

Special Inquiry

into

St Andrew's Hostel, Katanning  
(including St Christopher's Hostel, Northam)

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

Friday, 29 June 2012 at 9.35am  
(Day 39)

Before: The Hon Peter Blaxell

1 HIS HONOUR: Yes, Mr Urquhart?

2

3 MR URQUHART: Thank you, sir. Just by way of closing  
4 address this morning, the government announced the  
5 formation of this Special Inquiry in November of last year.  
6 The first day of the Inquiry's public hearings was on  
7 20 February this year. Today is the 39th day it has sat.  
8 Three days of public hearings took place in Katanning.  
9 Only one witness had their evidence heard at a private  
10 hearing. That was due to health concerns raised by his  
11 doctor, should he be required to appear at a public  
12 hearing. Transcript of his evidence, however, was made  
13 available very shortly after on the Inquiry's website.  
14

15 The Inquiry has called 84 witnesses, had 49 witness  
16 statements read in, 145 exhibits tendered and compiled over  
17 4,000 transcript pages. The Inquiry received telephone  
18 calls or emails from no less than 147 members of the public  
19 providing information. Much of that information led to the  
20 Inquiry being able to contact additional members of the  
21 public who, in turn, were able to assist the Inquiry with  
22 its various investigations.  
23

24 As Counsel Assisting, I have recommended to you, sir,  
25 that 11 persons have a total of 24 adverse findings made  
26 against them. Though it was announced as the St Andrew's  
27 Hostel Inquiry, evidence has been led regarding the sexual  
28 abuse of students at a number of other government-run  
29 hostels. Those hostels were St Christopher's in Northam,  
30 Hardie House in South Hedland and the student hostel in  
31 Narrogin. That is not to say that sexual abuse of children  
32 only occurred in those four hostels since the 1960s. The  
33 Inquiry's terms of reference confined its investigations to  
34 only those instances when allegations of sexual abuse were  
35 made and then it examined who they were made to, what  
36 action was taken in response to the allegations and the  
37 appropriateness of any action taken.  
38

39 The Inquiry received a great deal of additional  
40 information from the public which was not led as evidence  
41 in its public hearings, as it did not fall within the  
42 Inquiry's terms of reference. For example, in cases where  
43 sexual abuse at a hostel was only disclosed for the first  
44 time to the Inquiry, it's terms of reference precluded it  
45 from investigating that matter. In appropriate cases,  
46 however, of which that example is one, such information has  
47 been referred to the WA police.

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The sexual abuse at St Christopher's, Hardie House and the Narrogin Hostel certainly did not cover the breadth and scope of the offending at St Andrew's in Katanning by Dennis McKenna. He was a Warden who clearly displayed the three characteristics of a child sexual abuser that have been identified in the literature. He groomed the students he was supposed to take care of; he groomed the community of Katanning to point that he was adulated; and it was his own evidence that established the third characteristic which the clinical psychologist Rosemary Cant described as self-grooming. She defined self-grooming as a rationalisation by the offender to justify his behaviour to himself.

When I asked Dennis McKenna, when he gave evidence at transcript page 1208:

Are you saying that by their demeanour as you sexually abused them they appeared happy to you?

He answered: "Yes".

That sickening response was one that, without doubt, remains etched in the memories of those in the hearing room who had the misfortune of hearing it. As Mrs Cant said in her evidence, when child sexual abusers can operate in a situation where they will have access to children they can engage in institutional grooming by portraying themselves as good and decent people. I asked Mrs Cant these questions at page 869 on 6 March this year:

Would it be right to say that an ideal setting in such an institution would be one where there is ready access to potential victims at night time?

Mrs Cant asked:

I couldn't think of a better situation.

I asked:

May I suggest an even better one than that: Access to children at night time in circumstances where there were no other

1 adults able to supervise the environment?

2

3 Mrs Cant answered:

4

5 Yes, well, that clearly leaves the children  
6 absolutely vulnerable to that person and,  
7 you know, it's the exact situation of a fox  
8 guarding a hen house. There is absolute  
9 free access to the children without  
10 hindrance.

11

12 Your Honour then made the pertinent point that the evidence  
13 also showed that the children were locked in at night time.

14

15 Mrs Cant cited in her report that she provided to the  
16 Inquiry a well-known study in this area, which I quoted at  
17 page 869 of the transcript. It read:

18

19 Childcare institutions appear to be  
20 self-protected, secretive and closed by  
21 nature. As such they discourage the  
22 drawing of attention to any deficiencies in  
23 policies and procedures and to signs of  
24 abuse. Furthermore, if these organisations  
25 are held in high esteem by local agencies  
26 or parents, children may experience added  
27 difficulties in both resisting and  
28 disclosing the abuse.

29

30 I pointed out to Mrs Cant during her evidence that Dennis  
31 McKenna not only had unlimited and unsupervised access to  
32 potential victims at night but that also a significant  
33 proportion of Hostel staff members were his relatives. She  
34 answered that that environment "virtually eliminated any  
35 independent adult scrutiny of behaviour". That is at  
36 page 870.

37

38 The evidence the Inquiry has heard of this Warden's  
39 control and his manipulation was breathtaking. He not only  
40 ran the Hostel, but it seemed he also often ran the Board  
41 that was supposed to oversee what he was doing. Where the  
42 Board was supposed to be responsible for the hiring and  
43 firing of Hostel staff, it was Dennis McKenna who did that.  
44 It should, therefore, come as no surprise to find that  
45 there was always at least two family members of his working  
46 at the Hostel, and as many as four throughout virtually the  
47 entire time he was Warden.

1  
2           Where the Board was supposed to decide whether a  
3 Hostel student should be expelled, it simply rubber stamped  
4 the recommendations that were made by Dennis McKenna. This  
5 meant that he had no problems expelling students on trumped  
6 up allegations when he believed they might pose a threat to  
7 him. Stealing from the canteen was always a favourite  
8 fabrication of his.  
9

10           On the rare occasion the Board said "no" to an  
11 expenditure request by Dennis McKenna it seemed he would go  
12 ahead with it anyway. Virtually overnight he became a law  
13 unto himself within the Hostel, within the Hostel's Board  
14 of management and even within Katanning itself. The  
15 control he had over the students at the Hostel was all  
16 pervading. Life for a student was regimented; an aspect  
17 that actually brought praise from many of those who would  
18 visit the Hostel, believing that such overt discipline was  
19 a good thing for teenagers. He had students who would  
20 inform on those he believed posed a threat to his reign.  
21 He made life intolerable for those students he disliked.  
22 For those brave few students who stood up to him, life at  
23 the Hostel would become a misery.  
24

25           Tragically, it appears that for some boys it was  
26 better to be one of this Warden's favourites and be  
27 subjected to his sexual abuse rather than be the subject of  
28 ostracism, bullying and ridiculing that would be  
29 orchestrated by Dennis McKenna if they dare not comply with  
30 his overtures. Though that naive choice may have been seen  
31 as the lesser of two evils at the time to these teenage  
32 boys, sadly it was clearly to become the wrong choice as  
33 the years went by. Bullying and rejection by one's peers,  
34 though painful, is incomparable to the long-time effects of  
35 the repeated sexual abuse that Dennis McKenna subjected  
36 many of his victims to.  
37

38           It is apparent that Dennis McKenna sexual offending  
39 began shortly after he became Warden and continued for a  
40 significant number of years. I must stress, though, that  
41 when I refer to this man's offending I am confining it to  
42 those matters that he has been convicted of, which relate  
43 to a course of offending from 1977 to 1990 involving 11  
44 boys. I say that, of course, because he is currently  
45 facing an additional 66 charges in relation to other  
46 complainants.  
47

1           As early as 1976 teachers were observing him engaging  
2 in suspect behaviour towards students. This type of  
3 behaviour, which was always with boys, involved  
4 inappropriate touching and was to become normal behaviour  
5 in the public areas of the Hostel in the many years that  
6 were to follow. Behind the door of the Warden's unit,  
7 however, far more serious offending was occurring. There  
8 were people who say they did do something, from teachers  
9 who raised with their Principals the isolated inappropriate  
10 contact they had observed right through to people such as  
11 Noel Parkin, who complained long, loud and at times very  
12 colourfully that Dennis McKenna was a paedophile. He  
13 complained to a number of people over an extensive period  
14 of time.

15  
16           The evidence gathered by the Inquiry shows that for 14  
17 years people in the following positions were supposedly  
18 told to varying degrees about Dennis McKenna's sexual or  
19 inappropriate conduct towards Hostel boys. These groups  
20 were: Principals, teachers, Hostel Board members,  
21 including Chairman, a police officer, public servants, the  
22 clergy based in Katanning, a Shire Councillor and  
23 representatives from the Country High School Hostels  
24 Authority.

25  
26           The question then that needs to be asked, and indeed  
27 will be the subject matter of this Inquiry's report is: How  
28 then could Dennis McKenna avoid apprehension for so long?  
29 The answer may well be found in studies that have explored  
30 this very question and were referred to in the evidence of  
31 Mrs Cant. One researcher has found that commonly each  
32 complaint of child sexual abuse to entities other than the  
33 police is dealt with in isolation and is dealt with either  
34 by being disregarded or by the offender simply being asked  
35 "Did it happen?" When the offender is highly respected  
36 within the community it can be very easy for them to  
37 convince the recipient of the complaint that nothing is  
38 wrong and that the child is a liar.

39  
40           This research found that when the next complaint comes  
41 in, which may be some time later, it is dealt with as a new  
42 issue, often by different people and so, therefore, no  
43 pattern emerges, particularly if there are no documented  
44 records kept.

45  
46           I doubt whether this researcher would, therefore, be  
47 surprised to hear the evidence of one parent who recalled

1 raising with a Board member the behaviour of Dennis McKenna  
2 and two or three weeks later the Board member contacted him  
3 saying that he had checked it out and he "hadn't found a  
4 ripple on the water and everything in the garden was  
5 lovely". This was in 1980, and by then the tsunami that  
6 was Dennis McKenna's offending was well under way.

7  
8 Notwithstanding this research I have just referred to,  
9 it would appear to be the case that in regard to Dennis  
10 McKenna his ability to avoid prosecution for so long was  
11 truly staggering, and a sad indictment on those who heard  
12 the complaints about him but refused to listen and refused  
13 to believe. The tragic outcome was that this man continued  
14 his sexual abuse to further victims with all the attendant  
15 misery and suffering that such abuse causes to these  
16 victims and their loved ones. Thank you, sir.

17  
18 HIS HONOUR: Thank you, Mr Urquhart.

19  
20 Today marks the end of the Inquiry's formal  
21 proceedings. Accordingly, and even though there may be  
22 another short hearing in a week or two to have some witness  
23 statements read in, it is appropriate that I make some  
24 brief remarks as to the progress that we have made with the  
25 Inquiry to date.

26  
27 When the Inquiry commenced this investigation six  
28 months ago we knew from the very start that we would have a  
29 great deal of difficulty in gathering the necessary  
30 evidence. The events in question occurred between 20 and  
31 35 years ago, and it could be expected that many potential  
32 witnesses would have died or have become senile in the  
33 intervening period. Even with those witnesses who had full  
34 possession of their faculties, it could be expected that  
35 they would have had problems in accurately remembering  
36 everything that had happened so many years ago.

37  
38 I have previously described the task which the Inquiry  
39 faced at the beginning as putting together a giant jigsaw  
40 puzzle with many of the pieces missing. So the job we set  
41 out to do was to find all of the missing pieces of  
42 information.

43  
44 Although we did encounter the expected difficulties in  
45 accomplishing this task, I am glad to say that we have been  
46 largely successful in uncovering the truth of what  
47 happened. There are three main reasons why we have been

1 able to achieve that outcome. Firstly, the state  
2 government provided the Inquiry with all of the resources  
3 necessary to complete this task. All of my requests for  
4 resources were met and there was not one request that was  
5 ever refused.  
6

7 Secondly, the staffing of this Inquiry has been first  
8 class from top to bottom. I am very impressed by the  
9 talent and the dedication of all of the personnel who have  
10 been assigned to me. The Inquiry has particularly  
11 benefitted from some very skilled investigators who were  
12 drawn from three separate agencies within the public sector  
13 as well as from two specialist squads in the police  
14 service. These investigators have discharged their duties  
15 enthusiastically, and they have come together as a team  
16 which has put in a magnificent effort.  
17

18 The Inquiry also has a very effective team of  
19 researchers who have combed through a haystack of old  
20 government records to find needles of valuable information.  
21 That information has been progressively collated into a  
22 matrix of the known facts which has provided the  
23 investigators with some valuable leads.  
24

25 The Inquiry is also very fortunate to have had the  
26 very able assistance of two other professionals, namely as  
27 Council Assisting and its instructing solicitor.  
28

29 The third and most important contributing factor to  
30 the progress made is the co-operation we have received from  
31 members of the public. A remarkable number of publicly  
32 spirited individuals have come forward with pieces of  
33 information for the Inquiry. Some of this information has  
34 been very valuable and, in effect, has provided the Inquiry  
35 with missing pieces of the jigsaw puzzle.  
36

37 The media has played an important role in encouraging  
38 the public to come forward, and for that I thank the media  
39 profusely.  
40

41 At this stage of the Inquiry I still have to keep an  
42 open mind as to some findings of fact because I am yet to  
43 hear all of the submissions from counsel. However, I  
44 already know that by the time I deliver my report the great  
45 majority of the jigsaw pieces will have fallen into place,  
46 and a very clear picture will have emerged. My report will  
47 contain specific findings as to why Dennis McKenna was able

1 to continue his offending for such a long period of time.  
2 The report will also recommend some legislative and policy  
3 changes designed to safeguard children in school hostels  
4 and residential facilities from similar serial offending in  
5 the future.  
6

7 In conclusion, I thank everyone associated with the  
8 Inquiry for helping it to complete its task. That includes  
9 not only members of the public and others I have mentioned  
10 but also all counsel who have appeared before me, as well  
11 as the transcript and technical staff behind the scenes who  
12 have made our hearings run so smoothly.  
13

14 I will now adjourn for a short time before we resume  
15 the formal proceedings.  
16

17 SHORT ADJOURNMENT  
18

19 HIS HONOUR: Please be seated. Yes, I'll take  
20 appearances. Mr Ellis, are you appearing for Ms Stroud?  
21

22 MR ELLIS: Good morning, your Honour. If it please the  
23 Inquiry, I do, on behalf of Ms Stroud.  
24

25 HIS HONOUR: Thank you. Yes, Mr Urquhart?  
26

27 MR URQUHART: Yes, I thank you, sir. This is the third  
28 day of closing addresses. Today I'll be summarising my  
29 adverse finding recommendations with respect to a further  
30 seven persons, and naming an additional five persons whom I  
31 will not be making any adverse finding recommendations.  
32

33 Though I've said it previously, with respect to other  
34 persons who have been the subject of adverse finding  
35 recommendations, I say it again, it's important that it is  
36 remembered that the recommendations I'm making today are  
37 simply that. Your Honour will be the final arbiter as to  
38 what findings you make, and they will be set out in the  
39 Inquiry's report. And your Honour's determinations with  
40 respect to that, will only occur after those persons who  
41 are the subject of my recommendations are given the  
42 opportunity to make submissions in writing, and orally to  
43 you in response to my own. Whether your Honour accepts  
44 none, all or any of my proposed recommendations with  
45 respect to a particular person is entirely a matter for  
46 you.  
47

1 Finally, it is open for your Honour to propose an  
2 adverse finding that I have not raised. In that  
3 circumstance the affected person will be notified and  
4 invited to respond before your Honour makes a final  
5 determination. Now, after those introductory remarks, I  
6 turn now to those persons that I'll be addressing your  
7 Honour today regarding - which I have proposed making -  
8 well, I do make adverse finding recommendations.  
9

10 The first is Elizabeth Jane Stroud. I'll be  
11 recommending one adverse finding with respect to Ms Stroud,  
12 and that is by testifying at the public hearings of the  
13 Inquiry that Maggie Dawkins' removal from the Westrek  
14 program in Katanning was solely due to her behaviour as a  
15 group leader, Ms Stroud failed to provide a complete  
16 account of her knowledge of the reasons for Mrs Dawkins'  
17 removal.  
18

19 I'll just provide a summary, sir, of the evidence I  
20 submit is in support of that finding. Mrs Dawkins gave  
21 evidence before the Inquiry on 13 February 2012. Ms Stroud  
22 gave evidence on 14 April, and again on 19 June. Ms Stroud  
23 also provided two written accounts, dated 7 March and 23  
24 May 2012. As to her removal from the Katanning-Westrek  
25 program, Mrs Dawkins maintained that it was because of her  
26 raising the issue of Dennis McKenna sexually abusing a  
27 former student at the Hostel, and the subsequent threat  
28 made by Dennis McKenna to remove Westrek from the  
29 accommodation that it had at Kartanup House.  
30

31 She also testified that Ms Stroud had informed her of  
32 these threats. On the other hand, Ms Stroud maintained  
33 that Mrs Dawkins removal was due to matters completely  
34 unrelated to her complaint that Dennis McKenna had sexually  
35 abused a boy under his care. She maintained she never knew  
36 at the time that Dennis McKenna had made any threats.  
37

38 Though they hadn't spoken to each other since the  
39 mid-1980s, Mrs Dawkins rang Ms Stroud in September last  
40 year. Sir, this was at a time when there was the start of  
41 significant media covering regarding the offending of  
42 Dennis McKenna. Mrs Dawkins' account of that conversation  
43 appears at transcript page 245. She says:  
44

45 During that September I phoned Elizabeth  
46 Stroud on her mobile and reached her in  
47 Africa. She was warm and friendly, readily

1 assisting me when I told her the purpose of  
2 my call. I requested Elizabeth's  
3 assistance to refresh my memory, as I  
4 couldn't recall the Katanning Councillor's  
5 name. Elizabeth recalled Ainslie Evans'  
6 name immediately. We chatted comfortably  
7 with Elizabeth and I agreed on the key  
8 points --  
9

10 Sorry, I'll read that again:

11  
12 We chatted comfortably with Elizabeth and I  
13 agreed on the key points regarding the  
14 circumstances of my departure from  
15 Katanning.  
16

17 In contrast, Ms Stroud maintained that there was a  
18 distinctly different point of view expressed by both of  
19 them during this conversation.  
20

21 The evidence, however, of Peter Sherlock, given to the  
22 Inquiry on 11 April 2012, supports Mrs Dawkins' version of  
23 events in regards to the circumstances of her departure  
24 from Katanning. He gave evidence regarding a telephone  
25 call from Dennis McKenna at his home in 1985, in which  
26 McKenna was "totally furious" regarding the allegations  
27 that Mrs Dawkins was making.  
28

29 Mr Sherlock recalled that Dennis McKenna stated that  
30 he wanted her moved out of Katanning immediately, and that  
31 Dennis McKenna could have well said he would keep the  
32 Westrek participants out of their accommodation unless  
33 Mrs Dawkins was moved. And that's at transcript page 1564.  
34

35 Significantly, when Mr Sherlock was asked if Dennis  
36 McKenna had not made that call, would Mrs Dawkins have  
37 remained in Katanning, he replied, "Yes" - that's at  
38 page 1590.  
39

40 Mr Sherlock also testified that he would have thought  
41 that he told Ms Stroud about the telephone conversation  
42 with Dennis McKenna, as she was involved in the decision to  
43 move Mrs Dawkins from Katanning to the Bunbury program.  
44

45 After Ms Stroud's evidence at the Inquiry on 10 April,  
46 which was the first occasion she testified, the Inquiry  
47 obtained a copy of email exchanges between her and a

1 reporter on 23 September of last year. That reporter's  
2 email, which is - and the following response, which is  
3 exhibit 129, was on Friday, 23 September 2011 at 4.40pm.  
4 It stated:

5  
6 I've been investigating what happened at  
7 the St Andrew's Hostel in Katanning in the  
8 '70s and '80s, and just spoke to Maggie  
9 Dawkins who suggested that I contact you.  
10 Maggie told me she spoke to you about  
11 raising concerns about what was happening.  
12

13 The reporter then asked if Ms Stroud could tell him what  
14 happened from there. Ms Stroud responds just 17 minutes  
15 later with the message:

16  
17 My recollection of the issue is that Maggie  
18 raised the concern and was quickly banished  
19 from town by the then Mayor Ainslie Evans.  
20 That is my sum total of recollection. I  
21 believe she also spoke to Peter Sherlock --  
22

23 And then the letters "wrt", which I clarified with Ms  
24 Stroud as meaning "with regard to":

25  
26 So I believe she also spoke to Peter  
27 Sherlock with regard to the issue. I have  
28 not maintained contact with him at the time  
29 he live --  
30

31 And that's sic, "in Mundaring area".  
32

33 That response, sir, by Ms Stroud, is inconsistent with  
34 her evidence at the Inquiry on 10 April. Indeed, it is far  
35 more consistent with Mrs Dawkins' account. Ms Stroud did  
36 not deny the reporter's account of what Mrs Dawkins told  
37 him, namely that in 1985:

38  
39 She spoke to you about raising concerns  
40 about what was happening.  
41

42 When she testified on 10 April, Ms Stroud emphatically  
43 refuted the account given by Mrs Dawkins to the Inquiry.  
44 After being provided with a copy of this email by the  
45 Inquiry, Ms Stroud forwarded a written statement. She  
46 maintained that her email had to be put into context with  
47 telephone conversations she had with the reporter, and

1 without that context the email quote can be interpreted  
2 differently.

