it - that one finished, we looked and thought
42 there was no real - but I can't remember 100%, because
43 there wasn't major issues in that meeting, and usually most
44 of the issues --
45
46 Q. All right.
47 A. -- usually major issues stick in your mind, but I

1 can't remember 100% what was said.
2
3 Q. Well, I'm saying to you that she did, she told you
4 that she felt uncomfortable around him?
5 A. Well, that's - I'm - I'm not going to dispute that.
6
7 MR DOBSON: I don't have the barcode number, your Honour.
8 I should have it, because it was sent to me.
9
10 HIS HONOUR: What are you after?
11
12 MR DOBSON: The handwritten notes.
13
14 HIS HONOUR: That's 0054.
15
16 MR DOBSON: 054, is it, sir?
17
18 HIS HONOUR: 0054.
19
20 MR DOBSON: All right.
21
22 Q. Mr Burro, do you have before you three-paged
23 handwritten notes, the notes written by Mr Clayton?
24 A. No, I don't.
25
26 Q. They should have been sent to you. So perhaps you're
27 being given them now.
28 A. I've just - I've just been given them.
29
30 Q. Yes. All right. The notes - just so we know you've
31 got the right documents, should start at the top:
32
33 Interview with Tania Groves in the presence
34 of her mother Mrs Barbara Groves on
35 Wednesday, 23/10/1991.
36
37 A. Yes.
38
39 Q. You've got those?
40 A. I've got those, yes.
41
42 Q. An interview was conducted by Bernie Clayton and Con
43 Burro?
44 A. Yes.
45
46 Q. All right. Just so you know the sequence, can you
47 just turn over to page 2, please.

1 A. Yes.
2
3 Q. And about a third of the way down it says:
4
5 The interview is concluded at approximately
6 5pm.
7
8 And to the right of that there appears --
9 A. Yes.
10
11 Q. -- to be two signatures?
12 A. Yes. One's mine.
13
14 Q. And the other one above that?
15 A. Bernie Clayton's.
16
17 Q. Okay. So that first one and one of the third pages
18 are the first interview?
19 A. Yes.
20
21 Q. Now, we won't say the girl's name, but then it says:
22
23 At approximately 5:30pm, Tania Groves and
24 "N" --
25
26 We'll call that girl "N", okay?
27 A. Okay.
28
29 Q. :
30
31 -- they returned crying, and knocked on the
32 door.
33
34 A. Yes.
35
36 Q. Right. So that's the second visit by Tania. That's
37 the second visit you're referring to?
38 A. That's right.
39
40 Q. All right. Just go back to the first visit.
41 A. Yes.
42
43 Q. Just towards the bottom of page 1 --
44 A. Yes.
45
46 Q. -- just above the writing, the paragraph that starts
47 "Tania indicated that other girls had felt the same about

1 Neil"?

2 A. Yes.

3

4 Q. Do you see that there?

5 A. Yes, I've got that.

6

7 Q. Do you remember her mentioning that other girls had

8 been affected?

9 A. She - she mentioned - I don't know whether it was the

10 first meeting herself - if that's the first meeting it was,

11 but she did mention one or two particular girls that he

12 used to take on the bus, but she didn't - I can't remember

13 her saying - in fact, she said this girl particularly did a

14 loss of bus runs with Neil. That's about all.

15

16 Q. All right. Just the paragraph above that --

17 A. Yes.

18

19 Q. -- just towards the bottom of that paragraph --

20 A. Yes.

21

22 Q. -- about her feeling uncomfortable.

23 A. Yes.

24

25 Q. Now, do you recall her telling you that?

26 A. No, I don't. She probably - I'm not saying she

27 didn't, but I don't remember it.

28

29 Q. All right.

30 A. I'm guessing she did. I don't have a problem, because

31 the girl's a very decent girl.

32

33 Q. Okay. Just go over to page 2, please.

34 A. Yes.

35

36 Q. Can you just read to yourself from the word

37 "discussion" down to where you've signed.

38 A. Okay, "Discuss with Tania and her" --

39

40 Q. No, just read it to yourself, please.

41 A. Okay. Okay. I've read that.

42

43 Q. Right. So it seems from that that you and Mr Clayton

44 had a discussion with Tania and her mother?

45 A. Yes.

46

47 Q. And that while Tania had raised concerns --

1 A. Yes.
2
3 Q. -- about Neil and some of his remarks, and some of the
4 things that had happened and situations --
5 A. Yes.
6
7 Q. -- this never rose above anything more than rumours.
8 Is that the view you formed?
9 A. I - that's not the view I formed, but I thought - no,
10 no, sometimes kids mess around and messed up in a joking
11 way, but I - I can't really remember what view I formed,
12 because I wasn't writing the notes then, but --
13
14 Q. I'll --
15 A. -- basically --
16
17 Q. I'll read the next bit out to you.
18 A. Yes.
19
20 Q. :
21
22 They agreed that his behaviour often left
23 itself obvious to misinterpretations and
24 that maybe there was nothing serious.
25
26 A. Yes. Yes.
27
28 Q. :
29
30 Based on this evidence we considered that
31 no further action can be taken.
32
33 Yes.
34
35 Q. :
36
37 Interview concluded at approximately 5pm.
38
39 And it's signed by you and Mr Clayton --
40 A. Yes.
41
42 Q. -- is that right?
43 A. That's correct, yes.
44
45 Q. And reading that now, does that accord with your
46 recollection of how the interview finished?
47 A. It doesn't, but obviously that's what happened.