3  
4 When Ms Stroud was recalled to give evidence at the  
5 Inquiry on 19 June 2012, she was questioned about  
6 exhibit 129 - and that is the email exchanges. In her  
7 evidence, Ms Stroud admitted that she had received the  
8 email from the reporter, and that she wrote the response.  
9 She accepted that her response, on the face of it, without  
10 any other explanation, was consistent with what Mrs Dawkins  
11 had said regarding the reasons for her removal from  
12 Katanning.

13  
14 Ms Stroud, however, said that that was not her intent,  
15 and that she then clarified the matter with the reporter on  
16 27 September 2012 in a telephone conversation. As for an  
17 explanation then as to why she sent the email, which didn't  
18 convey her intent. Ms Stroud gave the following  
19 explanation - these appear at pages 3725 and 3729 - that it  
20 was due to stupidity; that it was an unconsidered response;  
21 that it was a firing off of a very quick response without  
22 giving a lot of thought; that the email was misrepresenting  
23 her opinion, and that it was a very poorly worded email,  
24 and it was a mistake. When asked by me that it was most  
25 uncharacteristic of her to get a response so wrong, Ms  
26 Stroud replied, at page 3729:

27  
28 I have been known to make many mistakes in  
29 my life, sir. Yes, it is out of character,  
30 and I accept responsibility for that.

31  
32 Notwithstanding the contents of this email to the  
33 reporter, Ms Stroud still maintained that as far as she was  
34 aware in 1985, she believed Maggie Dawkins was removed from  
35 Katanning because of her inappropriate behaviour as a group  
36 leader. In my submission, sir, it is open for your Honour  
37 to find that there is an irresistible inference to be drawn  
38 that there must not have been any key points of difference  
39 between their recollections of the circumstances regarding  
40 Mrs Dawkins' removal from Katanning when they both spoke to  
41 each other in September of last year.

42  
43 If it was otherwise, it would defy logic for  
44 Mrs Dawkins to suggest to the reporter that he contact Ms  
45 Stroud. Mrs Dawkins would only have done so if Ms Stroud  
46 had essentially agreed with her version of events. As it  
47 transpires, that is what Ms Stroud did in her email in

1 response to the reporter.  
2

3 In my submission, sir, Ms Stroud's evidence to the  
4 Inquiry on 19 June, that she sent the email to the reporter  
5 without giving a lot of thought, lacks voracity. She is a  
6 professional woman who knew she was dealing with a reporter  
7 regarding a serious matter of sexual abuse of children over  
8 a long period of time. It defies logic that she would  
9 prepare a written response that was so inaccurate, and then  
10 write "that is the sum total of my recollection".  
11

12 The sum total of her recollection asserted by Ms  
13 Stroud in her email is vastly at odds with her  
14 recollections on 10 April and again on 19 June this year  
15 before the Inquiry. It is open, in my submission, for your  
16 Honour to find that her different recollection of events at  
17 the Inquiry has been influenced by her subsequent  
18 conversations with others - most notably Mr Ian Carter and  
19 Mr Peter Kenyon, who both had very different recollections  
20 of the matter, which first were at odds with the  
21 recollection recounted by Ms Stroud in her email on 23  
22 September 2011; and, secondly, portrayed the actions of the  
23 Westrek management in a far more favourable light.  
24

25 There was a second telephone conversation between  
26 Mrs Dawkins and Ms Stroud in October of last year.  
27 Mrs Dawkins' account of this conversation appears at  
28 transcript page 246:  
29

30 I called Elizabeth a second time, this time  
31 on her work landline in Perth, a few weeks  
32 later, and received a very different  
33 reception. She appeared tense and warned  
34 me that "they" were out to bring my  
35 reputation into disrepute. I would be  
36 portrayed as unprofessional and unreliable  
37 if I named my superiors either in the media  
38 or in court. Elizabeth asked me to think  
39 very carefully about the personal cost of  
40 having my character impugned. She told me  
41 that "they" now had contrived alternative  
42 reasons for having me removed from  
43 Katanning. Elizabeth Stroud now said she  
44 was "hazy" about details we had agreed with  
45 only a few weeks before - and it was now a  
46 case of it being so long ago.  
47

1 Mrs Dawkins clarified in re-examination when she gave  
2 evidence at page 315, the names of those people who were in  
3 this group referred to as "they" by Ms Stroud, were Ian  
4 Carter and Peter Kenyon. She also testified at page 314  
5 that it was her impression from time to time during the  
6 conversation that Ms Stroud included herself in that group  
7 that was defined as "they".  
8

9 In her evidence, Ms Stroud completely disagreed with  
10 Mrs Dawkins' account of the second telephone conversation.  
11 She emphatically denied the names of Mr Carter and Mr  
12 Kenyon were mentioned in the context that Mrs Dawkins  
13 testified that they were. In my submission, it is of some  
14 importance that Mrs Dawkins did not say that Ms Stroud  
15 nominated Mr Sherlock as being one of the persons who "had  
16 contrived alternative reasons" for having her removed from  
17 Katanning.  
18

19 Mr Sherlock was the only witness from Westrek  
20 management who was called at this Inquiry, who testified  
21 and actually supported Mrs Dawkins' claim that her removal  
22 from Katanning was in response to Dennis McKenna's  
23 complaints about her.  
24

25 At the conclusion of her evidence on 19 June, Ms  
26 Stroud, herself, acknowledged "there are huge  
27 inconsistencies in what I've presented." That's at  
28 page 3737. In light of that summary I provided to your  
29 Honour, in my submission it is open for your Honour to find  
30 that Ms Stroud intentionally gave an account to the Inquiry  
31 that incorrectly asserted that the behaviour of Mrs Dawkins  
32 was the only reason for her removal from Katanning, when it  
33 was, in fact, her complaint against Dennis McKenna that  
34 played a significant part in that decision. And that was,  
35 in my submission, a matter that had to have been in Ms  
36 Stroud's knowledge at the time.  
37

38 So they are my submissions, sir, with respect to the  
39 recommendation against Ms Stroud.  
40

41 HIS HONOUR: All right. Thank you. Yes, Mr Ellis.  
42

43 MR ELLIS: Thank you, your Honour. I thank the Inquiry  
44 for the opportunity to respond to that. I also thank the  
45 Counsel Assisting for an opportunity to provide written  
46 submissions, which we missed that opportunity earlier  
47 today.

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Your Honour, my instructions are that Ms Stroud respectfully declines to agree with the conclusions of the Special Inquirer. We say that on the basis that the interpretation and reading of the facts as has been set out are - I don't concur with essentially the sequence of events that it happened.

In essence, we see that there's three key issues here. There's the conversations that occurred between Ms Stroud and Mrs Dawkins. There's a question of the email traffic that transpired between the journalist and Ms Stroud, and then there's the question of Mr Sherlock and "I", and we proposed to respond essentially along those three lines.

HIS HONOUR: Mr Sherlock and "I" you say?

MR ELLIS: Yes, your Honour. There's a question of the role of "I" in his removal from the group, and who knew about it, who didn't know about it, what was inferred to have occurred in the office space at the time.

HIS HONOUR: Right. Now, "I" was the other group leader?

MR ELLIS: That's correct.

HIS HONOUR: And there has been late evidence to show that he was removed in controversial circumstances, but as I see it, that doesn't impact in a big way upon the issues that I have to deal with. I mean, the issues surrounding, of course, Mrs Dawkins removal.

MR ELLIS: That may be the case, your Honour. We just raise his name in context of the correspondence we received from the Inquiry, and the issue about Mr Sherlock and what knowledge he had of the circumstances of the conduct of the Westrek program. And from that the Counsel Assisting - the learned Counsel Assisting had made a leap of faith or judgment, if you like, from what Mr Sherlock is said to have understood and known about who was doing what, and what the circumstances were, the movement of people, and this issue surrounding the circumstances of the people at the time, and taking a leap from that to infer that there must be an understanding in Ms Stroud's mind, and that conclusion from that is this - if that was in Ms Stroud's

1 mind, she hasn't told the Inquiry and therefore she's at  
2 risk of an adverse finding. That's essentially the way we  
3 are looking at that. So when we say "I", we say Mr  
4 Sherlock, and Mr Sherlock's knowledge and management of the  
5 Westrek program.

6  
7 Does that assist your Honour in your inquiry?

8  
9 HIS HONOUR: You can continue, yes. Thank you.

10  
11 MR ELLIS: Your Honour, the learned Counsel Assisting  
12 has suggested that Ms Stroud had sought to deny the content  
13 of discussion with Mrs Dawkins in the first telephone  
14 conversation. Well, Ms Stroud's position, and it always  
15 has been her position, that in that very brief conversation  
16 - and it was a brief conversation - it wasn't a long  
17 many-minute conversation, and the reason why was because  
18 Ms Stroud was performing her work, she trains people in  
19 places, and she had classes on at the time - is that there  
20 is no doubt that Mrs Dawkins, when she contacted Ms Stroud  
21 at the time, raised the question of sexual abuse.

22  
23 Now, there's no doubt that that is a concern which is  
24 raised by the learned counsel in other paragraphs in the  
25 letter. There's no doubt that that issue did - was  
26 traversed between the two people at the time of the first  
27 conversation. However, it has always been Ms Stroud's  
28 position that she was unaware of any sexual allegations  
29 that were made against Dennis McKenna at the time. The  
30 only concept that was in her mind, in Ms Stroud's mind,  
31 when she spoke to Mrs Dawkins on the phone for the first  
32 time in September 2000 or whenever it was, was the question  
33 of Mrs Dawkins' conduct. That's the only issue and  
34 understanding that she had.

35  
36 HIS HONOUR: It is Ms Stroud's evidence that she picked up  
37 a phone on Mr Sherlock's desk --

38  
39 MR ELLIS: That's correct.

40  
41 HIS HONOUR: -- back in the mid '80s?

42  
43 MR ELLIS: Yes.

44  
45 HIS HONOUR: And spoke to Mrs Dawkins, who told her --

46  
47 MR ELLIS: That's correct.

1  
2 HIS HONOUR: -- essentially about the allegation against  
3 Dennis McKenna?  
4

5 MR ELLIS: That's correct. And that was essentially the  
6 first time that Ms Stroud had any introduction to the  
7 concept of sexual abuse happening in the Hostel at  
8 Katanning at the time. So Ms Stroud doesn't deny that that  
9 was an issue which was raised and traversed between her and  
10 Mrs Dawkins at the time.  
11

12 However, when later conversations came to pass, it  
13 was Ms Stroud's position - it remains her position - that  
14 the reason she understood that Maggie was removed from  
15 Katanning was solely for the purposes of her behaviour.  
16 Now, it may have been in fact that there were two reasons  
17 why, a compound effect, if you like, why Mrs Dawkins was  
18 removed. It may have been that Mrs Dawkins was removed  
19 partly because of her behaviour, which was distressing to  
20 the - which was distressing to the Westrek program, but she  
21 may also have been removed because of her allegations  
22 against Dennis McKenna. Ms Stroud doesn't deny that. Ms  
23 Stroud says at the time she was not aware of Maggie Dawkins  
24 mentioning it, of sexual abuse against Dennis McKenna, so  
25 it's not - we say it's unfair for learned Counsel Assisting  
26 to say, "Well, in that first conversation Mrs Dawkins said  
27 sexual abuse of Dennis McKenna, therefore she must have  
28 known, Ms Stroud must have known that that's the reason  
29 why Mrs Dawkins was removed", and we don't see any evidence  
30 in the transcript, or have been presented with any  
31 corroborating propositions that seem to support that  
32 happening.  
33

34 We say that Ms Stroud has always said at the very,  
35 very beginning, and the second conversation, second  
36 conversation in October was, indeed, a much more - a longer  
37 conversation, and it was a conversation of some  
38 disagreement because Mrs Dawkins appears to suggest to Ms  
39 Stroud the reason she was removed was because of this extra  
40 allegation, whereas Ms Stroud said, "No, no, no, her  
41 understanding and her knowledge - that's not correct."  
42

43 Now, Ms Stroud might be wrong on that. She may have  
44 been wrong in that she wasn't aware of the very reasons why  
45 Mrs Dawkins was removed, but nonetheless that doesn't mean  
46 because she was wrong, they found knowing that, and having  
47 that argument, if you like, with Mrs Dawkins in the

1 following October, doesn't mean that she lied to the  
2 Inquiry or failed to put information before the Inquiry  
3 that she had in her understanding.  
4

5 So Ms Stroud says that the two conversations she had  
6 with Mrs Dawkins were that - the first one was a brief one,  
7 and there was discussion about the concern, and Ms Stroud  
8 doesn't deny that. However, she does say it was her  
9 understanding, her knowledge, that the reason why - and she  
10 maintains this in the second conversation and subsequently  
11 - that the reason for her understanding was that - the  
12 reason why Maggie Dawkins was removed was because of her  
13 behaviour. And it's said, "That may be wrong", and Ms  
14 Stroud may have been wrong in holding that view, but  
15 nonetheless it was an honest view; and, again, your Honour,  
16 a held view of Ms Stroud.  
17

18 In respect to the email, there's no doubt Ms Stroud  
19 was careless and made a mistake in writing what she did.  
20 When you play with the devil and the media, you do run the  
21 risk, it's true. Ms Stroud is a professional person, she  
22 should be more aware of what she did. Our explanation of  
23 that - the key sentence in the email - we say it comes in  
24 two parts. If we take you to the - the key sentence is the  
25 opening sentence, where Ms Stroud says:  
26

27 My recollection of the issue is Maggie  
28 raised the concern.  
29

30 And we say that sentence should be split into two parts.  
31 That's the first clause, and then there's a connecting word  
32 "and":  
33

34 -- was quickly banished from town by the  
35 then Mayor Ainslie Evans.  
36

37 Now, when Ms Stroud wrote:  
38

39 My recollection of the issue is that Maggie  
40 raised the concern, and the concern is the  
41 issue of sexual abuse.  
42

43 She doesn't deny that Maggie did raise that. She, in fact,  
44 said that to her in the first telephone conversation in  
45 September, before this email was transmitted. Then she  
46 goes:  
47

1           -- and was quickly banished from the town  
2           by the then Mayor Ainslie Evans.

3  
4           Keeping in mind that that was the Principal question of the  
5           journalist to Ms Stroud, "What was the name of the  
6           Councillor?", and, in a sense, Ms Stroud attempted to  
7           answer the question, which Councillor it was, Ms Ainslie  
8           Evans.

9  
10           Now, "quickly banish from the town" with - also  
11           keeping in mind Mrs Evans was the Chair of the Board that  
12           ran Westrek in Katanning. So there's a plausible  
13           understanding to be applied to that second clause, that of  
14           the sentence which says that it's quite a generalised  
15           statement, "quickly banished by Mrs Evans".

16  
17           Well, it's true that the Board would have to have been  
18           involved in a decision to remove, or at least some  
19           knowledge of Ainslie Evans, or at least some knowledge of  
20           the decision to remove, we suppose, but the point there is  
21           that there's no particular allegation in that second clause  
22           which says that the reason why this "quickly banished by  
23           the Mayor Ainslie Evans", was because of the sexual abuse  
24           allegations.

25  
26           It could quite readily be in the understanding of  
27           contemplation of Ms Stroud that the reason why Mrs Dawkins  
28           was banished from the town by the then Mayor Ainslie Evans  
29           was because of her behaviour, rather than any other reason  
30           that is the making of the sexual assault allegations.

31  
32           In the next sentence Ms Stroud says "that's the sum  
33           total". Now, we notice she used the word "sum". So we say  
34           that in a sense in her mind she may well be adding the  
35           reasons. That is the first part, that her recollection is  
36           that Maggie raised the concern - yes, we've conceded that  
37           she did raise the concern, and was banished from the town  
38           by the then Mayor Ainslie Evans, in that Mrs Evans was the  
39           Chair - was the Mayor, she was the Chair of the Board, in  
40           the sense that the system within the town had removed  
41           Maggie Dawkins, and the reason why, and the reason why in  
42           the mind of Ms Stroud she had been removed is because of  
43           inappropriate behaviour, and for no other reason, which may  
44           have been true, but not known to Ms Stroud.

45  
46           So that's the way we would try to portray the intent  
47           of that email there, and we say that gives a different

1 perspective and complexion on the whole thing, of what the  
2 purpose and intent of that was. And then Ms Stroud goes on  
3 to say, "I believe she also spoke to Peter Sherlock with  
4 respect to the issue." "The issue", of course was sexual  
5 abuse. And, of course, Ms Stroud would say that, and she  
6 would say that because she took a telephone call in 1985  
7 from Maggie Dawkins, which was intended for Peter Sherlock.  
8

9 So even on that bit alone, it's reasonable for Ms  
10 Stroud to say in 2011, "Well, I took a call. I know that  
11 Maggie wanted to talk to Peter about this, I assume she did  
12 so. I'm not involved with Peter, but I would think Peter  
13 gave her a call back", so on and so forth. And then she  
14 goes on to talk about not maintaining contact with him. So  
15 we agree that it's careless and in hindsight it's quite  
16 damaging for Ms Stroud.  
17

18 We say that there's - given the summary and the brief  
19 response - you know, there's only one paragraph, it's not  
20 two pages, there's no great extent to give a detailed  
21 analysis or detailed breakdown of what it was, and my  
22 reading of that when I first read it was it was an attempt,  
23 if you like, to belatedly put the journalist off, maybe  
24 because Ms Stroud started to get a bit nervous about  
25 talking to the press and so on.  
26

27 HIS HONOUR: You wouldn't dispute that email was totally  
28 consistent with Maggie Dawkins' evidence.  
29

30 MR ELLIS: It is consistent with Maggie Dawkins' evidence,  
31 indeed with Ms Stroud's evidence.  
32

33 HIS HONOUR: I suggest you are drawing a long bow in  
34 hindsight to try and construe this in a way that makes it  
35 consistent with your client's evidence.  
36

37 MR ELLIS: We say it is consistent with our client's  
38 evidence, in the sense that Ms Stroud has never denied that  
39 Mrs Dawkins raised the question of sexual abuse in the first  
40 telephone call. All we say is that Ms Stroud did not know  
41 the other reason - if there were two reasons, if we could  
42 put it that way - a behaviour and a sexual abuse; Ms Stroud  
43 fully recognised the question of behaviour because she is  
44 on the ground, she can hear people talking, she can see  
45 what was happening. At the time it was all happening she  
46 was not aware of the particular allegation against Dennis  
47 McKenna until Maggie Dawkins rang and said, "Dennis

1 McKenna. Sexual abuse. Get Peter to call me". We say it  
2 is not inconsistent with Ms Stroud's evidence. It is not  
3 inconsistent with Ms Stroud's evidence that we do not  
4 believe it opens the door for a conclusion for adverse  
5 finding.

6  
7 If I just might go back to that point, I look at  
8 paragraph 18 on page 4 of learned Counsel Assisting's  
9 letter to us. It is written towards the end of the  
10 paragraph at the bottom:

11  
12 If it was otherwise, it would defy logic  
13 for Mrs Dawkins to suggest to Sturmer that  
14 he contact Ms Stroud.

15  
16 We do not see any problem with that because the  
17 conversation that Ms Stroud and Mrs Dawkins had in September  
18 was brief, relatively polite and there was general  
19 agreement that the issue of sexual abuse had been raised in  
20 the 1985 conversation. We would put it in the terms that  
21 Mrs Dawkins had a scenario in her mind and Ms Stroud had a  
22 scenario in her mind, and they were not in fact the same  
23 set of ideas; they were quite different. They were polite  
24 about it. May have gone different ways and each party  
25 might have thought that the other actually agreed with  
26 them. It was not until the second conversation that they  
27 found that they had a fundamental disagreement as to the  
28 reason why Mrs Dawkins was removed from Katanning.

29  
30 When it says:

31  
32 Mrs Dawkins would only have done so if  
33 Ms Stroud had essentially agreed with her  
34 version of events.

35  
36 Well, in the first conversation they did essentially agree  
37 with the version of events. That is, that Mrs Dawkins did  
38 raise the question of sexual abuse and that the  
39 conversation was brief and there was no lengthy discussion  
40 about the alternative reason why Mrs Dawkins was removed  
41 from Katanning; that was because of her raising the  
42 allegations of sexual abuse.

43  
44 Learned Counsel Assisting has suggested that  
45 Mr Sherlock is the only one who agreed with Mrs Dawkins'  
46 version of events. We say that is entirely understandable.  
47 The reason why, Mr Sherlock was the general manager, the

1 manager of the program. Ms Stroud was a field officer. It  
2 was her job to marshal the resources and co-ordinate the  
3 events in the field, if you like. She was provided with a  
4 car. She could drive to the various sites around the  
5 south-west, more or less providing the resources, talking  
6 to the people who were inventing the resources for the  
7 participants to use so they could learn the life skills and  
8 become self-supporting.  
9

10 Mr Sherlock was, if you like, the office-bound person.  
11 He was the person who was receiving information. He had  
12 managerial control of the events which were occurring  
13 within the program. For something to happen within the  
14 program which Ms Stroud says she had no knowledge of, it is  
15 entirely feasible. For example, if there is a serious  
16 allegation, separate set of allegations against another  
17 person which may have impact or ramifications for  
18 industrial relations, contracts of employment and so on, it  
19 is entirely feasible for Mr Sherlock, as would be his  
20 obligation of confidentiality between the employees and  
21 duty of good faith, would not disclose that information to  
22 other employees, including Ms Stroud. It is entirely  
23 feasible for us to suggest that of course Mr Sherlock had  
24 an understanding of the circumstances, which concurs on the  
25 face of it more readily with Mrs Dawkins, because he was in  
26 a position of managerial control and knowledge of the  
27 individual participants and employees of the program,  
28 whereas Ms Stroud didn't.  
29

30 HIS HONOUR: It is Mr Sherlock's evidence to the effect  
31 that he may well have disclosed it to her.  
32

33 MR ELLIS: We know that the word "thought" is used. That  
34 suggests to us something less than "I am sure I would have"  
35 or "I am confident I did". Mr Sherlock cannot recall a  
36 particular event, a morning tea, a birthday party in the  
37 office, a cake, or anything where maybe this was bandied  
38 around. He is not saying that. Whereas, if you look at  
39 Mr Kenyon and Mr Carter, they appear to be in concurrence  
40 with Ms Stroud's understanding and the reason why, because  
41 they, like Ms Stroud, although slightly senior, were  
42 nonetheless middle-level employees of the program and they  
43 were not in possession of knowledge that Mr Sherlock would  
44 inevitably have come to his hands as the general manager or  
45 manager, director, the overall controller of the program,  
46 who had essentially the hire and fire of people within the  
47 program.

1  
2           It is entirely feasible for us to suggest that  
3 Mr Sherlock was in possession of knowledge that the other  
4 people in the group weren't. For example, when Mr Sherlock  
5 gave evidence that he had a telephone call from Dennis  
6 McKenna, it is entirely sensible or feasible for all the  
7 other people to say, including Ms Stroud, she didn't know  
8 that. Mr Sherlock did not come to the office and stand  
9 around the water cooler one day and tell you, "that guy  
10 rang me up again and burned my ear off". He would not have  
11 done that, particularly what was said and particularly  
12 given his evidence about his reaction to the call.

13  
14           When it is suggested that because Mr Sherlock's  
15 version of events concurs with Mrs Dawkins therefore  
16 Ms Stroud's evidence must be wrong or incorrect,  
17 incomplete, we say that is not a plausible conclusion to  
18 draw. We say they are entirely reasonable and explainable  
19 circumstances why Ms Stroud was not in possession of  
20 certain bits of knowledge which only come out through this  
21 oral process. The conclusions, with respect, that the  
22 learned Counsel Assisting have drawn we say should not be  
23 drawn and we disagree with them.

24  
25           Learned counsel has invited us to make written  
26 submissions by early next week. We propose to avail  
27 ourselves of that opportunity.

28  
29 HIS HONOUR:    You are most welcome to.

30  
31 MR ELLIS:      We will do that. Probably on that note there  
32 is not much more for us to say, unless you have more  
33 questions.

34  
35 HIS HONOUR:    Thank you for that. Anything in reply,  
36 Mr Urquhart?

37  
38 MR URQUHART:   Just very briefly, sir. I found the passage  
39 of Mr Sherlock's evidence regarding what he thought he  
40 might have said to Ms Stroud after the telephone call that  
41 he had with Dennis McKenna on that Saturday night in 1985.  
42 It is at page 1566. I asked:

43  
44           Q.     Did you tell Maggie Dawkins about this  
45           telephone call you had from Dennis McKenna?

46           A.     My recollection is yes, I did. But I  
47           think we, the group, if you like, or at

1 least Elizabeth and I, had decided to swap  
2 the Bunbury coordinator for Mrs Dawkins.

3

4 Q. Was that decision made fairly soon  
5 after you had that telephone call from  
6 Mr McKenna?

7 A. I think it would have been in just the  
8 next few days.

9

10 Q. You mentioned the name "Elizabeth".  
11 Are you referring to Elizabeth Stroud?

12 A. Yes, I should be more specific;  
13 Elizabeth Stroud.

14

15 Q. Did she have some input in what was  
16 going to happen with Maggie Dawkins, did  
17 she?

18 A. My recollection is that we both did.

19

20 Then this question:

21

22 Q. I gather from that that you would have  
23 mentioned to Ms Stroud about the fact that  
24 Dennis McKenna had rung you on this  
25 Saturday night?

26 A. Yes, I would think so.

27

28 I have heard what my learned friend has to say about  
29 submitting that the email that Ms Stroud sent to the  
30 reporter is actually consistent with what her evidence has  
31 been to the Inquiry this year, but I just simply make the  
32 observation that that response to the reporter as emailed  
33 doesn't say that her recollection was that Mrs Dawkins was  
34 removed because of her inappropriate behaviour as a group  
35 leader of the Katanning Westrek project. It would have  
36 been a simple exercise to do that if that in fact was  
37 Ms Stroud's recollection at that time.

38

39 That version that she was removed because of  
40 inappropriate behaviour is entirely consistent with Ian  
41 Carter's account and also Peter Kenyon's account. But with  
42 respect to Mr Carter, Ms Stroud admitted that she spoke to  
43 Mr Carter between the first and second telephone calls that  
44 she had with Mrs Dawkins.

45

46 With respect to Ms Stroud's evidence that she  
47 contacted the reporter, she says on 27 September, to

1 clarify the contents of her email, I do not take issue with  
2 that. But it has to be put in the context that she, at  
3 some stage after sending that email and before she spoke to  
4 Mrs Dawkins in October, had spoken to Ian Carter who had  
5 that different recollection and that did become Ms Stroud's  
6 recollection at the Inquiry this year.

7  
8 They are the only observations I wish to make, thank  
9 you, sir.

10  
11 HIS HONOUR: Very well. We will await your written  
12 submissions. Thank you, Mr Ellis. Yes, Mr Urquhart?

13  
14 MR URQUHART: Thank you, sir. It is now appropriate that  
15 I deal with Mr Kenyon and Mr Carter. They were two members  
16 of the Westrek management team who were summoned to the  
17 Inquiry. I had given very careful consideration as to  
18 whether there was a case that these two men must have known  
19 in 1985 that Mrs Dawkins was removed from Katanning to  
20 Bunbury in order to appease Dennis McKenna and avoid any  
21 controversy surrounding Westrek. However, I have decided  
22 not to recommend that an adverse finding be made against  
23 either of these men, as I am not satisfied that the  
24 standard of proof as set out in the 1938 High Court  
25 decision of *Briginshaw v Briginshaw* would be met.

26  
27 Similarly, sir, with the fourth member of the Westrek  
28 management, who appeared at the Inquiry, Mr Peter Sherlock,  
29 I have reached the same conclusion as I have with Mr Kenyon  
30 and Mr Carter, again after very careful consideration.

31  
32 I will just simply note this, that in one respect  
33 Mr Sherlock's evidence stood out like a beacon when  
34 compared with his three Westrek colleagues. He was the  
35 only one who recalled that the shadow of Dennis McKenna in  
36 1985 had cast itself from Katanning all the way to the St  
37 George's Terrace building where Westrek's head office was.

38  
39 If I can now turn my attention to --

40  
41 HIS HONOUR: Before you leave Mr Sherlock, the key point  
42 with him is that he was told of an allegation against  
43 Dennis McKenna. He also told that Maggie Dawkins had been  
44 to the police with that allegation. It is for that reason  
45 that he decided to do nothing further. My tentative view  
46 is that in those circumstances it wasn't unreasonable for  
47 him to do nothing further, if he believed it was in the

1 hands of the police.

2  
3 In the end, the fact that the staff at Westrek did  
4 nothing about the allegation essentially because  
5 Mr Sherlock had been told, correctly, that Maggie had been  
6 to the police and, therefore, if in fact Maggie had gone to  
7 the police there is a lot of responsibility that rests in  
8 that direction in terms of why nothing happened at the  
9 time.

10  
11 MR URQUHART: It does, sir. I do not take any issue with  
12 what your Honour has to say about that. That, therefore,  
13 is a good way of now leading to the matter with respect to  
14 Inspector William Todd. I have one recommendation of an  
15 adverse finding with respect to him. I should also add,  
16 sir, there is no counsel present for Mr Todd today. I have  
17 been informed of that fact. What will take place - I have  
18 been advised of this last night from a lawyer who Inspector  
19 Todd has spoken to just only very recently, but who will  
20 not be representing Mr Todd, but however he will be having  
21 a lawyer engaged for Mr Todd who will make a written  
22 submission in response to this recommendation. That should  
23 be forthcoming in the next week-and-a-half or so.

24  
25 HIS HONOUR: Very well.

26  
27 MR URQUHART: The adverse finding recommendation I make  
28 with respect to this person is this: In his capacity as a  
29 police officer at the Katanning Police Station in 1985  
30 Mr Todd did not take any action regarding advice he  
31 received from Maggie Dawkins that an ex-student from the  
32 Katanning Hostel had been sexually abused by the Warden  
33 Dennis McKenna whilst a student at the Hostel.

34  
35 As I have already said, and I now go in my submission  
36 to the evidence in support of that finding, Mrs Dawkins  
37 gave evidence to the Inquiry on 23 February. After  
38 describing the occasion in which an ex-student from the  
39 Hostel told her that he had been sexually abused by Dennis  
40 McKenna she stated, at transcript page 238:

41  
42 I wasn't sure if these serious allegations  
43 were true. I had a gut feeling they were,  
44 but I was uncertain how to act  
45 appropriately to have them investigated. I  
46 first went to see the local policeman,  
47 Mr Bill Todd. We had a warm working

1 relationship. He assisted me when I first  
2 arrived in town with a 14-seater bus and no  
3 licence to drive it. Mr Todd kindly gave  
4 me some lessons and then took me through  
5 the tests. I felt comfortable going to  
6 Mr Todd seeking advice on this matter. He  
7 said that he needed a statement with names,  
8 dates, times, et cetera. Mr Todd warned me  
9 of the severity of the allegations being  
10 made against "the golden boy" of Katanning,  
11 Dennis McKenna, who was then Citizen of the  
12 Year.

13  
14 I recall Mr Todd making a comment along the  
15 lines that he had to live in the town while  
16 I would leave when my contract expired. I  
17 asked him what I should do to have the  
18 allegations brought to someone in authority  
19 who could act to investigate them. Mr Todd  
20 advised me that I had very little to go on,  
21 maybe I should contact my supervisor.

22  
23 At page 265 Mrs Dawkins stressed that she was not making a  
24 complaint to Mr Todd. She stated on that page:

25  
26 It wasn't a complaint. It wasn't anything  
27 other than I was asking somebody I had a  
28 good working relationship with what I  
29 should do.

30  
31 Now, when Mr Todd testified on the first occasion before  
32 the Inquiry on 20 March of this year he stated that he had  
33 no recollection of receiving a "complaint of that nature".  
34 He also said that if he had received such a complaint that  
35 the police would have responded immediately.

36  
37 Now, I had Mr Todd recalled on 20 June. One reason  
38 for that was to clarify with him that Mrs Dawkins had  
39 certified that she was not making a "complaint". Now the  
40 examination of Mr Todd on 20 March and his responses gave  
41 the impression that Mrs Dawkins' approach to Mr Todd was in  
42 the matter of a complaint, as the police referred to it.  
43 So I, therefore, asked Mr Todd when he was recalled on  
44 20 June these questions - this is pages 3813 and 3814:

45  
46 Q. Now, I would like to ask you this: In  
47 those circumstances would you have

1 necessarily, if it happened, would you  
2 necessarily have recorded this conversation  
3 in the station's occurrence book?  
4

5 The circumstances being, sir, that this was not, insofar as  
6 Mrs Dawkins was concerned, a formal complaint.  
7

8 HIS HONOUR: Not a formal complaint.  
9

10 MR URQUHART: Exactly. His answer was this:  
11

12 If anyone had of come to me with this  
13 matter, like she has mentioned here,  
14 whether she wanted to make an official  
15 complaint or whether she was just passing  
16 on information, or whether it was by way of  
17 anonymous contact through a letter or a  
18 phone call, we would have responded  
19 straight away. My evidence that I gave in  
20 this inquest, previous inquest --  
21

22 Of course that should read "Inquiry" --  
23

24 I don't know this lady. I don't recall her  
25 at all, anything of what she said about a  
26 bus or anything. And that I said if anyone  
27 ever come to me, I am sure nobody spoke to  
28 me about this matter while I was in  
29 Katanning because the WA Police would have  
30 responded immediately. Now, whether it was  
31 in the form of a complaint or an anonymous  
32 phone call or letter or just information  
33 might have been picked up around the traps  
34 we would have responded in some way.  
35

36 Then I asked:  
37

38 Q. Would you have made an entry into the  
39 occurrence book?

40 A. Yes, I would imagine it would have  
41 gone in under "complaint", her name and so  
42 forth or "anonymous information received",  
43 or just "information received". But it has  
44 got to be logged there so that the matter  
45 can be finalised. That's the purpose of  
46 recording it in an occurrence book.  
47

1 Then I asked:  
2

3 Q. What if - again I use "if" because I  
4 know what you have to say about this - but  
5 what if Mrs Dawkins had said to you that  
6 the young man who told her about being  
7 sexually abused by Dennis McKenna didn't  
8 want to make a complaint to the police,  
9 would have your response or action been any  
10 different?

11 A. We would have done - we would have  
12 done something if somebody had come and  
13 told us anything. I mean, if she had of  
14 said, "Look, this boy's been interfered  
15 with but he doesn't want to make a  
16 complaint", we still would have made some  
17 inquiries.  
18

19 Now, sir, I asked that final question not because that was  
20 the evidence of what Mrs Dawkins said she said to Mr Todd,  
21 but rather she had been told by that ex-student who told  
22 her about this that he had said to her that he didn't want  
23 to make a complaint to the police. It might have been that  
24 might have arisen --  
25

26 HIS HONOUR: Might have been said.  
27

28 MR URQUHART: Might have said by Mrs Dawkins in her  
29 conversation with Mr Todd and so, therefore, I was  
30 exploring with Mr Todd whether if that had been said would  
31 he said his response would have been any different. Of  
32 course in Mr Todd's case this was a hypothetical because he  
33 was denying in fact that Mrs Dawkins had ever spoken to him  
34 about this.  
35

36 Mr Todd continued with his evidence on the second  
37 occasion that he was called here that if Mrs Dawkins had  
38 raised this matter with him he would have made some, what  
39 he described as, "covert inquiries", as one of his police  
40 cadets was living at the Hostel at the time and that the  
41 Albany CIB, as it then was, now the Albany Detectives  
42 Office, also would have been advised straight away.  
43

44 Now, in light then of Mr Todd's evidence that he gave  
45 on the second occasion just last week, in my submission it  
46 is open for your Honour, should you accept the evidence of  
47 Mrs Dawkins, to find that Mr Todd did not have the matters

1 raised by Mrs Dawkins investigated. The Inquiry has found  
2 no evidence that any action was taken by either the  
3 Katanning Police or the Albany CIB with respect to the  
4 information that Mrs Dawkins says she provided to Mr Todd.  
5 There is no entry, for example, in the Katanning Police  
6 Station's occurrence book.

7  
8 Sir, your Honour has already clarified this, but I  
9 will put it on the record as well, because it is my  
10 submission, as well as the observations that your Honour  
11 has made, that Mr Todd's inaction did have a flow-on  
12 effect. As your Honour has said, Peter Sherlock's evidence  
13 was that Mrs Dawkins also provided him with information  
14 relating to misconduct of a potentially sexual nature by  
15 Dennis McKenna towards boys at the Hostel. Mr Sherlock did  
16 not take any further action himself, as he was aware that  
17 Mrs Dawkins had already raised it with police. He,  
18 therefore, concluded it was in the hands of the appropriate  
19 authority to investigate the matter.

20  
21 However, as I have already outlined with respect to  
22 Mr Todd's recommendation I am making, it would appear that  
23 no investigation was undertaken.

24  
25 HIS HONOUR: Before you go on I think I should clarify the  
26 remarks that were made in relation to Mr Sherlock. I want  
27 to make it clear that I am keeping an open mind on the  
28 issue of whether or not Mrs Dawkins did in fact consult  
29 with Sergeant Todd, as he then was, about the allegation  
30 against McKenna. I will not make a decision on that until  
31 I have heard the submissions from Inspector Todd's counsel.  
32 But the point I was making previously in relation to  
33 Mr Sherlock was that he was told that Mrs Dawkins had been  
34 to the police at Katanning. He believed that to be true,  
35 and it was for that reason that Westrek did nothing about  
36 her allegation. That was the point I was making there.

37  
38 MR URQUHART: Also the fact is that there is no suggestion  
39 that Mr Sherlock was actually told the name of the police  
40 officer that Mrs Dawkins complained to; so he is not even  
41 saying it was Inspector Todd. He is simply saying he was  
42 advised that the police had been notified.

43  
44 I should also put on the record that I have not made  
45 any recommendation of a finding against Mr Todd in relation  
46 to the evidence of M. M, just very briefly, was a barmaid  
47 who testified just last week, that in 1985 she advised

1 Mr Todd about what she had heard from customers at the  
2 hotel where she worked about kiddie fiddling occurring at the  
3 Hostel. I say, "kiddie fiddling" only because that is the  
4 actual phrase that she heard.

5  
6 I have advised Mr Todd, however, in writing that the  
7 Inquiry is currently seeking further information in  
8 relation to M's evidence, and the evidence that he gave  
9 when I questioned him about that last week.

10  
11 HIS HONOUR: Can you just clarify why, on the evidence as  
12 it stands, you are not seeking adverse finding in respect  
13 of that matter?

14  
15 MR URQUHART: At this point in time, sir, I am not  
16 satisfied that again the standard of proof could be met  
17 given Mr Todd's response as to why it was that M could not  
18 have possibly spoken to him at the time that she said she  
19 did. She said it was just after closing time. She was  
20 cleaning up when Mr Todd arrived at the hotel, in police  
21 uniform, and it was then that she had this conversation  
22 with him. Mr Todd gave emphatic evidence that that could  
23 not possibly have been him because he didn't do any evening  
24 shift work. It is on that basis he was saying --

25  
26 HIS HONOUR: Isn't it a credibility issue? If I believe  
27 the witness M that this happened, and deciding whether or  
28 not I believe her, I can have regard to the conflict in the  
29 evidence between Mrs Dawkins and Inspector Todd.

30  
31 MR URQUHART: Yes.

32  
33 HIS HONOUR: And these two incidents occurred at roughly  
34 the same time; it was either 1985 or 1986. As I see it, I  
35 can look at the evidence of both Mrs Dawkins and the witness  
36 M. In one sense, to some degree, they corroborate each  
37 other; not about the particular complaint or the issue that  
38 was raised but the fact that matters of that type were  
39 raised with Sergeant Todd. My tentative view is that it is  
40 open to me to make an adverse finding in respect of M's  
41 evidence. I think I should put that on record. That needs  
42 to be addressed by Inspector Todd's counsel.