1
2 Q. All right. Well, are you saying you signed the
3 document and it was inaccurate?
4 A. I'm not saying that at all. I'm just saying I don't
5 remember.
6
7 Q. Well, you wouldn't sign the document if it wasn't
8 accurate, would you, Mr Burro?
9 A. Well, not - normally I don't really sign things unless
10 I think they're accurate.
11
12 Q. All right. Now, let's move on. At approximately
13 5.30pm, Tania Groves returns with a person named "N".
14 Now --
15 A. Yes.
16
17 Q. Now, just turn that document down, please. And let's
18 just have your reaction now of what took place.
19 A. Well, they - they were very distressed when they came
20 in, and they started to - they just started to say things
21 about Neil McKenna, or whatever, and we stopped them in
22 their tracks because we couldn't accept - we said to them,
23 "We can't take this unless your parents are present", and
24 then we had to ring the mother again, and - Tania's mother
25 - to come back from where they lived, and we waited until
26 they arrived before we went any further with that.
27
28 Q. All right. And in fairness to you, Mr Burro, at this
29 stage you're trying to be very careful and very thorough
30 and proper; is that right?
31 A. That's correct, yes.
32
33 Q. And, in fact, did a parent of "N" come along?
34 A. Yes.
35
36 Q. And did Barbara --
37 A. She was quite --
38
39 Q. I talked over the --
40 A. Yes.
41
42 Q. -- top of you.
43 A. They both came.
44
45 Q. Did Barbara Groves reattend?
46 A. Yes.
47

1 Q. At that stage did Barbara Groves attend on her own or
2 with someone else?
3 A. No, as far as I know she attended on her own --
4
5 Q. All right.
6 A. -- unless --
7
8 Q. Once the --
9 A. -- I left (indistinct).
10
11 Q. No, that's all right. Once the parents were there, or
12 a parent at least of each girl, what happened?
13 A. Well, then they started telling us their stories --
14
15 Q. Well, let's --
16 A. -- with lots of - heaps they told us.
17
18 Q. All right. Let's deal with "N". Can you remember any
19 of "N"s stories?
20 A. No, I think - I don't really remember much of "N"s
21 stories, except I think she substantiated what Tania said
22 in regards to an area on a camp, et cetera, down Albany way
23 or whatever it was. So basically --
24
25 Q. What was that that she substantiated?
26 A. Well, that there was - I think there was night-time,
27 and there was time to go to bed, and Neil would have come
28 up and said, you know, "I've come for my goodnight kiss".
29
30 Q. Who did Neil McKenna --
31 A. Tania.
32
33 Q. Who did Neil McKenna say that to?
34 A. Tania, as far as I can remember.
35
36 Q. And "N" supported that version of events?
37 A. I'm pretty sure she did. Most of - I think most of
38 "N"s, and I'm not 100% sure here, okay, but I'm trying to
39 be 100% sure. Most of "N"s testimony was regarding
40 supporting some of the things that had happened with Tania,
41 and also then they told us about what happened to other
42 students, or what was happening, and they suspected some
43 other student was having problems with Neil et cetera, but
44 they said that the student particularly liked to go on bus
45 runs with him, and they said lay her head on his shoulders,
46 and things like this.
47

1 Q. All right. Is it correct that "N" actually told you
2 about Neil McKenna doing things with her?
3 A. I think so. I'm not 100% sure because I've got - I
4 was quite shocked by what Tania had told us, that's why I
5 remember that meeting (indistinct), and it's funny because
6 I - I didn't realise until I got sent the papers here,
7 there was actually a Board meeting the next day. I thought
8 there was only one Board meeting and there was two Board
9 meetings so there's some things --
10
11 Q. All right.
12 A. -- and what Tania told me shocked me, so that was -
13 they tried to mention that meetings. That's about the only
14 thing that gets on - that I'm shocked by --
15
16 Q. Okay. When you --
17 A. -- which reminds me of that meeting because I --
18
19 Q. So when you say Tania said something that shocked you,
20 that was in the presence of "N", was it, and Mr Clayton?
21 A. Yes, I'm pretty sure "N" was there too.
22
23 Q. What was it that Tania said that shocked you?
24 A. She said that she was always worried about getting the
25 bus with Neil McKenna, and on this particular occasion I
26 think "N"s brother had been hit by a tennis ball in the
27 eye, and he was in hospital, so Neil had asked Tania to go
28 and visit him, and Tania was a bit hesitant because she was
29 concerned about going with him, but she thought, "I'll be
30 safe because he's only going to the hospital and be back,
31 but actually when he came back from the hospital, he took
32 her up to the country club and raped her in the back of the
33 bus.
34
35 Q. So was that the second meeting in the presence of "N"
36 that Tania Groves told you and Mr Clayton that?
37 A. I'm pretty sure it was. Definitely the second
38 meeting, because we had nothing really to concern in the
39 first meeting, because I remember Mrs Grove leaving,
40 saying, "Well, that's good", you know, "that's turned out
41 that way."
42
43 Q. All right. At the second meeting when "N" was
44 there --
45 A. Yes.
46
47 Q. -- and if you need to you can check your notes, but is