43  
44 MR URQUHART: Very good, sir. Indeed, as I anticipate it,  
45 further inquiries by the investigators have unearthed some  
46 additional information that may lead to that possibility.  
47 As I said, sir, it is an exercise that can be undertaken to

1 determine the reliability of Mr Todd's recollection that he  
2 would not have been on duty in the evening. It was on that  
3 basis that he was saying that that could not have been him;  
4 that police officer that M spoke to could not have been  
5 him. If in fact evidence emerges, reliable, credible  
6 evidence which emerges that, yes, in fact he did work at  
7 night time and that he did frequent hotels in the evening  
8 then, of course, sir, this matter would have to be looked  
9 at again. As your Honour has said, it becomes a  
10 credibility issue. If there was evidence independent of  
11 M which establishes that he did frequent hotels in uniform  
12 in the evening, then that would bolster M's credibility.  
13

14 HIS HONOUR: The point I am making, even without any  
15 further evidence, I can see that finding is open to me. M  
16 identified Sergeant Todd from a photograph in a newspaper.  
17 I do not think there is much room for her to be mistaken  
18 about these matters, and that is whether she is telling the  
19 truth.  
20

21 MR URQUHART: Yes, sir. That is all I intend to say with  
22 respect to Mr Todd. I can move now on to Ainslie Evans.  
23 Again I state before I begin my address with respect to  
24 Mrs Evans, she has provided a written statement in response  
25 to my letter which set out these adverse finding  
26 recommendations. She has, however, requested that that  
27 letter not be read out to the Inquiry, and that will be the  
28 case. However, that will be information that your Honour  
29 will consider when your Honour makes your own final  
30 determinations.  
31

32 HIS HONOUR: Something needs to be clarified here. There  
33 are different types of adverse findings open to me. There  
34 is the adverse finding against a public official which  
35 falls within my terms of reference, as to lack of action or  
36 whatever that finding might relate to. There is also, as a  
37 matter of law, a requirement when there is any finding  
38 which might impact on the individual witness' reputation to  
39 accord that witness procedural fairness. It is in this  
40 context that I see Ainslie Evans, the issues arising in  
41 respect of her to be relevant because as a matter of law  
42 and interpretation of the legislation she was not a public  
43 official at the time.  
44

45 MR URQUHART: That is correct.  
46

47 HIS HONOUR: That is my tentative view. Nevertheless, she

1 appears to have had a key role in the events surrounding  
2 what public officials did or did not do and, therefore, if  
3 I was not to believe her evidence that would be an adverse  
4 finding which she is entitled to procedural fairness in  
5 respect of. It is in that context that I look at her.  
6

7 MR URQUHART: Thank you, your Honour. There are two  
8 adverse finding recommendations I make in that context. I  
9 will read out the first and then I will summarise the  
10 evidence that I submit supports that recommendation. The  
11 first is: Although Mrs Evans was a town Councillor and the  
12 community liaison officer for Westrek in 1985 she did not  
13 take any action regarding advice she had received from  
14 Maggie Dawkins that an ex-student from the Katanning Hostel  
15 had been sexually abused by the Warden Dennis McKenna  
16 whilst a student at the Hostel.  
17

18 The evidence in support of that finding is as follows:  
19 Mrs Evans has been an elected member of the Shire of  
20 Katanning since 1983 to the present, save and except for  
21 several months in 1991. In 1985 she was the Chairperson of  
22 the Westrek committee, which had been established to  
23 oversee the team of participants in the Westrek program  
24 undertake projects. That project commenced in July of 1985  
25 and Mrs Evans played the role of community liaison officer.  
26 In that role she liaised with Mrs Dawkins, who, as we all  
27 know, was the group leader for the Katanning Westrek  
28 project.  
29

30 Mrs Dawkins gave evidence to the Inquiry on  
31 23 February regarding a complaint that she had received  
32 from a young man who had been a former student at the  
33 Hostel that we are all aware of. He had asked her to have  
34 the activities of Dennis McKenna investigated. Mrs Dawkins  
35 says that after speaking to Sergeant Bill Todd and then her  
36 Westrek supervisor, Elizabeth Stroud, Mrs Dawkins raised  
37 her concerns with Mrs Evans some time towards the end of  
38 1985. As to her conversation with Mrs Evans she stated -  
39 this appears at transcript pages 239 and 240:  
40

41 I sought Mrs Evans' assistance to have the  
42 allegations of sexual abuse by former  
43 resident of St Andrews investigated. She  
44 did not for a moment focus on the  
45 allegations but lost her composure,  
46 berating me for daring to besmirch the  
47 glowing reputation of Dennis McKenna, who

1 was Citizen of the Year. I tried in vain  
2 to convince Mrs Evans that it wasn't a case  
3 of believing me against Dennis McKenna. I  
4 appealed to her to have the allegations  
5 investigated. I became a pariah for  
6 raising these concerns and was on the  
7 receiving end of a tirade of verbal abuse.  
8 My vivid recollection of this meeting was  
9 that I was surprised at Mrs Evans' loss of  
10 control and her down right refusal to agree  
11 to raise these allegations with anyone  
12 else, let alone to have them investigated.  
13 With Ms Elizabeth Stroud's support I  
14 assumed we, that is Mrs Evans, Ms Stroud and  
15 I, would have Dennis McKenna's activities  
16 at St Andrew's Hostel investigated.  
17 Naively, as it turned out, I thought that  
18 Mrs Evans would alert others, for example,  
19 the Board of the Hostel to these  
20 allegations.

21  
22 I made it clear to Mrs Evans that it was  
23 not up to her to judge whether these  
24 allegations had substance or not. It was  
25 important that others, such as the Country  
26 Hostels Association or the Education  
27 Department investigate, or some other body  
28 outside of Katanning. Mrs Evans asked me  
29 to name the boy who had come to me. When I  
30 divulged his name she dismissed him as  
31 "nothing but trouble". I volunteered to  
32 Mrs Evans that it was quite possible that  
33 his troublesome behaviour was a direct  
34 result of sexual abuse by Dennis McKenna.  
35 She was not interested in my views or in  
36 having these concerns investigated. She  
37 told me that she would contact my  
38 supervisors, and have me removed  
39 immediately. During the course of the  
40 meeting, Mrs Evans turned from a warm  
41 motherly person into an aggressive  
42 vindictive woman, out to have me sacked.

43  
44 When she gave evidence at the Inquiry on 12 April this  
45 year, Mrs Evans said that she did not believe Mrs Dawkins  
46 said anything like that to her. She stated that  
47 Mrs Dawkins only complained to her that Dennis McKenna had

1 too much power over the students. She said that if  
2 Mrs Dawkins had said something to her along those lines,  
3 she would have expected to have recalled it.  
4

5 Mrs Evans' evidence, however, did indicate that had  
6 she been told about the matter as recounted by Mrs Dawkins,  
7 her response would have been very similar to how  
8 Mrs Dawkins recalled her response. Mrs Evans stated that  
9 she would have found it hard to believe, because of Dennis  
10 McKenna's reputation, and the poor reputation, if she knew  
11 it existed, of the ex-student.  
12

13 She also agreed that she would have believed such an  
14 allegation was unfounded, and agreed that if she was told  
15 this, she would have dismissed it and not done anything  
16 about it. Mrs Evans also agreed that if this allegation  
17 was to be aired publicly within the community, it would  
18 have impacted on the good standing the Hostel had gained,  
19 and it would have also impacted on the reputation of Dennis  
20 McKenna, who was a highly respected member of the community  
21 at the time.  
22

23 Mrs Dawkins also testified as to a telephone  
24 conversation she had with Mrs Evans in 1991. Her evidence  
25 in this regard appears at 244 and 245:  
26

27 After the 1991 court case when Dennis  
28 McKenna was convicted, I phoned Mrs Evans  
29 and asked her how she felt about what had  
30 transpired between us in 1985. She  
31 explained to me that she felt an obligation  
32 to the town, as the economic benefits of  
33 having the Hostel were considerable.  
34 Mrs Evans said I threatened the  
35 continuation of this economic prosperity,  
36 and she was not concerned that I had  
37 suffered as a result. When I pressed  
38 Mrs Evans to express any remorse towards  
39 the victims, she refused.  
40

41 Though Mrs Evans denied in her evidence Mrs Dawkins'  
42 account that she had no remorse, she stated the following  
43 with respect to her recollection of this conversation: one,  
44 the purpose of Mrs Dawkins' call was for her to tell  
45 Mrs Evans that she was right and Mrs Evans was wrong; two,  
46 that she didn't doubt that she would have said to  
47 Mrs Dawkins that she had threatened the economic prosperity

1 of the town; and, three, with regard to anything that was a  
2 threat to the Hostel, Mrs Evans would have supported the  
3 Hostel because "we" - that is the town of Katanning -  
4 "needed it". That's at page 1716.

5  
6 In my submission, sir, it's open for you to be  
7 satisfied on the evidence that Mrs Evans dismissed  
8 Mrs Dawkins' allegations that Dennis McKenna had sexually  
9 abused an ex-student, because her primary concern was that  
10 of the financial prosperity brought to Katanning by the  
11 Hostel, and that that prosperity not be threatened.  
12 Mrs Evans conceded in her evidence at 1712 that:

13  
14 Perhaps at the time I saw her as some sort  
15 of threat to it.

16  
17 "It" being a reference to the Hostel. She also said at  
18 1713 that:

19  
20 Because Dennis was the epitome of the  
21 Hostel, that I saw the Hostel being under  
22 threat if Dennis wasn't part of it.

23  
24 Instead of simply dismissing Mrs Dawkins' complaint  
25 outright, in my submission Mrs Evans could have referred  
26 the matter to any one or more of the following entities as  
27 a Councillor, or instructed Mrs Dawkins to do so in  
28 Mrs Evans' capacity as liaison officer for the Westrek  
29 program. So these entities could have been at the  
30 Katanning Hostel Board, the Country High Schools' Hostel  
31 Authority, the Department of Education, or the police.

32  
33 With respect to the second adverse finding  
34 recommendation, that reads:

35  
36 Although Mrs Evans was a town Councillor in  
37 1985, she did not take any action regarding  
38 advice she had received from --

39  
40 The witness identified as "M":

41  
42 -- that there was "kiddie fiddling" taking  
43 place at the Hostel.

44  
45 The evidence in support of that submission is that "M" gave  
46 evidence before the Inquiry on 18 June of this year. She  
47 and her family moved to Katanning in January 1985 after her

1 then husband was transferred there by the Public Service.  
2 In the second half of 1985, she commenced a part-time job  
3 as a barmaid at the Federal Hotel in Katanning. She stated  
4 that after she began working there, she began to hear brief  
5 snatches of conversations from customers about the  
6 Katanning Hostel and the "kiddie fiddling" that was taking  
7 place. She noted at 3686:

8  
9 Over the months it was just so often, but  
10 very different people. It wasn't just the  
11 same group talking about the same thing all  
12 the time.

13  
14 I asked her whether she raised it with anyone. Her answer  
15 at 3688 is as follows:

16  
17 Yes, I did. Because it kept on, it wasn't  
18 just - sorry. Because it wasn't - it  
19 wasn't just a five-minute topic that went  
20 away. Because it built up over time, I  
21 thought, "What is going on?", and, yes, I  
22 did. I spoke to Ainslie Evans. Because by  
23 that time I had been in Katanning a little  
24 while and Ainslie Evans was connected with  
25 everything, and I ran into her one day down  
26 the street and I spoke to Ainslie Evans and  
27 I said to her - I had met her a few times  
28 by then so I knew who she was, and I spoke  
29 to her and I said, "There's an awful lot of  
30 talk about the Hostel and the kids and  
31 'kiddie fiddling'. What is going on at the  
32 Hostel?" And she said "Nothing. The  
33 Hostel is fine. They are all really good  
34 people. Everything is fine at the Hostel.  
35 There are no problems. Everything is  
36 fine."

37  
38 "M" then goes on to say:

39  
40 She was very polite. She didn't want to  
41 discuss it with me. So I tried to say,  
42 "Look, I've heard, I keep on hearing it",  
43 and she didn't want to discuss it with me.  
44 She said, "Everything is fine" and - well,  
45 she turned around and walked away.

46  
47 It is clearly evident from "M"s evidence that she spoke to

1 Mrs Evans in her capacity not just as a Councillor, but as  
2 a Councillor who "M" had been told was the one to contact  
3 if anyone wanted anything done in Katanning. She, of  
4 course, felt that Mrs Evans could have had a look into the  
5 situation and spoke - and would speak to other people.  
6

7 It is open for your Honour to find, in my submission,  
8 that Mrs Evans, as a Councillor, simply stated to "M" that  
9 everything is fine, and that she did not take any action in  
10 response to "M"s concerns. Mrs Evans, therefore, did not  
11 raise the matter herself, or suggest that "M" do so with  
12 any of the following entities, and they are the same  
13 entities that I have cited in relation to the matter of  
14 Mrs Dawkins' account - and that is the Katanning Hostel  
15 Board, the Country High School Hostels Authority, the  
16 Department of Education, or the police.  
17

18 Sir, if I could now deal with Peter Bachelard-Lammas.  
19 He was the administrative assistant to the Country High  
20 School Hostels' Authority from 1982 to 1990. I have made  
21 one adverse finding recommendation against Mr Lammas.  
22 Again, sir, he has been advised of that. He has provided a  
23 written response to that recommendation; but he, too, has  
24 requested that he does not require that to be read out, and  
25 that he will not have any legal representation here this  
26 morning to make oral submissions on his behalf.  
27

28 Sir, the adverse finding recommendation I make against  
29 Mr Lammas is as follows:  
30

31 Failing to ensure that a proper Inquiry was  
32 undertaken in 1986 by the Katanning Hostel  
33 Board regarding the assertion by Mr William  
34 McPharlin and Mrs Glenys Flanigan that  
35 their two children were removed from the  
36 Hostel because they both complained of  
37 "suspicious suggestions" to them by the  
38 Warden Dennis McKenna.  
39

40 Now, as I said, sir, Mr Lammas was the Administrative  
41 Officer from 1982 through to his resignation on 27  
42 September 1990, and I should just clarify - that is, in  
43 fact, the same date, coincidentally, that Dennis McKenna  
44 was charged for the first time. The two events are  
45 completely unconnected to each other. Mr Lammas had  
46 already announced to the Authority that he was resigning  
47 earlier that month.

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Now, in that position Mr Lammas's role was to act as a conduit between the Boards and the Authority, and that was his evidence. Now, it is open on the evidence, in my submission, for your Honour to find that the letters marked exhibit 11.1, which was a letter to Colin Philpott from Coral Trezise, and exhibit 8, which was the handwritten letter from Mr McPharlin and Mrs Flanigan that was attached to that letter - which we have referred to throughout the Inquiry, and, indeed, during other closing addresses as the "suspicious suggestions" letter - and it's open to find that they were forwarded by Mr Lammas at the direction of the Authority's Chairman, Mr Philpott, to Mr Wilkinson, who at that time was Chairman of the Katanning Board.

Mr Philpott testified that this material was forwarded to Mr Wilkinson so that the Board could take action in relation to the last sentence that appeared in Mr McPharlin / Mrs Flanigan's letter, which read:

The children were removed because they both complained of suspicious suggestions made to them by the Housemaster, one Dennis McKenna.

And it is evident from the evidence that has been led that this forwarding of the letter would have taken place between - sometime between 20 September or thereabouts, and 8 October 1986.

Now, it is also evident that prior to 8 October 1986, a firm of solicitors had been engaged by Mr Wilkinson and Dennis McKenna, the fees for which were paid by the Authority, to write to Mr and Mrs Trezise and Mr McPharlin and Mrs Flanigan, seeking an immediate retraction of the suspicious suggestions assertion under the threat of initiating court proceedings.

The minutes of the Katanning Board meeting on 22 October of that year, in which Mr Lammas attended, is detailed at item E under the title "Trezise", "Discussion", followed by, "The motion moved by B Hendry" and "Seconded by J Ireland":

Board endorses action taken by the Chairman and Warden in recent correspondence concerning Trezises carried.

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Now, Mr Wilkinson gave evidence before the Inquiry on 11 May this year. In his evidence he accepted that Dennis McKenna must have given him and the Board some explanation which satisfied them that there had been no sexual impropriety by him towards the children of Mr McPharlin and Mrs Flanigan. He conceded, however, that if a proper Inquiry was to be conducted, then Mr McPharlin and Mrs Flanigan should have been contacted to explain what behaviour of Dennis McKenna they were referring to when they stated that their boys had complained of "suspicious suggestions" made to them.

Mr Wilkinson did not contact Mr McPharlin and Mrs Flanigan to clarify what the "suspicious suggestions" were. Had he done so, he would have been informed that one boy had his fly on his pants undone by Dennis McKenna, whilst he was standing next to him in Dennis McKenna's office, and that the other son had complained that Dennis McKenna used to make comments to him like, "Do you want to warm up my bed"?

Mr Lammas's evidence was that he could not recall being at the Katanning Board meeting on 22 October 1986. The minutes, however, indicate that he was. It was also evident from the minutes that there was a discussion regarding this matter - and I should also add that Dennis McKenna is minuted as also being in attendance at this meeting. Mr Lammas conceded if nothing was said in that discussion regarding the matter about what the parents meant when they said "suspicious suggestions", and that if he was doing his job properly, he would have said in hindsight, "Well, hold on, what have the parents got to say about this?"

In light of the above, it's my submission that it's open for your Honour to find that Mr Lammas failed in his responsibility as the Authority's representative to raise with the Chairman of the Authority that the matter ought to be referred to the Department of Education. Alternatively, upon failing to raise the above with the Chairman of the Authority, he failed to ensure that this matter was properly investigated by the Board. In failing to do the latter, he permitted the Board to exercise preferential treatment to their Warden, to the potential detriment of students under the Warden's care.

1 Sir, they are the submissions I propose to make  
2 regarding Mr Lammas. Now, sir, I could do one more --

3  
4 HIS HONOUR: I think we'll do it.

5  
6 MR URQUHART: -- item before we have the morning break,  
7 and that is in relation to John Renk, who was a Katanning  
8 Board member for a number of years.

9  
10 Once more, sir, Mr Renk has responded in writing to my  
11 letter to him advising him of this recommendation and the  
12 reasons for it. We not only got a response from Mr Renk,  
13 but also from his wife. He has requested that those  
14 responses are actually read into evidence here this  
15 morning, and I will do that, sir, and I will extend the  
16 courtesy to Mr Renk of also reading out his wife's letter  
17 as well.

18  
19 But the one adverse finding recommendation I am making  
20 with respect to Mr Renk is this:

21  
22 That he failed to undertake a proper  
23 Inquiry as a member of the Katanning Hostel  
24 Board when advised of Dennis McKenna's  
25 sexual interference of boys at the Hostel  
26 in 1980 by Noel Parkin, and in late 1979 or  
27 early 1980 by Bruce Carmichael.

28  
29 Evidence in support of that finding, in my submission,  
30 is as follows: from an examination of the Board's minutes,  
31 it is evident that Mr Renk was elected as a member of the  
32 Board in October 1973. His last attendance at a Board  
33 meeting was in May 1986. He held the position of Secretary  
34 of the Board from at least 1977 until his retirement. He  
35 gave evidence to the Inquiry on 12 April of this year in  
36 which he said that he became the Regional Rural Officer for  
37 the Commonwealth Development Bank based in Katanning from  
38 December 1972.

39  
40 Noel Parkin was a parent who had children at the  
41 Hostel. He gave evidence before the Inquiry on 28 February  
42 this year. He said in 1980 he rang a number of Board  
43 members to complain that the Warden, Dennis McKenna, was  
44 interfering with boys at the Hostel. At page 585 of the  
45 transcript he stated that:

46  
47 I rang the bloke from a bank. I guess it

1           was the Commonwealth Bank. I think I told  
2           him --

3  
4           No, sorry, I'll read that again. It should read this:

5  
6           I rang the bloke from a bank. I guess it  
7           was the Commonwealth Bank, I think. I told  
8           him and he wouldn't listen to me and  
9           thought I was sick in the head.

10  
11          Evidence, sir, to put that in context from previous  
12          evidence that he had given, that when he said, "I told  
13          him", he's referring to the fact that he was complaining  
14          that Dennis McKenna was interfering with boys.

15  
16          HIS HONOUR: This was also in the context of him ringing  
17          Board members.

18  
19          MR URQUHART: Exactly right, sir, yes. As I said, sir, Mr  
20          Renk was on the Board in 1980, and investigations by the  
21          Inquiry have established that he was the only person  
22          employed by the Commonwealth Bank who was on the Board that  
23          year. The Inquiry has uncovered no evidence that Mr  
24          Parkin's complaint was raised with the Board or the Country  
25          High School Hostels Authority in or about 1980. An  
26          inference can therefore be drawn that if it's accepted, Mr  
27          Parkin spoke to Mr Renk, he failed to take any action.

28  
29          I should add, sir, when I say the Inquiry's uncovered  
30          no evidence that Mr Parkin's complaint was raised with the  
31          Board or the Authority, that is it was raised by third  
32          persons because, of course, it was also Mr Parkin's  
33          evidence that he raised in that same year this matter with  
34          the Authority in a rather colourful verbal exchange across  
35          the counter at the Authority's head office.

36  
37          In my submission, sir, by failing to refer Mr Parkin's  
38          complaint to the Board, it is open for the Inquiry to find  
39          that Mr Renk failed in his responsibility as a Board member  
40          to ensure the care and protection of those children who  
41          resided at the Hostel.