1 it correct to say that "N" also told you that there was an
2 occasion when Neil McKenna had put his hand down her blouse
3 and touched her breast?
4 A. I don't remember, but I wouldn't dispute it because
5 apparently there's a number of girls - they told us that he
6 used to do this in the picture theatre or things like that,
7 so --
8
9 Q. All right. Well, then --
10 A. -- I can't remember.
11
12 Q. In fairness to you, Mr Burro, just turn the notes up.
13 Have a look halfway down page 2. Just read down to the
14 bottom of page 2, please?
15 A. Number 2?
16
17 Q. Read from --
18 A. "On a subsequent occasion" --
19
20 Q. "At approximately 5.30pm" - just read down from there
21 to the bottom of page 2.
22 A. Okay. Okay. I've read that.
23
24 Q. Now, does that assist your memory about "N" telling
25 you that Neil McKenna put his hand down her blouse and
26 touched her breast?
27 A. What - what actually jogs my memory is now, because I
28 remember her mentioning one of the kids is screaming, so
29 definitely that seems to confirm that.
30
31 Q. And there's another bit there that Neil McKenna had
32 touched her below her waist, under her dress?
33 A. Yes.
34
35 Q. Do you recall that now?
36 A. I don't recall it, but obviously it was said.
37
38 Q. All right. Just go through to the back of that
39 document, page 4. And it says that the parents requested
40 time to make a decision. A further appointment was made
41 for 4pm, Thursday.
42 A. Yes.
43
44 Q. Do you see that? Does that sound correct, Mr Burro?
45 A. Did they make it? I don't recall that, and I don't
46 remember if they ever had a meeting then. I can't remember
47 that.

1
2 Q. All right. And then there's mention here that Mr G
3 Addis was phoned, or it says "phone", and was --
4 A. Yes.
5
6 Q. -- informed of all proceedings to this stage.
7 A. Yes.
8
9 Q. And then it's signed off at 9.05pm, 23 October 1991?
10 A. Yes.
11
12 Q. And the signature's below the date. Can you tell me
13 whose those are?
14 A. Yes, Bernie Clayton and mine.
15
16 MR DOBSON: I seek to tender that, if I may, please, your
17 Honour.
18
19 EXHIBIT #51 RECORD OF CONVERSATION WITH TANIA GROVES AND
20 "N", DATED 23/10/1991
21
22 MR DOBSON: Mr Burro, at the end of the first interview,
23 the one that finished at 5.30pm with Tania Groves on her
24 own --
25 A. Yes, yes.
26
27 Q. -- you were aware that she'd mentioned other girls
28 feeling the same way as her? She'd mentioned that?
29 A. She may have done. I don't - she probably did, I
30 don't remember.
31
32 Q. All right. But in any event, at the end of that first
33 meeting you and Mr Clayton resolved that there was no
34 evidence; correct?
35 A. Correct, yes.
36
37 Q. And you decided that there would be no further
38 inquiries - there was nothing further for you to do?
39 A. Well, based on what we heard, no.
40
41 Q. You didn't ask her the names of any other girls at
42 that first meeting?
43 A. I don't remember - I don't remember if we did or not.
44
45 Q. It was just going to be left at that point by the
46 looks of those notes; is that correct?
47 A. That's correct. By the looks of those notes, that's

1 what we thought was going to happen, yes.
2
3 Q. And by pure Chance Tania returned with "N" half an
4 hour later or so, thereabouts?
5 A. Yes.
6
7 Q. I suppose now we can consider ourselves fortunate that
8 Tania returned with "N", would you agree?
9 A. Yes, I agree, yes.
10
11 Q. All right. Now, at the end of --
12 A. I may add --
13
14 Q. Go on. You were going to say something?
15 A. I may add her mother was there at that first meeting,
16 and she indicated she was happy with the outcome of that
17 first meeting, so --
18
19 Q. Are you saying --
20 A. -- she also had the opportunity --
21
22 Q. Are you saying that Barbara Groves makes your mind up
23 for you? Is that what you're saying now?
24 A. No, I don't say that, no. I don't say that. Nobody
25 makes up my mind.
26
27 Q. Well, why would you say it then?
28 A. If the parent's happy, we both said - even when we had
29 all the information, they didn't want us to do anything.
30
31 Q. Mr Burro, you didn't have all the information. She
32 mentioned other girls, didn't she?
33 A. I don't know if she did or not.
34
35 Q. It's in those notes, Mr Burro?
36 A. I agree, and she obviously did, but I'm not - what I'm
37 telling you is it's in the notes, but if you're asking me
38 do you remember, I don't remember.
39
40 Q. Mr Burro, she was able to return - Mr Burro, she was
41 able to return within half an --
42 A. Yes.
43
44 Q. -- hour - within half an hour with another girl --
45 A. Yes.
46
47 Q. -- do you agree?

1 A. Yes, I agree.
2
3 Q. There was nothing to stop you doing the same, was
4 there?
5 A. Doing the same what?
6
7 Q. Going down - if you'd asked her, if you'd bothered to
8 ask her for the names of the girls, there was nothing to
9 stop you doing the same, sir?
10 A. Exactly. Correct; yes, sir.
11
12 Q. All right. Now, let's get on to the end of the
13 meeting, this meeting that you had with "N", and it
14 finished just after 9 o'clock.
15 A. Yes.
16
17 Q. It would seem that you did not call the police?
18 A. We were asked not to call the police --
19
20 Q. I didn't ask you that.
21 A. -- by the parents and the kids.
22
23 Q. I have already said to you --
24 A. No.
25
26 Q. I have already said you don't get your mind made up by
27 others, do you?
28 A. No, I don't.
29
30 Q. Right. Just deal with the question, please.
31 A. Yes.
32
33 Q. Did you call the police?
34 A. No.
35
36 Q. Did Mr Clayton call the police?
37 A. Not as far as I know.
38
39 Q. Why didn't you call the police?
40 A. Because an issue like that is a board issue it's not a
41 warden's issue and I would reply on the direction from the
42 board; the same as if there was any media talking, they
43 wouldn't be speaking to me, they'd be speaking to the
44 board.
45
46 Q. At that stage you were in possession of the names of
47 two girls who had been sexually assaulted by Neil McKenna;

1 is that right?
2 A. That's right, yes.
3
4 Q. You need board approval to go to the police; is that
5 correct?
6 A. Issues like that, yes, and there was a board member
7 there, so the decision would have been the board member's.
8 We also called another board member up to take a stat dec.
9 So there was two board members there, so I would act on the
10 direction given by the board, especially when I arrived at
11 Katanning.
12
13 Q. If I ask you about the Education Department, did you
14 report is to the Education Department? Is that going to be
15 the same answer: it was the board members' responsibility?
16 A. No. Well, when you have a serious issue like that,
17 it's supposed to be the board's responsibility because they
18 take it out of my hands. I don't have the authority to
19 handle the publicity or the direction of that. That comes
20 from the board. It's a board decision.
21
22 Q. What about the Department of Community Services, did
23 you tell them?
24 A. No.
25
26 Q. Why not?
27 A. The same reason. I had no control. I was under the
28 direction of the board. I had to - when I went there, the
29 board was (indistinct) me. I didn't have many things where
30 I could do on my own.
31
32 Q. Mr Clayton was employed by the Education Department,
33 wasn't he?
34 A. Yes. He's a school principal.
35
36 Q. Mr Addis was a farmer?
37 A. Yes.
38
39 Q. At the end of that first meeting on the night-time of
40 23 October 1991, did you report this to anyone from the
41 Country High School Hostels Authority?
42 A. Not that evening because once I had left, there was
43 not an obligation on me. It was up to the board then to
44 follow through.
45
46 Q. You were an employee of the Country High School
47 Hostels Authority, weren't you?

1 A. Yes. Yes, I was.
2
3 Q. Why wouldn't you report it to them?
4 A. Well, I didn't report it then. I would have reported
5 it a day or so later. They had a board meeting the next --
6
7 Q. I will get to a day or say later in a little while.
8 A. Yes.
9
10 Q. That night, why didn't you report it to them?
11 A. Well, you've got to understand that I --
12
13 Q. I don't have to understand anything. Can you please
14 tell me why you didn't report it that night?
15 A. Because the board was aware of it and it was their
16 responsibility to do something about it.
17
18 Q. You're --
19 A. Okay?
20
21 Q. You're an employee --
22 A. If they wanted me to do --
23
24 Q. Mr Burro, you were an employee --
25 A. It was out of --
26
27 Q. Mr Burro, you were an employee of the Authority?
28 A. Yes, yes. All right.
29
30 Q. You cannot pass the buck to the board.
31 A. No, I'm not passing the buck, I am telling you as it
32 was. You've got to understand the situation I took over
33 there. Okay? And I tried to tell you this before and you
34 stopped me. There was a board that, basically, didn't have
35 confidence in themselves. There was different people in
36 the different - on the board, and I was trying to deal with
37 a number of them. I wasn't - I could not get a board that
38 was totally supportive of me and anything I did would be
39 easily criticised. Anything to do with that size of
40 seriousness was their - it was their direct (indistinct) in
41 their direction and they would handle that. That was the
42 understanding, that that was the way they would handle
43 that. I would not - I wouldn't be able to talk to the
44 media, wouldn't be talking to anybody, because once they
45 knew - issues like that I would take to the board, then
46 they would decide, after a meeting, what to do with it. It
47 wasn't my role to go and report, or whatever. It's their

1 position to give direction or act. I am not passing the
2 buck, I am telling you how - as it was in Katanning then.
3
4 Q. Mr Burro, you were employed --
5 A. If I'd known that it was my responsibility --
6
7 Q. Mr Burro, you were employed as the warden of
8 St Andrew's hostel, weren't you?
9 A. Yes, correct, yes.
10
11 Q. Parents trusted you with the wellbeing and safety of
12 their children?
13 A. Yes.
14
15 Q. Are you saying that you needed the approval of a board
16 that you didn't rate to report Neil McKenna to your
17 employer? Is that what you are saying?
18 A. That's what I'm saying.
19
20 Q. Is that your view today or was that your view then?
21 A. That was even more my view then because they had me
22 under the microscope all the time, that board. They just
23 about tore me apart.
24
25 Q. Did it cross your mind that night that Neil McKenna
26 was at another hostel in Merriden and he had access to
27 young girls, teenage girls?
28 A. No, it didn't.
29
30 Q. Can I ask you now why not, with the benefit of
31 hindsight, why it wouldn't have crossed your mind?
32 A. Well, perhaps - well, I'll tell (indistinct) crossed
33 my mind, because you don't understand the pressures I was
34 in in that college.
35
36 Q. Stop making excuses.
37 A. You don't know the attacks I was getting.
38
39 Q. Mr Burro --
40 A. I'm not making excuses.
41
42 Q. Just answer the question, please, sir. With the
43 benefit of hindsight --
44 A. Yes.
45
46 Q. -- did it cross your mind? Should it have crossed
47 your mind?

1 A. Well, I think it should have crossed me mind, I agree
2 with you there, but it didn't cross my mind because the
3 atmosphere and environment at the other hostel wouldn't
4 permit that anyhow at that stage. They - but it didn't
5 cross my mind at all.
6
7 Q. That's a nice roll of the dice for the young girls at
8 Merriden, Mr Burro.
9 A. Well --
10
11 Q. What do you say about that?
12 A. I don't say anything. I did my five years of hell at
13 Katanning and I'm not going to do any more for it.
14
15 Q. But you agree that at the time Neil McKenna was at the
16 Merriden hostel?
17 A. Yes, I do.
18
19 Q. It seems that - put aside the reason, you agree that
20 you didn't tell anyone --
21 A. No, I didn't.
22
23 Q. -- from the Authority?
24 A. Not that night.
25
26 Q. That was despite at least one of the girls, Tania
27 Groves, saying that she had been sexually assaulted?
28 A. Yes.
29
30 Q. Because you had given character evidence for Mr Dennis
31 McKenna, you would have or should have been on even higher
32 alert that night, shouldn't you?
33 A. Yes, I should have.
34
35 Q. You probably feel like I am rubbing your nose in it.
36 I don't intend that, Mr Burro.
37 A. No, well, I feel that you don't know what was
38 happening there at that stage and you're basing it just on
39 what - the evidence that you see there, which - that's fair
40 enough, I suppose, but you have no idea of the pressures
41 that were going, the forces going through that college.
42
43 Q. There was nothing to stop you picking the phone up
44 that night other than you making a decision, though, was
45 there?
46 A. That's correct, yes. I don't argue with that.
47