42  
43          Turning now to the second part of that recommendation  
44          I'm making, Bruce Carmichael was another parent who had  
45          children who attended the Hostel from 1979 to 1981. He  
46          gave evidence before the Inquiry on 28 February this year.  
47          Whilst they were at the Hostel, his children advised him

1 that Dennis McKenna, amongst other things, invited Hostel  
2 boys to his quarters, where he provided them with alcohol  
3 and showed them pornographic films.  
4

5 In 1979 Carmichael recalls obtaining a loan from the  
6 Commonwealth Development Bank to purchase a property. He  
7 dealt with one particular officer at that bank, whose  
8 Christian name was "John". During a meeting with this bank  
9 officer, Mr Carmichael was told by the officer that he was  
10 on the Board of the Hostel. It is evident that this person  
11 must have been Mr Renk. Mr Carmichael recalls that either  
12 towards the end of 1979 or the beginning of 1980 he rang  
13 this officer in his capacity as a Board member, and advised  
14 him that he, that is Mr Carmichael, had been told about  
15 boys being invited to Dennis McKenna's unit late at night  
16 and being provided with alcohol and allowed to view  
17 pornographic films. He asked Mr Renk to look into it. Mr  
18 Renk said that he would. Mr Carmichael told - recalled  
19 that Mr Renk rang him about two or three weeks later, and  
20 told him that he had checked it out and as far as he was  
21 concerned, there was not a problem. Mr Carmichael believed  
22 Mr Renk said something to the effect of, that he hadn't  
23 found a ripple on the water and everything in the garden  
24 was lovely.  
25

26 The Inquiry's examination of the Board's minutes and  
27 other evidence that it's gathered does not establish that  
28 Mr Carmichael's concerns were raised by Mr Renk to the  
29 Board. It is therefore open for your Honour to find that  
30 Mr Renk failed in his responsibility as a Board member to  
31 ensure that the children at the Hostel were being properly  
32 looked after by the Warden.  
33

34 Now, Mr Renk did give evidence to the Inquiry, but  
35 that was to the effect that he had no recollection at all  
36 of either Dennis McKenna or his time as a member of the  
37 Board. Now, at the time that he gave his evidence on 12  
38 April of this year, he attributed that loss of memory to a  
39 transitory ischemic I-S-C-H-E-M-I-C attack that he had  
40 suffered in 2000. An examination of Mr Renk's hospital  
41 records relating to that matter, and other inquiries by the  
42 Inquiry, has found no medical support that such a condition  
43 would be responsible for any memory loss, let alone the  
44 memory loss of the magnitude that Mr Renk contended.  
45

46 HIS HONOUR: In fact, that condition wasn't diagnosed in  
47 the hospital records.

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MR URQUHART: Sorry, sir?

HIS HONOUR: That condition was not diagnosed in the hospital records.

MR URQUHART: Well, yes. Even if it had been --

HIS HONOUR: Sorry.

MR URQUHART: Even if it had been, it wouldn't have been responsible.

HIS HONOUR: No.

MR URQUHART: Yes. Now, Mr Renk, having been provided with that information, has provided the Inquiry with further information. And that is regarding his diagnosis of sleep apnoea, which was made earlier this year. He also provided an article detailing some research, which shows that sleep apnoea can cause a loss of memory. Now, the Inquiry has sought a medical opinion from Mr Renk's treating physician - I won't name him - on the question of whether his sleep apnoea was the cause of his specific memory loss involving anything to do with Dennis McKenna, or his time as a Board member.

Now, initially the letter in response from this doctor, dated 12 June, was conspicuous by its brevity and lack of detail. It simply stated:

I would like to confirm that sleep apnoea can be associated with poor memory and concentration.

Upon receiving that short report, the Inquiry, through Mr Renk, requested that Mr Renk ask his doctor some specific questions that would deal with this issue because, of course, Mr Renk's evidence was that he couldn't recall anything to do with the Hostel Board.

HIS HONOUR: It was a very selective memory loss, because he only forgot things to do with the Hostel Board and Dennis McKenna and a couple of other very minor things, but apart from that he still had full recollection of his time with the bank and family events and that sort of thing.

1 MR URQUHART: Exactly, sir, yes.  
2  
3 HIS HONOUR: Yes.  
4  
5 MR URQUHART: Now, his doctor has declined the Inquiry's  
6 request through Mr Renk, to provide a more substantial  
7 report. He hasn't given a reason for that, but I suppose  
8 doctors have more pressing matters to attend to.  
9  
10 HIS HONOUR: So just to clarify, the doctor hasn't written  
11 direct to the Inquiry; is that right, or --  
12  
13 MR URQUHART: No, as I understand it, sir, this  
14 information has been obtained from Mr Renk. I could stand  
15 corrected.  
16  
17 HIS HONOUR: So the information via Mr Renk is that the  
18 doctor won't provide any further report?  
19  
20 MR URQUHART: Yes. Yes. But I might be wrong about that.  
21  
22 HIS HONOUR: All right. We'll have to check that.  
23  
24 MR URQUHART: It's either from the doctor or Mr Renk.  
25 Now, so, therefore, as the evidence stands, it is my view  
26 that it remains open for your Honour to make an adverse  
27 finding that Mr Renk's response to the complaints made by  
28 these two parents was inadequate. At the very least these  
29 matters should have been brought to the attention of the  
30 Board or the Authority. As I have already stated, there's  
31 no evidence that that is what Mr Renk did.  
32  
33 Now, sir, dealing with the response by Mr and Mrs  
34 Renk. I will read out Mr Renk's response first. It's  
35 dated 19 June of this year and it's addressed to myself:  
36  
37 Dear Sir,  
38  
39 In response to your letter of 13 June 2012,  
40 I submit the following comments.  
41  
42 I have requested Dr --  
43  
44 And he names the doctor:  
45  
46 -- to provide you the information sought at  
47 (A) through to (D) on page 3 of your

1 letter.

2

3 I stop there for the moment to say there has been a recent  
4 development in that regard. And he continues:

5

6 Regarding Noel Parkin, I doubt that I would  
7 have said he was "sick in the head" and  
8 find it hard to believe that everyone,  
9 including the Katanning police, would  
10 simply call him a liar and dismiss his  
11 complaints, especially as he was reporting  
12 a criminal offence.

13

14 I don't understand how that can be viewed  
15 as credible and wonder if his memory is as  
16 accurate as he thinks it is. I feel he is  
17 mistaken and that it wasn't me he spoke to.  
18 There are (and were then) five banks in  
19 Katanning, and it is possible that Mr  
20 Parkin could have called someone named  
21 "John" from one of the other banks.

22

23 Regarding Bruce Carmichael, I feel that  
24 what he said in regard to my response to  
25 his phone call sounds like the way I would  
26 have received a call like that.

27

28 Then he underlines, "I can only speculate", and then  
29 continues:

30

31 -- but I would guess that it's likely I  
32 would have spoken to Keith Stephens about  
33 this phone call, and Keith, for his own  
34 personal reasons, would have assured me  
35 that all was well and there was nothing to  
36 be concerned about. I would then have  
37 relayed that back to Mr Carmichael. I  
38 would have had no reason to disbelieve  
39 Keith.

40

41 I should explain that I could have spoken  
42 to Keith Stephens at a lodge meeting prior  
43 to the next Board meeting or on the phone,  
44 as Keith was also one of my development  
45 bank clients.

46

47 I would also point out that the evidence I

1 gave the Inquiry at the Katanning  
2 courthouse was after I had sworn on the  
3 Holy Bible to tell only the truth, and as I  
4 am a confirmed and practising Christian I  
5 would not have knowingly violated that  
6 oath.

7  
8 I hope the speculations that I have now  
9 provided and the information which I trust  
10 - he names his doctor - will provide will  
11 assist you in your efforts. And I am  
12 genuinely sorry that I am unable to confirm  
13 or deny any claims made in areas where my  
14 memories are missing.

15  
16 Yours faithfully.

17  
18 It is then being signed by Mr Renk.

19  
20 Mrs Margaret Renk has provided a letter addressed to  
21 me and that is dated 18 June 2012. It reads as follows:

22  
23 My name is Margaret Lynette Renk. For the  
24 past 51 years I have been married to John A  
25 Renk and feel I am in a position of  
26 authority and knowledge to write and speak  
27 on the situation facing John and his memory  
28 loss.

29  
30 I am a Justice of the Peace and have been  
31 for 18 years, serving as a children's and  
32 adult JP, and am aware of the consequences  
33 of lying and the law.

34  
35 The knowledge of John's long-term and  
36 short-term memory loss came about some  
37 years prior to this Inquiry. Over the  
38 years at family get-togethers we discovered  
39 John could not recall some events.

40  
41 Meeting an old school friend on a holiday  
42 at Monkey Mia by chance, they didn't  
43 remember each other, but Dean knew John's  
44 voice.

45  
46 Over the holiday we saw a lot of them and  
47 Dean mentioned his wedding, which John was

1 best man at. John didn't remember he was  
2 best man at his wedding, or any events of  
3 the occasion, even though they were very  
4 good friends during school years, with Dean  
5 spending holidays as John's home. This was  
6 some years ago.

7  
8 The following year wedding photos were  
9 shown to John. These still didn't bring  
10 back memories.

11  
12 I did not think it was a problem at the  
13 time, as my memory is not all that flash  
14 and did not think anything could be done  
15 about it.

16  
17 Many years ago, about 1982 or 3, John was  
18 then and until recently been a heavy  
19 snorer. He would stop breathing more than  
20 once during the night, and I would lie next  
21 to him and jab him to start him breathing  
22 again. Years passed and I was worried  
23 about John's lack of energy and always  
24 sleeping during the day.

25  
26 Also his memory was not very good. The  
27 past seven years he has lived his life by  
28 rote, and if something interrupts the flow  
29 of his day he is at sixes and sevens.

30  
31 John can watch a film and sometime later  
32 watch it again and not remember he had seen  
33 it before. The same reading a book.

34  
35 So we went to our local doctor, who after  
36 listening to my worries started tests,  
37 which one was with the sleep apnoea clinic  
38 in Perth with doctor - and she names the  
39 doctor I have referred to before - his  
40 first overnight test showed John stopped  
41 breathing 47 times in an hour, causing  
42 oxygen to be deprived to his brain. He was  
43 a very serious case. When I asked Dr - she  
44 names him - if this could cause memory  
45 loss, long and short-term, he assured me  
46 that it can and does.

47

1 Not long after this, the Inquiry asked John  
2 along for an interview which took place at  
3 Reidy House. I went along in support and  
4 sat in on the interview. He was asked many  
5 questions about his time on the Board and  
6 people he could or would have come in  
7 contact with during that time. Many he had  
8 no recollection of, but Keith Stephens. He  
9 did also, as client of the bank and member  
10 of the lodge, he has no specific memories  
11 of him and a slight recollection of Jim  
12 Laffer, only because we had met Jim over in  
13 South Australia as a Roseworthy reunion  
14 which we talk about now and then.

15  
16 John recalled meeting Jim but not any  
17 conversation with him or anything  
18 pertaining to Jim. I looked up my diary to  
19 see just what took place. As I was not  
20 present for all of the time they talked I  
21 cannot say what transpired between them.  
22 We did take Jim to the dinner, but I do not  
23 know how he got back to the caravan park.  
24 We didn't see Jim after we arrived at the  
25 dinner.

26  
27 I stop there for a moment, sir, to clarify why it is that  
28 Mrs Renk is speaking about that. Mr Laffer gave evidence  
29 before the Inquiry in which he says on this particular  
30 occasion, which was in 2005, he had a conversation with  
31 Mr Renk about the Board which they both served on and  
32 Dennis McKenna.

33  
34 HIS HONOUR: He said they had a good long chat about old  
35 times, yes.

36  
37 MR URQUHART: Exactly, sir, yes. Mrs Renk's letter  
38 continues:

39  
40 While we were staying at the caravan park  
41 two other significant things occurred. Two  
42 families visited us, John's sister and very  
43 close friends that had moved to SA but are  
44 now back in Perth. John didn't recall them  
45 visiting us.

46  
47 I recall during the time John was a

1 volunteer on the Hostel Board only because  
2 of dates mentioned. John spent some time  
3 in hospital very ill and we thought he was  
4 not going to make it. He does not remember  
5 this.

6  
7 Also we were having problems with our  
8 teenage daughter. We were new in town and  
9 we had not formed a circle of friends we  
10 could call on for help. We went through a  
11 few very stressful years until she settled  
12 down. John does not recall the things that  
13 went on. Only that at one time she had run  
14 away from home and we didn't know where she  
15 was. There was a lot that happened during  
16 those years which I have not reminded John  
17 about.

18  
19 Then she details what they are. I do not intend to read  
20 those out publicly. But we do have that information that  
21 your Honour can take on board. It then continues:

22  
23 Our minister at the time was also a great  
24 help, and he is another person John does  
25 not remember.

26  
27 The above information is only a small  
28 amount of our situation at that time. As I  
29 do not think we need to inform you of our  
30 life, it is only to show that John's memory  
31 loss has been occurring for a long time.

32  
33 John said he recalled his daughter's  
34 wedding. She was in her 20s.

35  
36 Mrs Renk is referring to Mr Renk's evidence at the Inquiry.  
37 She continues:

38  
39 His recollection was not correct. Our  
40 daughter was married when she was 17 years  
41 old.

42  
43 John is a very caring person and he has  
44 been torn apart as to what has happened at  
45 the St Andrew's Hostel, as it is one of the  
46 worst most despicable happenings ever. He,  
47 John, only wishes he could remember because

1           then he could assist and all this would be  
2           dealt with properly.

3  
4           My husband is a law abiding citizen. He  
5           would not have treated any information said  
6           to be related to him lightly and he would  
7           have taken it to someone in a position to  
8           deal with it. When John gave his evidence  
9           in court he swore on the holy Bible to tell  
10          the truth and he did.

11  
12          Yours sincerely. Margaret Lynette Renk.

13  
14          Now, Mrs Renk has not signed that letter, but I accept, of  
15          course, that it is from her.

16  
17          HIS HONOUR: I will accept that. Yes.

18  
19          MR URQUHART: Thank you, sir. That might be an  
20          appropriate time to have the morning break.

21  
22          HIS HONOUR: We will take the break.

23  
24          SHORT ADJOURNMENT

25  
26          HIS HONOUR: Yes, Mr Urquhart?

27  
28          MR URQUHART: It is appropriate to now hear from  
29          Mr Hammond.

30  
31          HIS HONOUR: Very, well. Yes, Mr Hammond.

32  
33          MR HAMMOND: If it pleases, your Honour, I have handed to  
34          your associate a revised or amended copy of the  
35          submissions. There were a few typographical errors in  
36          them. I have tidied that up, if that pleases your Honour.

37  
38          HIS HONOUR: Yes.

39  
40          MR HAMMOND: Might I add, while you have the submissions  
41          with you, I do concur with what my learned friend said the  
42          other day in relation to Mr Stuart Jones. I would ask that  
43          his name be deleted on page 19 of the submissions.

44  
45          HIS HONOUR: I will delete that.

46  
47          MR HAMMOND: If I could also take you to the front page of

1 the closing submissions, the penultimate name and the one  
2 above that, they both ask that their names not be released  
3 to the media due to the trauma that they are still  
4 suffering. They are actually undergoing counselling as we  
5 speak.

6  
7 HIS HONOUR: I am quite happy to agree to that.

8  
9 MR HAMMOND: Particularly in relation to one of them. I  
10 have also asked them to get in touch with the Inquiry to  
11 see if they are able to provide any assistance at this late  
12 stage. I do not know whether they have done that or not.

13  
14 HIS HONOUR: They have come to you very recently, have  
15 they?

16  
17 MR HAMMOND: Yes, they have.

18  
19 HIS HONOUR: I see. We are in the situation, as you know,  
20 where we cut off the date for receipt of submissions or  
21 information from the public because we get to a stage where  
22 we have a deadline to meet and there is no prospect of  
23 opening up new lines of inquiry. It would have to be  
24 pretty vital information if we are to request an extension  
25 to accommodate them.

26  
27 MR HAMMOND: I do not know that they can actually assist  
28 in terms of your terms of reference, sir. I have told them  
29 about the Inquiry and to make themselves available, if need  
30 be. I understand both of them have provided reports to the  
31 police as well.

32  
33 HIS HONOUR: Obviously, in general terms, we have had a  
34 multiplicity of consistent accounts of what happened in the  
35 way of sexual abuse and the like. If there is any new  
36 information about public officials knowing of what was  
37 going on or something vital of that nature then obviously  
38 we would be very interested. Are you suggesting there is  
39 anything along those lines?

40  
41 MR HAMMOND: No, I am not at this stage, sir.

42  
43 In relation to my closing submissions, I now act for  
44 25 victims of Dennis McKenna. They are listed on the front  
45 page of the closing submissions that I have put before the  
46 Inquiry. Can I say generally in relation to them all, and  
47 I put this in my closing submissions, that this Inquiry has

1       been of enormous benefit to each of my clients. That  
2       benefit cannot be underestimated or under-emphasised in  
3       terms of the healing process that this Inquiry has provided  
4       for my clients regardless of your findings - regardless of  
5       your findings - because for the first time in the lives of  
6       these young men and women - not so young men and women any  
7       more - they actually have had the state convene an Inquiry  
8       which has investigated some very serious allegations and  
9       activities back in the 1970s and 1980s which have severely  
10      affected their lives as adults.

11

12             As I said in my submissions, I do not propose and I  
13      did not address all of the intolerable behaviour that they  
14      had had to endure whilst they were boarders at St Andrews  
15      Hostel. We cannot over-emphasise the inestimable  
16      contribution that this Inquiry has done to their healing  
17      process.

18

19             One of the reasons why that has occurred is by  
20      listening to the evidence that has been put to this Inquiry  
21      they have now been able to understand why Dennis McKenna  
22      was able to get away with what he did for such a long  
23      period of time. It is appropriate at this juncture that on  
24      behalf of my clients it is important to know that each of  
25      them has played a very important role in supporting each  
26      other in coming forward to this Inquiry.

27

28             When I was first contacted by Mr Michael Hilder about  
29      this issue he said to me "John, you've got no idea how big  
30      this is". I must admit, he was right. I had no idea. I  
31      thought, yeah, no, he's probably exaggerating a little bit,  
32      I don't know. The more and more information that was  
33      passed on to me the more I became aware that this was  
34      something very serious that had happened in the town of  
35      Katanning.

36

37             The victims that came out publicly - such as  
38      Mr Michael Hilder, Todd Jefferis and Darryl Stephens - on  
39      behalf of all of my clients I congratulate them for their  
40      bravery and their courage in going through this process.  
41      It is very difficult for a man in his thirties and forties  
42      to confront this type of behaviour to his wife, to his  
43      children and, indeed, to the public at large. By doing  
44      what they have done they are going to make this world a  
45      safer place for other young children who are in a similar  
46      situation.

47

1           We also congratulate people such as Maggie Dawkins and  
2 Mr Bruce Carmichael, who are people who came out early in  
3 the piece to say that they did tell people in authority  
4 about what was going on.

5  
6 HIS HONOUR:    You could add Peter Potter to that too.

7  
8 MR HAMMOND:    Yes, and Peter Potter.

9  
10 HIS HONOUR:    As a late comer, and he did his best at a  
11 very early stage.

12  
13 MR HAMMOND:    So people such as Maggie Dawkins, Mr Bruce  
14 Carmichael and Peter Potter gave enormous impetus for the  
15 state government convening this Inquiry as to what had  
16 happened at St Andrews Hostel, and we congratulate them for  
17 that.

18  
19           My clients would also like to thank the Inquiry team  
20 and you personally for the very sensitive manner in which  
21 you, sir, Mr Urquhart and others who form part of the  
22 Inquiry team have handled this Inquiry. We believe that it  
23 has been dealt with in a very sensitive manner. This isn't  
24 just faint praise, sir, because I have been involved in  
25 many inquiries over the years - not necessarily of a sexual  
26 type, but certainly into local government - and the amount  
27 of consideration that has been given for the victims has  
28 been fantastic, in our respectful submission, if I may say  
29 that, sir.

30  
31 HIS HONOUR:    Thank you for that.

32  
33 MR HAMMOND:    Now that I have said all the nice things,  
34 sir, I am going to say some things that aren't so pleasant.  
35 One of the most telling statements made to this Inquiry was  
36 made by the perpetrator himself when he was asked by  
37 Council Assisting the Inquiry:

38  
39           I am asking you why do you think you were  
40 able to commit this sexual offending for  
41 such a period of considerable time?

42  
43 McKenna answered:

44  
45           I'm sorry. I don't know how I got away  
46 with it for so long. (T 1199).