1 Q. Let's move on to the next day, unless there is
2 something else we need to talk about that night?
3 A. Not that I know of.
4
5 Q. The next day, 24 October 1991, was a Thursday?
6 A. Yes.
7
8 Q. What is your recollection ever what happened on the
9 Thursday, please?
10 A. On the 24th? Well, basically the 24th I don't
11 remember at all. I was surprised when I got the minutes of
12 the meeting for that. All I remember is being told to get
13 Neil McKenna back and I thought that had come from a couple
14 of board members that saw me, but obviously seeing the
15 minutes now, which were sent to me, I realise there was
16 actually a board meeting that day but, as far as memory, I
17 don't remember that meeting at all. I do remember the next
18 meeting the next day.
19
20 Q. We have sent you some other papers, but I can let you
21 know - and I won't mislead you, Mr Burro - that the next
22 day it seems that a gentleman named Mr George Doak was
23 asked to assist. Do you recall that?
24 A. Merv Doak, wasn't it?
25
26 Q. Yes, he may have been known as "Merv" but I am going
27 on his given name. So, either way, a fellow named Mr Doak
28 who was on the board and he was a JP?
29 A. Yes, that's right.
30
31 Q. Do you recall Mr Doak assisting with the taking of
32 handwritten statements from Tania Groves and the girl named
33 "N"?
34 A. It wasn't the next day. It was that night we had the
35 meeting.
36
37 Q. It's just that the handwritten statements are dated
38 24 October. Did that go --
39 A. It may have been.
40
41 Q. Did that happen after the meeting?
42 A. (Indistinct) after the meeting he came up. We called
43 him up that night and he took the stat decs, or whatever
44 they are, that night.
45
46 Q. Did that go over into the next morning, the Thursday
47 morning, and obviously the date changed?

1 A. Not that I know but it may have done. I can't
2 remember. There's things I can't remember.
3
4 Q. Do you also recall that in those handwritten
5 statements, the girls basically repeat that Mr Neil McKenna
6 had been sexually interfering with them at one level or
7 another?
8 A. I don't recall - well, I'm presuming that the notes
9 said what they'd told us.
10
11 Q. During the day-time of Thursday, 24 October - I will
12 be very quick with this bit - did you report it to any of
13 these people, and when I say "it", we are talking about the
14 allegations of the previous night. Did you report those
15 allegations to any of either the police, Department of
16 Community Services, Education Department, or the Hostels
17 Authority?
18 A. The Hostels Authority, I'm pretty sure that was
19 advised, because we normally got on to them pretty fast.
20
21 Q. By who?
22 A. What, the hostels authority?
23
24 Q. Who advised --
25 A. Well, I'm not sure but I'm sure I would have phoned
26 the next day because we would automatically let them know.
27
28 Q. You don't seem to say that with any confidence,
29 Mr Burro?
30 A. Well, I don't. I'm not sure. I'm not a hundred
31 percent sure.
32
33 Q. Can you just try and cast your mind back, please?
34 A. Yes.
35
36 Q. Just think: did you make the phone call?
37 A. I don't recall but I may have done. I don't know. I
38 know they would have been advised because that was standard
39 procedure, to advise them fairly quickly in a situation
40 like that.
41
42 Q. See, that is why I asked you about the previous night
43 but, anyway, you made your decision. We will move on. As
44 to the board meeting --
45 A. Yes.
46
47 Q. -- it seems that Mr Garth Addis was the chair?

1 A. Yes.
2
3 Q. You were present. Do you recall that?
4 A. Which date are you speaking about?
5
6 Q. Sorry. This is the minutes of a special board meeting
7 of St Andrew's, 24 October 1991, barcoded 0360. The
8 meeting opened at 8.30pm. We sent a copy of the minutes
9 through to you?
10 A. That's right, and that's where I said earlier on that
11 I don't remember the meeting of the 24th. The only one I
12 remember is the meeting of the 25th, and I was surprised
13 when I got those board minutes. I said, well, I must have
14 been there. All I remember of that meeting was that I was,
15 basically, given the direction to get Neil McKenna back.
16
17 Q. Are you able to see amongst those documents, Mr Burro
18 - have a look for a copy of the minutes of a special
19 meeting.
20 A. Yes, I've got it - I think. Yes, I've got it.
21
22 Q. Mr Burro, just so we know you have the same document,
23 down the bottom right-hand corner --
24 A. Yes.
25
26 Q. -- can you please have a look for barcode that
27 finishes in the numbers 0360?
28 A. That's correct, yes.
29
30 Q. It starts off with where the meeting was held, so it
31 seems to be in Mr Clayton's office; it speaks about who was
32 present?
33 A. Yes.
34
35 Q. It goes on. Mr Addis thanks everyone for being there.
36 In the next paragraph, Mr Burro, it says "Sworn statement
37 from Tania Groves (Year 11) and 'N'" --
38 A. Yes.
39
40 Q. I won't say the year she was in. They were read out.
41 Do you recall that happening?
42 A. Yes. I presume (indistinct) meeting. I do recall
43 that.
44
45 Q. Mr M Doak, in his capacity as a JP, said he explained
46 to the girls, and it goes on, you warned then about the
47 consequences of telling lies, okay?

1 A. That's right, yes.
2
3 Q. All right.
4 A. I remember actually doing that when he organised the
5 statement.
6
7 Q. Okay. Now, the reason why I asked you if you had
8 called the Hostel Authority during the daytime is because
9 of what is in the next paragraph.
10 A. Yes.
11
12 Q. It says:
13
14 After much discussion the following motion
15 was past - on his return from Merriden --
16
17 A. Yes.
18
19 Q. :
20
21 -- on his return from Merriden, Neil is to
22 be made aware of the allegations made
23 against him by two female students
24 voluntarily under oath regarding sexual
25 misconduct.
26
27 A. Yes.
28
29 Q. And it was moved and seconded. Now, do you - I
30 appreciate it's a long time ago - do you remember much of
31 that discussion?
32 A. No, I don't remember, because I was surprised when I
33 actually found out there'd been a Board meeting then. I
34 did remember the one where Neil resigned, but I couldn't
35 remember this one at all.
36
37 Q. Okay. Because when - when one reads that, it looks -
38 certainly looks clear that Mr Neil McKenna has been told to
39 return to Katanning --
40 A. Yes, I - I --
41
42 Q. -- as a consequence --
43 A. Yes, I'm the one that telephoned for that, yes.
44
45 Q. Okay. So - all right. So you telephoned Neil McKenna
46 and said when he's - he's to return; is that right?
47 A. Well, actually, I didn't phone Neil, I phoned the

1 warden there, who was Ray - I can't remember his surname -
2 and explained that we needed Neil back --
3
4 Q. All right.
5 A. -- quickly and, yes.
6
7 Q. At what time during Thursday, on that Thursday, 24
8 October, did you do that, please?
9 A. I couldn't tell you. It would have been immediately
10 after the Board meeting.
11
12 Q. And at that stage has anyone told Mr Philpott or
13 anyone else from the Hostel Authority about the girls'
14 allegations?
15 A. I don't know.
16
17 Q. You see, there's no mention in these minutes - there's
18 no mention in these minutes --
19 A. Yes.
20
21 Q. -- about the Hostel Authority being discussed?
22 A. I don't know.
23
24 Q. Can you recall if it was discussed?
25 A. I can't really recall, because I can't even recall
26 this meeting. All I know - my memory of this meeting was -
27 it wasn't even this meeting, was that I'd been given the
28 direction to get Neil McKenna back.
29
30 Q. Right. Just a "Yes" or "No" or "I can't recall". Can
31 you recall if the Hostel Authority was discussed at this
32 meeting?
33 A. I can't recall.
34
35 Q. Why didn't you raise it, because you said that you
36 needed - you needed their permission for you to record it
37 to your employer. Why didn't you raise it?
38 A. I don't know. I don't know if I did. I may have done
39 so.
40
41 Q. You may have done --
42 A. I can't remember the meeting so --
43
44 Q. Can you recall when Mr Philpott or anyone from the
45 Hostel Authority was actually informed about this?
46 A. No, I can't recall, and I - and if Mr Philpott was
47 phoned, it wouldn't be me phoning him, so I didn't deal

1 with Mr Philpott.
2
3 Q. Why wouldn't it be you, please, Mr Burro?
4 A. Because I didn't - well, for a start, that wasn't
5 correct protocol. You went to the Director - I dealt with
6 the Director of the hostel systems and he would - or the
7 Board would go direct to Philpott, but I wouldn't.
8
9 Q. All right. Now, in fairness to you and your Board at
10 the time, you've then gone on to try and put in some
11 arrangements to make sure that Neil McKenna was not allowed
12 on hostel premises --
13 A. Yes.
14
15 Q. -- until he'd been to the next meeting, the meeting
16 that was scheduled for 7.30pm, Friday, 25 October?
17 A. Yes.
18
19 Q. And that you also wanted him to move out immediately;
20 is that correct - on the Friday night?
21 A. I didn't quite get what you said then.
22
23 Q. I said in fairness to you and the rest of the Board,
24 you tried to make sure that he couldn't get back onto the
25 hostel premises --
26 A. Yes.
27
28 Q. -- and you also made sure that he had somewhere to
29 stay in Katanning on the Friday night after the scheduled
30 meeting. Do you recall that?
31 A. Yes. Well, that was the intention, but I don't think
32 he took up our offer.
33
34 MR DOBSON: Okay. I seek to tender that document, your
35 Honour.
36
37 EXHIBIT #52 MINUTES OF SPECIAL MEETING, BARCODED 0360
38
39 MR DOBSON: Just one minute, please, Mr Burro.
40
41 Q. All right. Mr Burro, there's just one final document
42 there that I'd like you to look at, please, and --
43 A. Sure.
44
45 Q. -- it's in handwriting and it says "Re Neil McKenna" -
46 I'm sorry, 0108, your Honour - thank you Madam Associate.
47 It says "Re Neil McKenna, Possible Press Statement".