1 Essentially this is what this Inquiry is all about, and  
2 that is summed up in McKenna's answer. Why did he get away  
3 with it for so long?  
4

5 I sought to address that in some detail in my  
6 submissions, and Mr Urquhart has done an admirable job in  
7 outlining those adverse inferences that should be made in  
8 respect of people who knew what was going on and did  
9 nothing or ignored it, or did not pass it on to the  
10 authorities.  
11

12 Can I say, firstly, in relation to the town of  
13 Katanning, it appears to my clients that there was a  
14 culture of not wanting to bring anything bad to that town,  
15 or a culture of a cover-up, sir. It was very clear from  
16 the witnesses that have given evidence, such as the barmaid  
17 that Mr Urquhart was talking about this morning, right  
18 through to Councillor Ainslie Evans and, indeed, the  
19 Reverend of the town, Mr John Taylor, that they had all  
20 heard stories over a long period of time about Mr McKenna's  
21 behaviour. The stories weren't weak, they weren't tepid.  
22 They were serious stories.  
23

24 One that I recall from the evidence was when Pat Gill  
25 recounted that she had heard a rumour that the head boy had  
26 performed fellatio on McKenna; T1375. The other journalist  
27 in the town in the mid-80s had heard stories that McKenna  
28 was interfering with boys; T1343.  
29

30 Now, it stretches from the journalists at the local  
31 newspaper to the local Councillor Ainslie Evans, who we say  
32 knew full well about the allegations being made over a  
33 period of time and to the local police officer, Mr William  
34 Todd.  
35

36 For my clients there was a cover-up by the town of  
37 Katanning that was dark, and they were hidden behind that  
38 shrouded veil of Katanning. Had someone pushed the issue  
39 more back in the 1970s, late '70s and through the 1980s  
40 then it is fair to say, in my respectful submission, that  
41 many of those young men in particular would not have been  
42 sexually abused. They had no-one back then to look after  
43 them. They only had themselves, because it is well  
44 documented that children who have been sexually abused  
45 generally bottle it up and don't tell anyone, and there is  
46 long-term consequences for them physically, psychologically  
47 and the way they interact later in life.

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I have indicated to your Honour that this was well known what was going on in the town of Katanning, and it even was well known to what we say was a very senior Shire Councillor, Councillor Ainslie Evans.

My clients - I know this is not within your purview - believe that the town of Katanning should proffer an apology to every victim at the St Andrew's Hostel in relation to what happened. Firstly, because a Councillor knew and, secondly, because they say the town knew. I think your Honour is entitled to draw from all of the material that has been put before your Honour inferences that it was common knowledge throughout the 1980s that: (1) McKenna was a homosexual; (2) he was interfering with the boys; (3) it was widespread knowledge in that town. People could not have not known what was happening - they must have known what was happening.

HIS HONOUR: The witness whose name I have temporarily forgotten, but the father who was able to ensure safe passage for his boys through the Hostel by warning McKenna that if he did anything to them he would end up in hospital for a long time - I think that is a fairly stark example of what you are talking about.

MR HAMMOND: Exactly. His evidence was: "If you touch my children you'll spend a long time in hospital".

HIS HONOUR: That is right.

MR URQUHART: Mr Fisher, that might have been.

HIS HONOUR: Yes, Tom Fisher, that's right.

MR HAMMOND: Under section 24K(1) of the Public Sector Management Act - it seems to be a very broad section in terms of the recommendations you are entitled to make - there does not seem to be any limit other than, I suppose, by reference to the terms of your reference.

HIS HONOUR: Bearing in mind that it is all relating to the public sector, and what the public sector can do about the situation or identifying mistakes made by public officials in the past, and making recommendations as to how such mistakes can be prevented in the future.

1 MR HAMMOND: In light of that, your Honour, one of the  
2 matters that I was going to invite your Honour to consider  
3 today is my clients have all put to the State of Western  
4 Australia applications for ex gratia payments. We would  
5 respectfully submit that it is within your Honour's purview  
6 under that section of the legislation to be able to say,  
7 should your Honour find that there is going to be some  
8 adverse inferences against people in positions of  
9 authority, particularly within the state government, that  
10 it would be open for your Honour to say that compensation  
11 is something that should be considered by the state  
12 government to make good the damage that has happened to  
13 each of the young men and women whom I represent and,  
14 indeed, extend it to all of those, even those that I do not  
15 represent.

16  
17 We would say --

18  
19 HIS HONOUR: Can you be more specific in relation to the  
20 terms of reference where you say that I can do that?

21  
22 MR HAMMOND: Yes, I can, your Honour. My starting point  
23 for that submission was in fact the Public Sector  
24 Management Act and section 24K(1), which says you are  
25 obliged to make recommendations in relation to the Inquiry  
26 which you have been asked to head. It really stems, or has  
27 its genesis in the legislation, in my submission, that you  
28 have the power to make very broad ranging recommendations.  
29 It would not be uncommon for an inquiry of this type to  
30 make a recommendation that there be compensation or some  
31 redress.

32  
33 It is true that some of the victims have received  
34 redress payments of between \$6,000 and \$20,000, at the very  
35 top end. I might be exaggerating the top-end figure. Some  
36 have received criminal injuries compensation payments and  
37 others have received nothing. I can assure your Honour  
38 that whatever they have received, in most cases, does not  
39 even deal with their medical expenses. Many of them, and  
40 particularly the last two that I have consulted with, my  
41 advice to them, if they are not already doing it, they  
42 certainly need to see someone immediately, because they  
43 were so traumatised by what had happened. They only came  
44 forward as a result of the bravery of the likes of  
45 Mr Hilder, Mr Stephens and Mr Jefferis. That is a  
46 recommendation that I would respectfully invite your Honour  
47 to make.

1  
2 HIS HONOUR: I will consider whether or not - it is going  
3 to depend upon whether or not I have the power or the  
4 authority under my terms of reference to make such  
5 recommendations. I would have to invite submissions on  
6 that issue from someone on behalf of the government as  
7 well. Mr Jenkin, would that be in your purview?  
8  
9 MR JENKIN: It would, sir. My office will generally  
10 receive applications for ex gratia payments and then  
11 consider those before making a recommendation to the  
12 attorney, who typically decides whether or not those  
13 payments ought to be made. I am aware that certain  
14 applications have already been received by my office and  
15 there may well be some more to come.  
16  
17 HIS HONOUR: Do you have a view at the moment on whether  
18 or not I should accept the invitation from Mr Hammond to go  
19 into this area?  
20  
21 MR JENKIN: I do not have any instructions on that. My  
22 preliminary view might be that it could well be outside  
23 your terms of reference, but I could take instructions.  
24  
25 HIS HONOUR: Perhaps you could take instructions on that.  
26 If it is thought that I should not or I cannot, perhaps  
27 there can be submissions on that point, with a copy to  
28 Mr Hammond.  
29  
30 MR JENKIN: Certainly it is always open for victims to  
31 make those applications for an ex gratia payment. There is  
32 nothing to stop them from doing that. It may well be that  
33 Mr Hammond's invitation to you is simply to endorse that  
34 process. At this stage I do not have any instructions  
35 about whether or not it would be appropriate for your  
36 Honour to make that finding.  
37  
38 HIS HONOUR: I would easily be able to make some sort of  
39 general comment along the lines of whether or not that is  
40 appropriate. It would be very easy for me to do that  
41 without, of course, suggesting any quantum or anything like  
42 that.  
43  
44 MR JENKIN: The quantum may well vary --  
45  
46 HIS HONOUR: It would vary. Of course it would.  
47

1 MR JENKIN: -- depending on the circumstances of a  
2 particular matter.  
3  
4 HIS HONOUR: Perhaps if you get instructions on that. If  
5 your instructions are that I cannot, or that I should not,  
6 then perhaps if you could make some submissions, with a  
7 copy to Mr Hammond.  
8  
9 MR JENKIN: Certainly, sir. Just to clarify, what you are  
10 after is some submissions about whether or not making a  
11 finding in respect of compensation is within your Honour's  
12 terms of reference?  
13  
14 HIS HONOUR: Probably not a finding. I would have thought  
15 a recommendation.  
16  
17 MR JENKIN: A recommendation, let's say, yes.  
18  
19 HIS HONOUR: That would be it, yes.  
20  
21 MR URQUHART: Under the Act, whether it is possible under  
22 the legislation.  
23  
24 HIS HONOUR: That is right. The issue is, firstly,  
25 whether it is in the ambit of this Inquiry to make such a  
26 recommendation; and secondly, whether I should do so, and  
27 what the reason would be why I should not do so, if your  
28 instructions are that I should not.  
29  
30 MR JENKIN: Yes, thank you, sir. I will take that on  
31 board.  
32  
33 MR HAMMOND: In relation to the financial cost of what has  
34 happened in terms of my clients and ex gratia payments, I  
35 would like to draw your Honour's attention to the most  
36 recent report from the Department of Child Protection where  
37 last year the report indicated that there had been nearly  
38 1900 reports of child sexual abuse from around Australia.  
39 And 1,500 of those reports were either physical or sexual  
40 abuse. The Department estimated - I have this from the  
41 Department of Child Protection report which is on their  
42 website at present - to protect a child in terms of an  
43 assessment and a protection order it was around \$7,309 per  
44 child, which even in today's language is a very small  
45 amount of money for the protection of a child at risk.  
46  
47 I know these are cases which are generally cases which

1 occur within a family or some other environment, not one in  
2 a hostel, but I thought it was interesting, that figure, in  
3 terms of what it takes for the Department to protect  
4 someone, and how cheap it is for the Department to actually  
5 do something about child abuse per head, when they do get a  
6 report. Obviously they are reasonably well resourced and  
7 they have the officers there to deal with it. Sir, I do  
8 not want to put this down to just a monetary issue, because  
9 that would be insulting and dismissive of how serious the  
10 abuse was.

11  
12 It is fair to say, in my submission, that there is  
13 monetary loss for all of these people as a result of  
14 interrupted educations, expulsions from the school, drug  
15 and alcohol abuse problems --

16  
17 HIS HONOUR: I do not doubt in respect of every victim  
18 there has been financial loss as a result of what has been  
19 done to them.

20  
21 MR HAMMOND: Yes. That underpins my invitation to you as  
22 well that if you are able to make that recommendation then  
23 that would certainly be encourage and appreciated by all my  
24 clients.

25  
26 I have listed at the end of my submissions the persons  
27 against whom adverse inferences we believe should be made,  
28 and I do note that between Counsel Assisting and yourself  
29 the other day, there was an interchange about whether, in  
30 the case, I think, of Mr Lockhart, and possibly Mr Bourke -  
31 I stand to be corrected - the Inquiry could consider  
32 whether it wasn't just an error of judgment, or should it  
33 be an adverse finding.

34  
35 Now, I do agree with Counsel Assisting in relation to  
36 what he has said about Mr Jones. We're probably a little  
37 bit on a different path in relation to Bourke and Lockhart,  
38 where I will set out the reasons why we believe an adverse  
39 finding should be made. My clients were particularly  
40 concerned at the fact that all of those witnesses,  
41 particularly Mr Bourke and Lockhart, and others from the  
42 Department of Education and Training, when questions were  
43 put to them on a large number of instances, they often  
44 said, "I have no recollection." The allegations were  
45 generally never specifically denied, that weighed up  
46 against the evidence of Maggie Dawkins and others who say,  
47 "Yes, we did say it, and this is what we said" - words

1 which are much more compelling - obviously more compelling  
2 than witnesses saying they can't recollect. But, sir, the  
3 other --

4  
5 HIS HONOUR: I think with Bourke and Lockhart, that  
6 foreclosing, or findings will be certainly open for me to  
7 find that they were told that there is hearsay information  
8 about Dennis McKenna's behaviour towards boys, and the  
9 question there - the real question, I think, is whether it  
10 was reasonable for them to say to the girls, "Well, we need  
11 the boys to come to us to tell us what's happening before  
12 we can do anything." That's, in essence, I think, the  
13 evidence from - I can't remember which girl it was. That's  
14 the response they got.

15  
16 MR URQUHART: That was Jody Haddow, sir, or Jody Brown.

17  
18 HIS HONOUR: Jody Haddow, that's right. Now, I think the  
19 issue there is whether accepting what - some  
20 inconsistencies between the two girls, but accepting in  
21 substance what they say is correct, was it reasonable for  
22 the two teachers to take the view they couldn't do anything  
23 until they had some firsthand information from the boys, in  
24 circumstances where they were in their mid-20s, very junior  
25 teachers, and there were no guidelines as to what should be  
26 done in that situation. So I think that's the issue there.

27  
28 MR HAMMOND: Yes. In relation to Mr Bourke, can I remind  
29 you, sir, when he was asked whether he had been told about  
30 sexual misconduct at the Hostel, at 1994:

31  
32 I do accept it is a possibility I was told,  
33 yes.

34  
35 Now, he very clearly stated that he was told that there was  
36 a possibility he was told about sexual misconduct.

37  
38 HIS HONOUR: Yes, and I think he was the one who said,  
39 "These girls wouldn't lie about these things", I think.

40  
41 MR HAMMOND: Yes. The other point I was going to make in  
42 relation to the witnesses that say, "I have no  
43 recollection", as opposed to the witnesses that say, "I did  
44 say something, and this is what I said", the other  
45 disturbing feature about those that often didn't recollect  
46 - and Bourke, Lockhart and Jones are in this category - it  
47 would seem clear to me, sir, that they had spoken at length

1 about the Inquiry and the evidence they were about to give.  
2 That in the end detracts from --

3  
4 HIS HONOUR: There has been a number of instances of  
5 that --

6  
7 MR HAMMOND: Yes, of the credibility of their evidence.

8  
9 HIS HONOUR: And it does have an impact, I agree.

10  
11 MR HAMMOND: Yes. So that happens with them, and  
12 certainly that happened with the Department of Education  
13 and Training officers.

14  
15 The other person that we would press hard for on  
16 behalf of my clients for adverse inferences, and I heard my  
17 friend summing up to some degree this morning on this, and  
18 that's Ainslie Evans. It seemed to be that Councillor  
19 Evans - and, indeed, the Shire - even as of the last time I  
20 was in Katanning, sir - there seems to be an incredible  
21 reluctance to admit that this tragedy occurred.

22  
23 HIS HONOUR: Peter Potter's evidence is that currently in  
24 Katanning - I think he said something like half the town  
25 still don't accept that McKenna did what he did.

26  
27 MR HAMMOND: Yes. Well, I find that - that's incredibly  
28 dismaying for my clients, and that's putting it mildly.  
29 Sir, there was a hearing in Katanning not so long ago,  
30 which I was present with you and my learned friend, and I  
31 heard on the radio one of the Shire officers actually  
32 saying, "This needs to be below the whip, we need to move  
33 on."

34  
35 Now, that's very disrespectful to the people that were  
36 so seriously harmed by the activities of McKenna. So,  
37 again, the Shire of Katanning needs to take its head out of  
38 the sand, acknowledge what happened in Katanning, and  
39 apologise without reservation to every one of those  
40 victims. Without reservation. I think their behaviour is  
41 shameful, and it's highlighted when Councillor gave  
42 evidence to the Inquiry, about the abuse that occurred at  
43 the Hostel, and when I asked her what was the greatest  
44 tragedy to befall Katanning, she compared it to the  
45 withdrawal of the railway service to Katanning as a  
46 comparable tragedy.

47

1 Now, that seemed to me to be a mind-boggling statement  
2 to make, to weigh up the sexual mistreatment of children  
3 with the withdrawal of a commercial service, and that was  
4 at 1718. And not only that, your Honour, when she was  
5 pressed in examination by both Mr Urquhart and myself, she  
6 appeared to admit fully what Maggie Dawkins had said to her  
7 about warning her about Dennis McKenna's sexual misconduct,  
8 and I'll take you to a passage --  
9

10 HIS HONOUR: Well, she didn't dispute the summary of it.

11  
12 MR HAMMOND: No, she didn't.

13  
14 HIS HONOUR: No.

15  
16 MR HAMMOND: Your Honour, transcript 1721 she was asked, "Maggie  
17 Dawkins only told you?" She said, "Yes." And the question  
18 went on:

19  
20 -- that Dennis McKenna had been involved in  
21 sexual misconduct in 1985, hadn't she?  
22

23 She says, "Yes". She later seeks to recant that. And my  
24 final question to her, "She asked again", then she said,  
25 "She did not", "She may have said it", and then, "She did  
26 not say it to me." I said, "Are you going to keep  
27 prevaricating?", "Yes". That was her answer at T1731 and  
28 32.  
29

30 Now, if we accept that she was told what Maggie  
31 Dawkins said to her in the mid-1980s, then the consequences  
32 of that are frightening, and that we have no idea even  
33 today, sir, how many young men and women were abused by the  
34 McKennas' at that Hostel. My clients have estimated it's  
35 well over 100 people.  
36

37 HIS HONOUR: Well, one thing I am satisfied about is that,  
38 you know, there was at least as many who haven't come  
39 forward who have come forward, because the evidence of  
40 Rosemary Cant shows that reporting rates are very low, and  
41 might have been more in this instance because of the  
42 Inquiry and because of other things, but the usual  
43 experiences is that it's only a small proportion,  
44 especially of male victims, that come forward to report  
45 sexual abuse, and that the bulk of victims, for whatever  
46 reason, perhaps because they want to put it behind them,  
47 don't report or come forward.

1  
2 MR HAMMOND: So in conclusion we would endorse all of the  
3 adverse inferences that Counsel Assisting this Inquiry is  
4 putting to you, should be made. We'll probably go further  
5 in relation to two of the teachers. We have, as I said,  
6 your Honour, invited you to make a recommendation in  
7 relation to compensation; but, thirdly, can I conclude by  
8 saying that the experiences that these young men suffered  
9 will never leave until the day they die.

10  
11 The people that failed to pass on the information were  
12 able to go about their own business untroubled for  
13 many years. This Inquiry will come and go, they will, by  
14 and large, retain their positions, but the people who  
15 suffered at the hands of McKenna in the most hideous and  
16 vile manner - they live with that for the rest of their  
17 day, until the day of their death. So, you know, this has  
18 been a very dark chapter in the history of  
19 Western Australia, unfortunately.

20  
21 HIS HONOUR: Well, thanks for your submissions, they are  
22 very helpful. Yes, Mr Urquhart.

23  
24 MR URQUHART: Yes, thank you, sir. I do propose intending  
25 to move on now to the next person that I am making an  
26 adverse finding recommendation against, and that is Bishop  
27 Michael Challen. Of course, sir, this refers to the  
28 Northam Hostel and the alleged conduct by one Roy Wenlock.

29  
30 HIS HONOUR: Before you move on to Bishop Challen, I see  
31 he's unrepresented today. I understand that his counsel  
32 received instructions not to make any submissions at all;  
33 is that correct?

34  
35 MR URQUHART: I'm about to say exactly that, sir.

36  
37 HIS HONOUR: Yes.

38  
39 MR URQUHART: I've spoken to Mr Bevilacqua about that. He  
40 won't be preparing or won't be giving any oral addresses  
41 today on instructions. I have said to him though, sir,  
42 that if he has instructions to provide written response to  
43 these recommendations, then we will, of course, accept  
44 those, advising him though of the time constraints.

45  
46 So, sir, there are two adverse finding recommendations  
47 I make against this person. Again, as previously, I will

1 cite the first recommendation, and then give a summary of  
2 the evidence. The first one is that:

3  
4 In his capacity as Chairman of the St  
5 Christopher's Board of Management, Bishop  
6 Challen failed to take the appropriate  
7 action in 1976 when he became aware that  
8 the Warden of the Northam Hostel, Roy  
9 Wenlock, was engaging in inappropriate  
10 behaviour towards boys at the Hostel.

11  
12 In my submission, the evidence in support of that  
13 finding is as follows: There is evidence supporting the  
14 contention that Bishop Challen was aware, through a number  
15 of witnesses, of Roy Wenlock's inappropriate behaviour when  
16 wrestling with boys from the Hostel in 1976. The following  
17 witnesses' recollections all indicate that Bishop Challen  
18 was made aware of this in 1976 and not 1977 as asserted by  
19 him. And those witnesses were William Thompson, who was a  
20 Hostel student and a victim of Roy Wenlock's wrestling;  
21 there was Adrian Gamble, who was a Hostel student, and his  
22 statement was read into evidence during the Inquiry; Gary  
23 Bradley, another witness whose statement was read into  
24 evidence - he was a student at the Northam High School at  
25 the time; Claude Riordan who was the Principal of the  
26 Northam Senior High School in 1975 and 1976 - his statement  
27 was read in as well.

28  
29 Mr Riordan recalls an occasion towards the end of his  
30 second year at Northam High School, which had to have been  
31 1976, when he spoke to Bishop Challen about accounts his  
32 sons had given him of Roy Wenlock inviting boys to his flat  
33 and making them wrestle with him in their underpants. Mr  
34 Riordan recalls in his statement that Bishop Challen told  
35 him that, "we are aware of the situation and we have it in  
36 hand.