1 A. Yes.
2
3 Q. Have you got that document in front of you?
4 A. I've got that, yes.
5
6 Q. Have you seen that - I mean, this is obviously a copy,
7 but have you seen something like that before?
8 A. I don't recall. I honestly don't recall. I don't
9 think I was involved in that one, but I'm not 100% sure.
10
11 Q. Are you aware who wrote that document?
12 A. Well, it looks like the writing from the other one, so
13 I'm presuming maybe not. I'm not sure. Looks like
14 previous handwriting.
15
16 Q. Which of the previous handwriting? Are you referring
17 to notes of the interview, or a statement?
18 A. Yes, the notes of the interview, but I'm not 100%
19 sure.
20
21 Q. Is that the notes of the interview you signed with Mr
22 Clayton?
23 A. Yes.
24
25 Q. All right. But you're not sure in any event?
26 A. No, I'm not - I'm not 100% sure. It may not look the
27 same.
28
29 Q. Do you recall being a party or listening to any
30 discussions about a possible press release about Neil
31 McKenna?
32 A. I don't remember any discussions about press releases.
33
34 Q. All right. I won't seek to tender that at this
35 stage - at this stage, sorry, your Honour. All right, Mr
36 Burro?
37 A. Yes.
38
39 Q. Just, finally, during your discussion, any of your
40 discussions with Mr Clayton --
41 A. Yes.
42
43 Q. -- after you were advised by the girls, two girls,
44 that they'd been sexually abused --
45 A. Yes, yes.
46
47 Q. -- do you recall Mr Clayton mentioning anything about

1 his guidelines, Education Department guidelines?
2 A. I don't remember that.
3
4 MR DOBSON: All right. I have nothing further of this
5 witness, thank you, your Honour. Thank you, Mr Burro.
6 There may be some other questions for you, though.
7
8 HIS HONOUR: Mr King, do you have any questions?
9
10 MR KING: No, sir.
11
12 HIS HONOUR: Mr Jenkin, nothing from you?
13
14 MR JENKIN: No, thank you.
15
16 HIS HONOUR: All right. Mr Burro, that completes your
17 evidence, thank you, and you're now free to leave. We'll
18 cut the video link.
19
20 THE WITNESS: Thank you.
21
22 <THE WITNESS WITHDREW
23
24 HIS HONOUR: Yes.
25
26 MR DOBSON: Sorry, your Honour. The next witness to be
27 called, your Honour, is Bernard Clayton.
28
29 HIS HONOUR: Right. Mr Clayton, you can come over here,
30 thank you.
31
32 <BERNARD JOHN CLAYTON, sworn:
33
34 <EXAMINATION-IN-CHIEF BY MR DOBSON:
35
36 MR DOBSON: Sorry, your Honour, I was under the impression
37 that Mr Clayton was to be represented by counsel, but I
38 don't think he's in the room.
39
40 HIS HONOUR: Q. I've got a note that Simon Watters is
41 representing you?
42 A. Simon Watters was hired to have a look at Mrs Groves
43 testimony. When I was initially told or heard about this
44 in the letter, it said something about counsel because
45 Mrs Groves had mentioned me. When I attended that,
46 Mrs Groves spoke in a positive light about myself, and as a
47 result of that I decided that I did not need to have

1 counsel.
2
3 Q. Right.
4 A. And I don't believe I had done anything wrong, so
5 decided and told Mr Thing that I would not be having him
6 for the interview or for this particular situation.
7
8 HIS HONOUR: That's fine. Very good. Yes.
9
10 MR DOBSON: Sorry, your Honour, I'm just seeking some
11 advice. Your Honour, despite what Mr Clayton says, in all
12 fairness to him, he does have a significant issue, with
13 respect. And I've raised it with the other witness
14 already. It's to do with the Education Department
15 guidelines, your Honour.
16
17 THE WITNESS: I'm quite happy to answer that without
18 counsel, thank you.
19
20 HIS HONOUR: Q. Well, you realise you're entitled to
21 representation, and you choose not to?
22 A. Yes, I don't believe I've done anything wrong, and so
23 I thought I was doing, at the time, my job, to the best of
24 my ability.
25
26 MR DOBSON: Well --
27
28 THE WITNESS: And so anything to do with the guidelines by
29 the Education Department - you know, I'm happy to answer
30 it.
31
32 HIS HONOUR: Q. Well, the important thing is you realise
33 you're entitled to counsel, you'd rather not --
34 A. Yes, I - I'd --
35
36 Q. -- and that's your choice, yes.
37 A. -- like to know who'd be paying for that.
38
39 HIS HONOUR: Yes, well, as to that, Mr Jenkin, can you
40 assist there?
41
42 MR JENKIN: Yes, I can assist, sir. There are government
43 guidelines which apply in these circumstances. The
44 guidelines simply say the following: in a matter like this,
45 if it was reasonable for a witness to engage legal
46 representation, if the charges incurred were reasonable,
47 and if there were no adverse findings of any great

1 significance in respect to the witness, then an application
2 can be made for reimbursement of those legal expenses to
3 the Attorney General.
4

5 Now, that application normally comes to my office.
6 It's considered. We provide - my office provides advice to
7 the Attorney, and then the Attorney makes a decision about
8 reimbursement. So it's not a guarantee, but there is
9 certainly a guideline with respect to how an application
10 may be made, and what factors can be considered.
11

12 HIS HONOUR: All right.
13

14 Q. So do you understand that?

15 A. So, your Honour, the situation was that I understood
16 that it seemed like I was not going to be able to get
17 reimbursement fully for this. I did speak to Mr Jenkin,
18 and it appeared that I would be putting money out and not
19 getting it back, to quite a significant amount of money.
20

21 Q. There would be a risk of that, but what Mr Jenkins
22 says is that under these guidelines, if you were
23 represented and the costs were reasonable, and if there
24 were no significant adverse findings against you --

25 A. Well, I would have liked to have been aware that I
26 could have had counsel today.
27

28 MR JENKIN: My recollection of my discussion with Mr
29 Clayton was along the lines of there wouldn't be any money
30 upfront, that the expenses would have to be incurred, but
31 that an application could be made, if you like,
32 retrospectively to cover those expenses. So that was
33 pretty much the extent of our conversation.
34

35 THE WITNESS: Your Honour, I hired Mr Watters for a period
36 of, like, when Mrs Grove gave testimony. She spoke for an
37 hour. He was there for the hour before that, or the
38 two hours before that, and I paid quite a significant
39 amount of money for the morning, and based on the
40 extrapolation of that, that court case was going to cost me
41 something that I couldn't afford to pay.
42

43 HIS HONOUR: Okay. Well, I understand.
44

45 THE WITNESS: So based on that decision, I've decided --
46

47 HIS HONOUR: Unfortunately it's a very common problem

1 these days, and it's a serious problem. But be that as it
2 may, if you want to reconsider your position and perhaps
3 engage counsel, given what Mr Jenkins had to say, I would
4 be willing to give you that time if you feel that you would
5 want to do that.

6
7 MR JENKIN: The other thing that might be appropriate, I
8 don't know if Mr Clayton's had an opportunity to look at
9 the guidelines that were extant at the time that these
10 matters were occurring, but if he hasn't, then he could
11 probably have a look at those and that might factor into
12 his decision in some respect.

13
14 THE WITNESS: I have, at the interview - that was brought
15 up, and basically I'm aware of the guidelines and I'm
16 prepared to go ahead.

17
18 HIS HONOUR: All right.

19
20 Q. So you've heard what Mr Jenkins had to say, and it's
21 been suggested that representation would be in your best
22 interests, but you prefer to proceed?

23 A. I'd like to confer with my wife on that, please.

24
25 HIS HONOUR: Yes, by all means. What I'll do is I'll
26 adjourn for five minutes, and perhaps you can talk to Mr
27 Jenkins again. So I'll adjourn for five minutes.

28
29 SHORT ADJOURNMENT

30
31 HIS HONOUR: Please be seated.

32
33 MR JENKIN: If your Honour pleases.

34
35 HIS HONOUR: Yes, Mr Jenkin.

36
37 MR JENKIN: I've taken the opportunity to speak to Mr
38 Clayton during the adjournment. I outlined to him the
39 position that he was in. I outlined the government
40 guidelines to him, and I indicated to him what I thought
41 his options were - that was either to proceed today or to
42 seek an adjournment of this matter so that he could confer
43 with his advisor to take advice as to what future
44 proceedings should be.

45
46 Mr Clayton indicated that he was anxious to proceed,
47 wanted to get the matter out of the way, et cetera.

1 Obviously there's a limit as to how far I can go in
2 discussing the situation with him, and I'm not in a
3 position - because I don't act for him obviously - to give
4 him advice. However, I must say just in terms of being
5 counsel at the Bar table, I'm a little concerned and I'm
6 concerned that Mr Clayton may be anxious to get the matter
7 over and done with, and that may be affecting his decision,
8 but I made it clear that it was his decision, he must make
9 up his own mind, I couldn't advise him any further, and I
10 was merely setting out his options and explaining the
11 guidelines to him.

12

13 HIS HONOUR: Right. Very well. Well, do you want to say
14 something, Mr Dobson?

15

16 MR DOBSON: If I may be heard, please, your Honour.

17

18 HIS HONOUR: Yes.

19

20 MR DOBSON: Your Honour, I've had discussions with Mr
21 Urquhart, and whilst it's only our view, we do have a view
22 that potentially Mr Clayton does have problems with those
23 guidelines. Whilst he may be able to sit there and in his
24 own mind form his own views, we would prefer if he was able
25 to get legal advice. We could even perhaps communicate
26 with his lawyers and direct them to actual segments of the
27 guidelines.

28

29 The other issue that Mr Urquhart has discussed with me
30 is that he didn't - he wasn't aware that I was going to
31 take so long with Mr Burro, your Honour, and I may well be
32 another hour and a half with Mr Clayton, sir. Considering
33 the time issue, and the fact that we don't want Mr Clayton
34 to have to make a decision, an important decision under
35 pressure, perhaps, it may be that we could adjourn in any
36 event, and he could perhaps make a decision about legal
37 advice without having to do it on the run, if I could put
38 it that way, sir.

39

40 HIS HONOUR: All right.

41

42 MR DOBSON: I'm not sure about your view, your Honour, of
43 course, but --

44

45 HIS HONOUR: Q. Well, how do you feel about that, Mr
46 Clayton?

47

A. Look, I would appreciate the opportunity to have more

1 time to think about this.
2
3 HIS HONOUR: Well, I think you should have that time.
4
5 THE WITNESS: This is something that I'm surprised that
6 the - (indistinct) has put on some of this, and I think it
7 might be wise for me to think about it a bit more.
8
9 HIS HONOUR: All right. Well, I think that's probably a
10 good idea. So I'm happy to adjourn now, and we'll have to
11 arrange another date and time. Are we able to state that
12 now or not?
13
14 THE WITNESS: I think it's going to depend on what the
15 ability of Mr Watters is.
16
17 HIS HONOUR: That's probably right too. So there's no
18 point trying to fix a time now. All right. What I'll do
19 is adjourn and give you an opportunity to reconsider your
20 position and we'll accommodate, if you do decide to engage
21 Mr Watters again, or legal representation, we'll
22 accommodate the availability of whoever it is.
23
24 THE WITNESS: Thank you, your Honour.
25
26 HIS HONOUR: Very well. So I'll adjourn.
27
28 AT 4.09 PM THE HEARING ADJOURNED TO
29 MONDAY, 16 APRIL 2012
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