37  
38 Then there was the evidence from another victim of Roy  
39 Wenlock's wrestling sessions, who was identified simply as  
40 "L". There was Brett McIver, who gave evidence - a student  
41 at the high school, and son of the local member of  
42 parliament at the time, the late Ken McIver. And so all  
43 those witnesses who either had their statements read in or  
44 provided oral testimony establish, in my submission, that  
45 Bishop Challen was advised of Roy Wenlock's inappropriate  
46 behaviour when wrestling with boys in 1976. Then there are  
47 a number of witnesses that refer to an incident involving

1 Michael Kalajzic, which had to have taken place in late  
2 1977, and it is open to your Honour, in my submission, to  
3 find that it is this complaint that led to Roy Wenlock's  
4 removal. Now, Mr Kalajzic's statement was read into  
5 evidence. He was a victim of Roy Wenlock's wrestling, and  
6 came forward as a result of that.

7  
8 Then the Inquiry heard evidence from Timothy Blee, a  
9 teacher at the Northam Senior High School, and a  
10 Housemaster at the Hostel. Mr Kalajzic complained to him  
11 regarding Roy Wenlock's behaviour, and then Mr Blee recalls  
12 that after that there was a meeting which took place  
13 involving the then Principal of the high school, David  
14 Carlson, Bishop Challen and that Mr Dennison might have  
15 also been there - Mr Dennison being the Deputy Warden at  
16 the time.

17  
18 Mr Blee remembers being told at that meeting that Roy  
19 Wenlock would be leaving. He thought that Bishop Challen  
20 told him that, and that Bishop Challen also said something  
21 along the lines of, "It's all over, he's been warned  
22 before", or, "He's been spoken to before and he will be  
23 going". That appears at transcript 3418.

24  
25 Mr Blee's recollection is that Roy Wenlock then left  
26 pretty quickly after that. And from all the evidence the  
27 Inquiry has heard, it's my submission that that meeting  
28 would have to have been after Mr Kalajzic made his  
29 complaint, which was in 1977. Then finally, sir, the  
30 Deputy Warden's statement, Walter Dennison, was also read  
31 in.

32  
33 So, in my submission, it's open on the above evidence  
34 of all these witnesses, for your Honour to make a finding  
35 that Bishop Challen was notified more than once of Roy  
36 Wenlock's inappropriate behaviour when wrestling with boys,  
37 and the first time being in 1976. In his evidence before  
38 the Inquiry, Bishop Challen maintained that upon first  
39 hearing of this behaviour, he insisted that Roy Wenlock  
40 resign. However, given the accounts by Mr Riordan and  
41 Mr Blee, it can be readily inferred that Bishop Challen's  
42 first response was to warn Roy Wenlock that he was not to  
43 have boys in his unit. So it's therefore open on all the  
44 evidence for your Honour, I submit, to find that Bishop  
45 Challen's recollection of the meeting with Mr Ken McIver  
46 refers to the meeting he had with Mr McIver in 1976,  
47 involving the complaint made by Mr Thompson.

1  
2 Bishop Challen's recollection is that Mr McIver was  
3 present on the occasion in which he was told - Bishop  
4 Challen said he was told for the first time - of Roy  
5 Wenlock's inappropriate behaviour when wrestling, and that  
6 thereafter, immediately thereafter, Roy Wenlock was asked  
7 to resign.

8  
9 Now, we know Roy Wenlock resigned in December of 1977.  
10 We also know that Michael Kalajzic made the complaint in  
11 late 1977, regarding Roy Wenlock's behaviour. The  
12 relevance here though, is that no witness has been called  
13 in relation to that 1977 incident, has said that Mr McIver,  
14 the politician, was actually involved in that matter, but  
15 there was a number of witnesses to say that he was involved  
16 in 1976.

17  
18 HIS HONOUR: In fact, Timothy Blee says there was a  
19 meeting which involved the then high school Principal, who  
20 you named, and that Principal started in 1977.

21  
22 MR URQUHART: Yes, sir, Mr Carlson.

23  
24 HIS HONOUR: That's right.

25  
26 MR URQUHART: So given the fact that Bishop Challen did  
27 not take any action to terminate Roy Wenlock's employment  
28 for at least one year after he was first advised of his  
29 behaviour, it's open for your Honour to make an adverse  
30 finding against him that he didn't do any of the following:  
31 raise the matter with the Hostel's Board; raise the matter  
32 with the Country High School Hostels Authority; and seek to  
33 terminate Roy Wenlock's employment in a timely manner.

34  
35 Now, sir, with respect to the second adverse finding  
36 I'm recommending against Bishop Challen, that reads:

37  
38 In his capacity as Chairman of the Board,  
39 presented an incomplete and misleading  
40 report to the synod in 1978 regarding Roy  
41 Wenlock's departure from the Hostel in  
42 1977.

43  
44 HIS HONOUR: Just dealing with that. In the context of  
45 alternative reference, you're saying that as Chairman of  
46 the Hostel Board is a public official, because of the  
47 legislation providing for the Board to have delegated

1 Authority from the Authority, and that in effect he was  
2 preserving an opportunity for Wenlock to go elsewhere and  
3 do the same thing.

4  
5 MR URQUHART: Yes, sir.

6  
7 HIS HONOUR: That's basically what you are saying. So  
8 you're saying his capacity as a public official he did  
9 this?

10  
11 MR URQUHART: Yes, precisely right. So, yes, my evidence  
12 in support of that finding is as follows: exhibit 120 was  
13 the report to the synod of 1978 by Bishop Challen,  
14 regarding the Northam Hostel. Under the heading  
15 "Administration", Bishop Challen wrote:

16  
17 In December 1977, the Board and St  
18 Christopher's boys bid farewell to Mr R  
19 Wenlock, who had served the Hostel with  
20 enthusiasm, determination and dedication  
21 for the past 13 years. His imaginative  
22 administration brought numerous  
23 improvements to St Christopher's. We wish  
24 him well in his new field of work.

25  
26 This glowing reference, in my submission, was, at best,  
27 incomplete, and at worst deliberately misleading, if your  
28 Honour was to accept that Bishop Challen had been notified  
29 by a number of sources of Roy Wenlock's inappropriate  
30 behaviour when wrestling with boys in his care - that is to  
31 say, conduct which took place to his knowledge, not only in  
32 1976 and 1977, but also to his knowledge had been rumoured  
33 to be going on for some time before.

34  
35 I rely on Bishop Challen's evidence with respect to  
36 that, where he said that after he had notified the Board of  
37 the December 1977 meeting, that Roy Wenlock had been told  
38 to resign, two members of the Board approached him  
39 afterwards and had told him they had heard that there had  
40 been rumours going around of this type of behaviour for  
41 some time.

42  
43 As Bishop Challen said in his evidence - sorry, it  
44 wasn't in his evidence, it was in an interview with Inquiry  
45 Investigators on 2 May 2012, that there was "a bit of  
46 history of it." So by his own admissions he was aware that  
47 there had been rumours to the effect that this had been

1 occurring prior to 1976 and 1977. And, sir, I would submit  
2 that a reading of this report that he prepared for the  
3 synod, 1978, would lead a person to conclude that Roy  
4 Wenlock had performed his job as a Warden with distinction  
5 and without blemish.  
6

7 In my submission, it ought to have been known to  
8 Bishop Challen that this description was inaccurate and  
9 could be used by Roy Wenlock as a reference in any future  
10 employment he sought. The very reference to wishing him  
11 well in his new field of work is a line that's typically  
12 found in a reference provided to a potential employer.  
13

14 As we know, sir, the following year after this report,  
15 Roy Wenlock was offered a position as a development officer  
16 with the Western Australian Cricket Association, in which  
17 he had regular access to teenage boys. And, indeed,  
18 statements read into evidence at the Inquiry this month  
19 from Craig Laffer, and a man who's just identified simply  
20 as "B", indicates that Roy Wenlock had not desisted from  
21 his nefarious activities towards teenage boys once he had  
22 left the Hostel.  
23

24 Bishop Challen, in his evidence, admitted that it  
25 would be inappropriate for Roy Wenlock to coach boys of a  
26 similar age to those that he had inappropriately wrestled  
27 at the Hostel. Though Bishop Challen asserts that had he  
28 been asked to provide a reference from a potential  
29 employer, he would have disclosed Roy Wenlock's  
30 predilection of wrestling with young boys in a semi-naked  
31 condition. This overlooks the fact that it would not be  
32 necessary for an employer to make such a request if they  
33 were already in receipt of a copy of a report written by  
34 Bishop Challen.  
35

36 It's also inconsistent with evidence Bishop Challen  
37 gave when he stated that he had offered Roy Wenlock the  
38 opportunity to resign, instead of being dismissed as he  
39 "did not want to prejudice unnecessarily his employment  
40 future." And that answer, given by Bishop Challen, is at  
41 page 3538.  
42

43 What Bishop Challen ought to have done, in my  
44 submission, was either truthfully report to the synod the  
45 reason why Roy Wenlock resigned - I use those in quotation  
46 marks - from the Hostel, or if he did not want to do that,  
47 for fear of damaging the image of the Hostel and/or the

1 Anglican Church, he ought to have simply noted that Roy  
2 Wenlock had resigned without offering such effusive praise  
3 of his time as Warden of St Christopher's Hostel.  
4

5 It's therefore open for your Honour to make an adverse  
6 finding that Bishop Challen's public praise of Roy Wenlock  
7 in his capacity as Chairman of the Board was inappropriate.  
8

9 Finally, just before lunch, sir, if I could deal with  
10 two persons that I am making the recommendation that no  
11 adverse findings be made against them. The first is  
12 Mrs Jennifer Ireland.  
13

14 Just by way of background, Mrs Ireland was, for a  
15 short period of time, only about 10 months, it seems, was a  
16 member of the Katanning Hostel Board in or around 1986.  
17 The potentially adverse evidence against Mrs Ireland  
18 concerned the testimony of an ex-Katanning Hostel student,  
19 Deborah Wallwork, and her account of a meeting she had with  
20 Len Wilkinson, a then Board member, and a woman, in Dennis  
21 McKenna's lounge room sometime around the middle of 1986.  
22

23 Now, with respect to the woman who was present,  
24 Mrs Wallwork - or Ms Wallwork cannot recall if she was a  
25 Board member. Though she had been advised by Dennis  
26 McKenna prior to this meeting that she would have to have a  
27 meeting with Board members to explain her behaviour, which  
28 Mr Dennis McKenna deemed inappropriate.  
29

30 Mrs Ireland was the only female Board member at this  
31 time. Now, Mrs Ireland participated in an interview with  
32 investigators in which she stated that she had no  
33 recollection of such a meeting. Now, in light of the fact  
34 that Ms Wallwork is unclear as to whether the woman who was  
35 present at that meeting was actually a Board member, and it  
36 was - she can't recall that woman's name. In my  
37 submission, sir, there is insufficient evidence to make any  
38 adverse finding recommendation against Mrs Ireland.  
39

40 The other potential matter, sir, concerned the fact  
41 that Mrs Ireland was present at the Board meeting on 22  
42 October 1986, which discussed the Trezise matter and the  
43 action that had been taken by the Chairman of the Board and  
44 Dennis McKenna regarding the letter written by Mr McPharlin  
45 and Mrs Flanigan with that sentence regarding the  
46 "suspicious suggestions".  
47

1 I note, sir, that this in fact was only one of two  
2 meetings that Mrs Ireland attended as a Board member.  
3 Although I also note that she seconded that motion in which  
4 the Board endorsed the actions taken by the Chairman and  
5 Dennis McKenna. It is, however, sir, unclear from  
6 the minutes or the recollections of those in attendance  
7 that the Inquiry has spoken to, as to the extent of those  
8 discussions and whether the relevant letter of Mr McPharlin  
9 and Mrs Flanigan was actually read out.

10  
11 Once more, Mrs Ireland has no recollection of this  
12 meeting or, indeed, what was discussed at that meeting, let  
13 alone what was discussed in relation to this particular  
14 item. It is, therefore, my submission that given those  
15 circumstances, it would not be appropriate to make any  
16 adverse finding recommendation against Mrs Ireland with  
17 respect to that particular endorsement made by the Board  
18 regarding the action taken by the Chairman and Dennis  
19 McKenna.

20  
21 And, indeed, sir, I go further to say that with  
22 respect to any of those persons in attendance, apart from  
23 Mr Len Wilkinson, there is insufficient evidence to make  
24 any adverse finding recommendation against them regarding  
25 what role, if any, they played in the matter. So that  
26 takes care of Mrs Ireland.

27  
28 Finally, the other matter before we adjourn for lunch  
29 is Mr Donald Dixon. Now, there was - potentially there was  
30 a possibility of adverse evidence being given against Mr  
31 Dixon in relation to the manner in which an incident  
32 regarding a supervisor, who was only identified as "S" in  
33 the public hearings, who was at Narrogin Hostel, and how he  
34 was dealt with in 1990 when Mr Dixon was Warden.

35  
36 I've already made it clear, sir, last Friday, that far  
37 from me making an adverse finding recommendation against Mr  
38 Dixon, that he was actually to be commended for the action  
39 he took in relation to that matter in 1990, but just for  
40 the record, it is certainly not my intention to make any  
41 adverse finding recommendation whatsoever in relation to  
42 the actions taken by Mr Dixon regarding that matter.

43  
44 Now, sir, it might be appropriate to adjourn for  
45 lunch, although maybe not. Could I just deal with a  
46 statement, a very short statement, from a witness that has  
47 been obtained, and dated 28 June 2012. To put this

1 statement, sir, into concept, it is in regard to that  
2 matter that Mr Brian Humphries gave evidence about back in  
3 February of this year, of him being told in a telephone  
4 call to desist making any investigation in his capacity as  
5 an officer with the Department of Child Welfare into an  
6 investigation of a complaint made by a student at the St  
7 Andrew's Hostel.

8  
9 This statement is from the politician who at the time  
10 was the Minister for Community Services. And that is Keith  
11 James Wilson. So the statement reads:

12  
13 Keith James Wilson.

14  
15 I was formerly a member of the Western  
16 Australian Parliament and have now retired.

17  
18 I was elected to the parliament of  
19 Western Australia on 19 February 1977.

20  
21 I was the Minister for Community Services  
22 between 25 February 1983 and 12 May 1986.

23  
24 I am aware of the St Andrew's Hostel  
25 Inquiry due to information I have seen in  
26 the media.

27  
28 I have been made aware of evidence given by  
29 a person named Brian Humphries to the St  
30 Andrew's Hostel Inquiry.

31  
32 I do not know Brian Humphries and do not  
33 recall knowing anything about this matter.

34  
35 I recall that Mr Logan was a Minister in a  
36 previous government, but I do not recall  
37 whether he was a Minister for Community  
38 Welfare.

39  
40 I do not know if Mr Logan had contacts in  
41 the Department of Community Welfare during  
42 my time as the Minister.

43  
44 I do not recall any other instances similar  
45 to the one Mr Humphries describes occurring  
46 during my time as the Minister.

1 I declare that this statement is true and  
2 correct to the best of my knowledge and  
3 belief, and that I have made this statement  
4 knowing that if it is tendered in evidence  
5 I will be guilty of a crime if I have  
6 wilfully included in this statement  
7 anything which I know to be false or I do  
8 not believe to be true.  
9

10 It's then been signed by Mr Wilson, and is dated 28 June  
11 this year.  
12

13 HIS HONOUR: Thank you.  
14

15 MR URQUHART: Thank you, sir. So, now, all we have to do  
16 this afternoon is have a video link down to Albany in which  
17 I will be making my address with respect to the final  
18 witness that I have made a recommended adverse finding  
19 against.  
20

21 HIS HONOUR: Very well, we'll adjourn until 2.15.  
22

23 LUNCHEON ADJOURNMENT  
24

25 UPON RESUMPTION:  
26

27 HIS HONOUR: We have Mr Illari appearing from Albany.  
28

29 MR ILLARI: Yes, sir, I am here with my client Mr Wilkinson  
30 sitting next to me.  
31

32 HIS HONOUR: Thank you for that. Yes, Mr Urquhart?  
33

34 MR URQUHART: Thank you very much, sir. This is the final  
35 person we will be dealing with in closing addresses today.  
36 He is Leonard Albert Wilkinson. It is my submission there  
37 are three recommendations of adverse findings that ought to  
38 be made against Mr Wilkinson.  
39

40 Once more, sir, as previously, I will read out my  
41 recommendations and then after each one take the hearing  
42 through the evidence that I submit is in support of that.  
43 The first one is in 1980 failed to undertake a proper  
44 inquiry as a member of the Katanning Hostel Board when  
45 advised by Noel Parkin of Dennis McKenna's interference of  
46 boys.  
47

1           The evidence in support of those findings, I submit is  
2 this: As we have already heard, Noel Parkin was a parent  
3 who had children attending the Hostel. He gave evidence  
4 before the Inquiry back in February of this year. In 1980  
5 he formed the view that Dennis McKenna was sexually  
6 interfering with boys at the Hostel. He testified in that  
7 year he made oral complaints to the Authority, police and  
8 members of the Board. At transcript page 585 he asserted  
9 that he rang the Board member who was "the manager of the  
10 Katanning BWK co-op" and told him that he thought that  
11 Dennis McKenna was interfering with boys. This particular  
12 Board member responded by hanging up on him.

13  
14           Minutes of the Board's meetings confirmed that  
15 Mr Wilkinson was a member of the Board from March 1980  
16 through to May 1987. The Board's minutes also confirm that  
17 he was Deputy Chairman in 1983 and Chairman from 1984  
18 through to 13 May 1987.

19  
20           In his evidence at transcript page 3,100 Mr Wilkinson  
21 accepted that in 1980 he would have been the only Board  
22 member who would fit the description of being the "manager  
23 of the Katanning BWK co-op". I just pause there for a  
24 moment to state that I have read Mr Illari's submissions in  
25 response dated 25 June 2012 and Mr Illari makes the point  
26 that notwithstanding Mr Wilkinson's evidence regarding that  
27 description of manager of the Katanning BWK co-op Mr Illari  
28 points out that in fact Mr Wilkinson was not employed as  
29 the manager of that particular company at this time in  
30 1980.

31  
32           I would submit, be that as it may, it was the case  
33 that he was to become manager of the Katanning BWK co-op  
34 shortly after that, and it should be a more relevant point  
35 that in fact in 1980 Mr Wilkinson, at least from March  
36 onwards, was a member of the Board.

37  
38           In my submission, Mr Parkin, when he refers to the  
39 Board member as being the manager of the Katanning BWK  
40 co-op was not necessarily saying that the Board member at  
41 that time being Mr Wilkinson was manager of that company.

42  
43           In a question about Mr Parkin's evidence referred to  
44 above, Mr Wilkinson accepted the possibility that he may  
45 have had a conversation with Mr Parkin in 1980, but if he  
46 did it did not contain an accusation that Dennis McKenna  
47 was abusing children at the Hostel. Mr Wilkinson went on

1 to say that had Mr Parkin told him that, Dennis McKenna was  
2 interfering with boys, he would have explored it further,  
3 got to the bottom of it and would have gone straight to the  
4 Authority.

5  
6 Now, it is accepted that would have been the  
7 appropriate course of action to have taken. Mr Parkin's  
8 account, however, is that his complaint was simply ignored.  
9 Indeed, there is no documentary evidence from the  
10 examination of the Authority's records that supports a  
11 contention that it was notified of this particular  
12 complaint. If Mr Parkin's evidence is accepted then  
13 Mr Wilkinson's response, in my submission, demonstrates a  
14 failure in his responsibility as a Board member to ensure  
15 that an allegation of inappropriate behaviour by the  
16 Hostel's Warden towards children in his care was properly  
17 actioned. That is all I intend to say regarding my first  
18 recommendation.

19  
20 The second one is that in 1986 Mr Wilkinson failed to  
21 undertake a proper inquiry of the subject matter of the  
22 suspicious suggestions made by Dennis McKenna to two boys  
23 under his care in 1986, when it came to his attention as  
24 Chairman of the Board.

25  
26 I have clarified with Mr Illari as to the correct  
27 wording of that recommendation and advised him just before  
28 we started the hearing this afternoon that in my letter to  
29 Mr Illari, dated 21 June, second line the last word "off"  
30 the next two words, third line "of Dennis McKenna" should  
31 be deleted. It would read as I just read out now.

32  
33 With the evidence in support of this recommendation, I  
34 rely on Mr Wilkinson's evidence before the Inquiry. I just  
35 reiterate that a number of exhibits --

36  
37 HIS HONOUR: Before you continue, can we mute the sound  
38 this way without muting it that way? At this end we are  
39 having great difficulty hearing Mr Urquhart because of  
40 static and the like. What we will do is try and mute the  
41 sound from Albany for the moment, and if you cannot hear us  
42 if you wave your hand so we know there is a problem.

43  
44 Apparently we have to get you to mute it at your end.  
45 Do you know how to do that, Mr Illari?

46  
47 MR ILLARI: I do, sir. I am worried if I muted it this end

1 I will miss Mr Urquhart's remarks.

2  
3 HIS HONOUR: We certainly do not want to - perhaps you  
4 could try to mute it while I talk to see if you can still  
5 hear me. Can you hear me? Very good. Thank you.

6  
7 MR URQUHART: Mr Illari, if you lose me at any time just  
8 wave your hands wildly about, okay? That is much better,  
9 sir.

10  
11 Mr Wilkinson's examination concerning this matter  
12 appears at transcript pages 3108-3121. I was about to say  
13 he was shown a number of exhibits that had been previously  
14 provided to him. They were the letter by Mrs Trezise to  
15 Colin Philpott dated 17 September 1986, which was  
16 exhibit 11.1, the handwritten letter signed by Mr McPharlin  
17 and Mrs Flanigan which accompanied that letter, that was  
18 exhibit 8; minutes of the Board meeting held on 22 October  
19 1986, which was exhibit 54; and then the letters from  
20 Taylor Nott & Murray to Mr McPharlin and Mrs Flanigan and  
21 to Mr and Mrs Trezise, both dated 8 October 1986, and  
22 exhibits 9 and 11.3 respectively.

23  
24 It is open on the evidence to find that the letters  
25 marked 11.1, Mrs Trezise' letter to Mr Philpott, and  
26 exhibit 8, which was the handwritten letter with the phrase  
27 "suspicious suggestions" on it were forwarded by the  
28 Authority to Mr Wilkinson, who at that time was Chairman of  
29 the Katanning Hostel Board.

30  
31 Mr Philpott, who was the Chairman, of course, of the  
32 Authority at the relevant time testified that this material  
33 was forwarded to Mr Wilkinson so the Board could take  
34 action in relation to that last sentence, which we have  
35 heard considerable evidence about. I again read into the  
36 transcript that quote:

37  
38 The children were removed because they both  
39 complained of suspicious suggestions made  
40 to them by the house master, one Dennis  
41 McKenna.

42  
43 Mr Philpott also initially testified that he gave a  
44 direction to Mr Wilkinson that a lawyer should be engaged.  
45 That appears at transcript page 2513. Though he later  
46 retracted that and said that that was an error. That was  
47 at transcript page 3925.

1  
2 Prior to 8 October 1986 it is obvious that a firm of  
3 solicitors had been engaged by the Board and Dennis McKenna  
4 to write to Mr and Mrs Trezise and Mr McPharlin and  
5 Mrs Flanigan seeking an immediate retraction of the  
6 suspicious suggestions assertion under threat of initiating  
7 court proceedings. As I have said before, those letters  
8 are dated 8 October 1986, and it could be inferred that  
9 Mr Wilkinson and Mr McKenna acted independently of the  
10 Board.

11  
12 I pause there for a moment because your Honour raised  
13 this when we were dealing with the closing address  
14 submissions in relation to Mr Philpott. Your Honour,  
15 indeed, correctly recalled what Mr Wilkinson had to say  
16 about that in his evidence. I will just read into the  
17 transcript that now. This is at page 3119. Hopefully  
18 Mr Illari will have this page reference, if he has not  
19 already referred to it in his submissions. It would be the  
20 question at line 11 at page 3119:

21  
22 Q. You've got the letter. You've gone  
23 and spoken to Dennis McKenna about it?

24 A. Yes.

25  
26 The letter I'm referring to, of course, is the "suspicious  
27 suggestions" letter.

28  
29  
30 Q. Dennis McKenna says to you, "That is  
31 outrageous. I never made any suspicious  
32 suggestions to these children. This is  
33 defamation. I want a letter to be sent out  
34 by the Board's law firm stating that unless  
35 these parents withdraw this false  
36 accusation immediately I'm going to  
37 threaten legal action".

38  
39 Mr Wilkinson's response was:

40  
41 I would, that's correct. That is the time  
42 line. I - did I - did I communicate with  
43 other Board members in between that interim  
44 time of having received the correspondence  
45 from the Authority and prior to McKenna  
46 going to the solicitor? Did I talk about  
47 that on the phone and then at the following

1 meeting it was endorsed? I don't - I  
2 don't think I would have just taken that  
3 action in isolation. And that's not me  
4 trying to, you know, not agree with what  
5 the time line is and what had happened,  
6 that I would have thought in my role I  
7 would have actually not taken that action  
8 just in isolation, I would have talked to  
9 other Board members first about it.

10  
11 That's the end of the answer that he has given. That's the  
12 passage that your Honour could recall yesterday during oral  
13 addresses relating to Mr Philpott.

14  
15 Of course, sir, it is something that Mr Wilkinson is  
16 looking back on. He certainly didn't say he had a  
17 recollection that he did, only that that's what he would  
18 have done.

19  
20 However, in my submission he ought to have also should  
21 have done certain other things which he has conceded he did  
22 not. I will get to those in a moment.

23  
24 We know what the minutes of the Board meeting on  
25 22 October 1986 state. Just again with respect to these  
26 closing addresses, with respect to Mr Wilkinson I will read  
27 that into evidence. That is, that under the title  
28 "Trezise" at item (E), the minutes record:

29  
30 Discussion followed by the motion moved by  
31 B Hendry and seconded by J Ireland. "Board  
32 endorses action taken by the Chairman and  
33 Warden in recent correspondence concerning  
34 Trezises". Carried.

35  
36 In his evidence Mr Wilkinson accepted that Dennis McKenna  
37 must have given him and then the Board some explanation  
38 which satisfied them that there had been no sexual  
39 impropriety regarding the assertion by Mr McPharlin and  
40 Mrs Flanigan. Mr Wilkinson, however, conceded that if a  
41 proper inquiry was to be conducted by the Board then  
42 Mr McPharlin and Mrs Flanigan should have been contacted to  
43 explain what behaviour of Dennis they were referring to  
44 when they stated that their boys had complained of  
45 "suspicious suggestions" made to them.

46  
47 Mr Wilkinson did not contact these parents to clarify

1 that point. Had he done so he would have been informed of  
2 what those suspicious suggestions were. In one case  
3 involving one of the boys it involved Dennis McKenna  
4 undoing the fly on his pants as he and Dennis McKenna were  
5 in McKenna's office. The other son had complained to his  
6 parents that Dennis McKenna used to make comments to him  
7 like "Do you want to warm up my bed?"  
8

9 Mr Wilkinson properly made the concession, in my  
10 submission, in his evidence that this matter was not  
11 satisfactorily investigated. In doing so, it is open for  
12 your Honour to find that he, as Chairman of the Board,  
13 failed to look after the interests of the children at the  
14 Hostel by extending undue preferential treatment to the  
15 Warden to the potential detriment to the students under his  
16 care. It goes without saying that that potential detriment  
17 became a reality as Dennis McKenna's sexual abuse of boys  
18 under his care continued until August of 1990.  
19

20 That is what I propose saying, sir, in respect to my  
21 second recommendation.  
22

23 The third is this: In 1986 Mr Wilkinson failed to  
24 undertake a proper inquiry of a complaint made by Deborah  
25 Wallwork, a student at the Hostel, that Dennis McKenna was  
26 having inappropriate contact with boys at the Hostel. The  
27 evidence that I submit is in support of that recommendation  
28 is this: Ms Wallwork gave evidence before the Inquiry on  
29 18 June of this year. She was a student at the Hostel for  
30 years 11 and 12, which for her was in 1985 and 1986.  
31 During the course of those years she saw repeated instances  
32 of Dennis McKenna inappropriately touching boys from the  
33 Hostel.  
34

35 Over the course of the two years she was at the Hostel  
36 she had frequent arguments with Dennis McKenna about her  
37 alleged misbehaviour and her speaking out to others about  
38 his behaviour.  
39

40 She recalled a particular occasion in 1986 when she  
41 was in year 12 in about the middle of the year. She walked  
42 into Dennis McKenna's unit one evening, uninvited and saw  
43 him sitting in his lounge room wearing a short terry  
44 towelling dressing gown with three boys sitting around him.  
45 She saw he was rubbing the hair of one of them and rubbing  
46 the thigh of another. There were other kids in the room  
47 and she reacted by stating in front of everyone, "this is

1       fucking disgusting", and then walked out of the room.

2  
3               She recalled that shortly after that she was called  
4 into Dennis McKenna's office where she was admonished by  
5 Dennis McKenna for her language. He told her that he had  
6 had enough of her and that he was going to speak to the  
7 Board about having her suspended, and if he could get her  
8 expelled.  
9

10              Ms Wallwork then recounts that a couple of days later  
11 she had a meeting in Dennis McKenna's lounge room where she  
12 was introduced to a man called Len Wilkinson and a woman  
13 whose name she could no longer remember. She stated that  
14 she now wasn't so sure that Mr Wilkinson was the Chairman,  
15 but she definitely recalled that he was a Board member.  
16

17              Her account of what took place at that meeting appears  
18 at transcript pages 3664 and 3665. Relevantly she stated  
19 this:  
20

21                   I told them about the lounge room incident  
22 and what I had seen and why I had said the  
23 words that I said out loud. I tried to  
24 explain everything else that I had been  
25 seeing.  
26

27              Then when I asked her at 3664:

28  
29                   Q. Can you recall how much detail you  
30 went into as to what you saw in the lounge  
31 room?

32                   A. Not a lot, because I didn't go into a  
33 lot of detail because I wasn't really given  
34 that opportunity to. But I definitely got  
35 in the fact that I'd - what I'd witnessed  
36 in Dennis's lounge room and that that  
37 wasn't the first time that I'd seen him  
38 behaving that way towards boys.  
39

40              She recalls that the reaction from the lady and  
41 Mr Wilkinson was that "I think they pretty much didn't  
42 believe me". That is at transcript 3664.  
43

44              Her description of the man she was introduced to as  
45 Mr Wilkinson was that he had hair, it was wavy and to her,  
46 at just 17 years of age, "old" probably putting him in his  
47 late forties. She also stated he was very polite and

1 quietly spoken.  
2

3 As you no doubt can recall, sir, Mr Illari for  
4 Mr Wilkinson availed himself of the opportunity to  
5 cross-examine Ms Wallwork. Mr Wilkinson elected to provide  
6 a written statement in response to Ms Wallwork's evidence,  
7 and that was provided to the Inquiry on 19 June of this  
8 year. In that three-page statement Mr Wilkinson states:  
9

10 I do not recall, either by name or any  
11 other means, having met or been involved in  
12 any disciplinary proceedings related to  
13 Ms Wallwork. I do not recall ever  
14 participating in a meeting in the lounge  
15 room of Mr McKenna's flat. I recall only  
16 ever meeting with Mr McKenna at his office  
17 at the Hostel.  
18

19 They are at paragraphs 4-6.  
20

21 Mr Wilkinson continues to state that if he had been  
22 present at such a meeting in which there was a description  
23 of such behaviour given of Dennis McKenna then he would  
24 have responded by making contact with other Board members  
25 and the Authority to seek counsel and direction. He also  
26 said the report on the conduct and outcome of the meeting  
27 with Ms Wallwork would have been presented to the Board and  
28 recorded in the minutes of that Board meeting. That is  
29 what he says at paragraphs 7 and 8.  
30

31 He also describes differences in his age and  
32 appearance in 1986 compared to the general description  
33 given by Ms Wallwork, that I have already referred to  
34 above.  
35

36 I am able to advise, sir, that there are no written  
37 records or evidence given by other witnesses to indicate  
38 that the Board or the Authority were advised of  
39 Ms Wallwork's complaints about Dennis McKenna's behaviour.  
40

41 If Ms Wallwork's evidence was accepted then the  
42 inference could be drawn that given the absence of any  
43 evidence that her complaint was brought to the attention of  
44 the Board or the Authority that no action was actually  
45 taken following her attendance at this meeting.  
46

47 Following Mr Illari's examination of Ms Wallwork and,

1 in particular, his questioning regarding her mother, the  
2 Inquiry located and obtained a statement from Ms Wallwork's  
3 mother, Helen Joyce Chamberlain.  
4 A copy of that statement was provided to  
5 Mr Illari when I forwarded my letter dated 21 June of this  
6 year to him. That statement has also been read into  
7 evidence since then.

8  
9 That statement corroborates her daughter's account  
10 regarding her reporting to her about Dennis McKenna's  
11 inappropriate behaviour and, more relevantly, with respect  
12 to Mr Wilkinson and this recommendation that I am making;  
13 her recollection of what her daughter told her in 1986  
14 about a meeting she had with Dennis McKenna, Len Wilkinson  
15 and a lady.

16  
17 In respect to all that evidence it is, therefore, in  
18 my view open for your Honour to accept the evidence of  
19 Ms Wallwork with respect to the meeting she had and find  
20 that that meeting did include Mr Wilkinson. On that basis  
21 I submit that an adverse finding should be made against him  
22 for failing to undertake a proper inquiry of the  
23 allegations made by Ms Wallwork.

24  
25 I should just put on the record also what I said just  
26 before lunch in relation to Mrs Jennifer Ireland. I do not  
27 propose making any adverse finding recommendations to your  
28 Honour regarding her. Just for Mr Illari's benefit, if in  
29 fact the female in attendance at that meeting was a Board  
30 member, then it could have only have been Mrs Ireland.  
31 Mrs Ireland has been questioned by Inquiry investigators  
32 and, indeed, she has provided an email response to this  
33 that she has no recollection of attending such a meeting.

34  
35 I do draw a distinction between the evidence relating  
36 to the suggestion that she was there to the evidence  
37 stating that Mr Wilkinson was there, and that is because  
38 Ms Wallwork could not remember: (A) the lady's name  
39 whereas she could recall the name of the gentleman; and (B)  
40 she was unable to state whether that lady was in fact a  
41 Board member, whereas in the case of the man which she  
42 identifies as Len Wilkinson, she recalled that he was  
43 definitely a member of the Board. Of course, as I have  
44 already said, Mr Wilkinson was not only just a Board member  
45 at the time, but was actually Chairman of the Board.

46  
47 That is all I intend to state orally regarding the

1 matters relating to Mr Wilkinson.  
2  
3 HIS HONOUR: Thank you. Mr Illari, if you could turn the  
4 mute off.  
5  
6 MR ILLARI: I have, sir.  
7  
8 HIS HONOUR: And commence your submission.  
9  
10 MR ILLARI: Thank you, sir. I take it you have had the  
11 opportunity to view the letter which I sent to Mr Urquhart  
12 dated 25 June?  
13  
14 HIS HONOUR: I have read your submission dated 25 June.  
15  
16 MR ILLARI: Thank you. My client's observations are  
17 attached to that.  
18  
19 HIS HONOUR: Yes, I have seen those as well.  
20  
21 MR ILLARI: Thank you, your Honour. I do not propose to  
22 read out my comments in my letter. I will go over them, if  
23 I may.  
24  
25 The three recommendations which Mr Urquhart makes deal  
26 respectively with the phone call from Mr Noel Parkin said  
27 to be 1980, the letter and the surrounding circumstances in  
28 relation to Mr and Mrs Trezise and Mr McPharlin and  
29 Mrs Flanigan, and thirdly, the matter relating to  
30 Ms Wallwork appearing before apparently an ad hoc meeting  
31 in Mr McKenna's lounge.  
32  
33 If it is all right, if it please, I propose first of  
34 all to deal with recommendations one and three and then  
35 move on to two.  
36  
37 HIS HONOUR: Most certainly.  
38  
39 MR ILLARI: Thank you, sir. Perhaps I will start with  
40 recommendation one in relation to this phone call from  
41 Mr Noel Parkin. The first thing to say is, obviously, it  
42 goes without saying this is 1980, 30 years ago. Mr Parkin  
43 does not identify Mr Wilkinson by name but he said that the  
44 description he has given, that he is the manager of the BKW  
45 co-op at Katanning, that must fit the description of  
46 Mr Wilkinson. But Mr Wilkinson is not referred to by name  
47 or in any other way, and Mr Parkin relates the conversation

1 which he had with the person who he identified as the  
2 manager in one of - as I understand it - four telephone  
3 conversations.  
4

5 At page 585 he says that - I paraphrase - he thought  
6 McKenna was interfering with boys so he phoned a Mr Keith  
7 Stephens to tell him about that and didn't get very far  
8 with that. He hung up. He said that Stephens hung up on  
9 him. He then says he then spoke to the one - line 12, 13,  
10 14 - the one, he was the manager of the BWK co-op at  
11 Katanning. "I ring him and told him the same story and he  
12 hung up on me as well." He says, "I rang the bloke from the  
13 bank. I guess it was the Commonwealth Bank." So that is  
14 the third person he has rung. He also says that, "I rang a  
15 newsagent. I think he was on the Board. There was another  
16 one more in Katanning. I think he was a newsagent I didn't  
17 - but I can't be sure of that".  
18

19 It is in that sequence of phone calls that Mr Parkin  
20 identified the person who he says was the manager of the  
21 BWK Co-op, that he thought was on the Board at the time.  
22 Now, as Mr Urquhart's alluded to, if one looks at the  
23 evidence given by Mr Wilkinson at pages 3045 to 3048 - I  
24 think I said 3057 in my letter - but 3058, and one works it  
25 out, it would seem important to that evidence, sir, that Mr  
26 Wilkinson was employed - came to Katanning in late 1979,  
27 was employed with Western Family Stores for some 12 to 18  
28 months until that closed, and then went on to BKW Co-op in  
29 the supermarket, as supermarket manager - not manager of  
30 the whole store, but simply the food section, I'll clarify.  
31 And he was there, according to his evidence, for 12 months,  
32 and then he had his own business for something like  
33 12 months, and it was only then that he became manager -  
34 general manager some time in 1982.  
35

36 He doesn't say this, but just calculating it, it would  
37 seem that he wasn't the manager until 1982. Now, that  
38 raises all sorts of problems with, essentially, Mr Parkin's  
39 evidence. Is he saying that he spoke to a person who later  
40 became a manager, or someone who he now understands to have  
41 been a manager at some stage? It's all very problematic,  
42 in my submission.  
43

44 When you put this in context of the fact that this is  
45 30 years ago, one of four phone calls, when Mr Parkin was  
46 clearly ringing around a number of people, and telling them  
47 something about McKenna interfering with boys, to be able

1 to say what he actually said to the manager, whoever that  
2 was, of the BKW Co-op, and to say with any certainty that  
3 he told him that McKenna was interfering with boys, after  
4 this period of time, it seems to me, is drawing an  
5 extremely long bow.  
6

7 He might think he has done that, but how much reliance  
8 can we place on that at this time? As I say, sir, in my  
9 submission it's very tenuous evidence, and in my submission  
10 it should not form the basis of an adverse finding against  
11 Mr Wilkinson.  
12

13 HIS HONOUR: Now, before you pass on, Mr Illari, there is  
14 one other matter which Mr Urquhart has not mentioned, and  
15 that's Alan Parks' evidence, who is a fellow Board member  
16 of Mr Wilkinson in 1980 onwards, and Mr Parks' evidence, in  
17 essence, is that the Board was told of Mr Parkin's visit to  
18 the Authority at two successive meetings in 1980, but they  
19 weren't told at that time what the complaint was all about.  
20

21 But according to Mr Parks, about two years later, in  
22 about 1982, the Board was told by a Board member that Noel  
23 Parkin was going around telling everybody that McKenna had  
24 been sexually abusing boys. So evidence from Mr Parks, if  
25 I accept it --  
26

27 MR ILLARI: I recall seeing something along that line.  
28

29 HIS HONOUR: Yes. If I accept Mr Parks' evidence, it's  
30 evidence that the Board was told that allegation in about  
31 1982.  
32

33 MR ILLARI: Yes. My only response to that, sir, is my  
34 instructions that certainly Mr Wilkinson has no  
35 recollection of that being said at the Board meeting; that  
36 nothing of that nature against Mr McKenna was said whilst  
37 he was on the Board. So I can't take that matter any  
38 further. Obviously, sir, you appreciate that - and this is  
39 not said in any way by complaint - I didn't get the  
40 opportunity to cross-examine either Mr Noel Parkin or Mr  
41 Parks, so their evidence was given, perhaps, before I even  
42 became involved, and Mr Wilkinson became involved.  
43

44 So all I can say in relation to Mr Parks' evidence is  
45 my client's instructions are that he has no recollection of  
46 such allegations being made.  
47

1 HIS HONOUR: And I think it's also fair to point out  
2 there's other evidence generally to show there were very  
3 widespread rumours in Katanning in the mid-1980s about  
4 so-called kiddie fiddling. In other words, meaning sexual  
5 interference of boys at the Hostel, and in particular  
6 there's evidence of the Katanning barmaid "M", in 1985,  
7 hearing so much discussion at the bar about kiddie fiddling  
8 at the Hostel, she went firstly to Ainslie Evans, and then  
9 to Sergeant Todd, to raise issues with them.

10  
11 So this would be drawing your attention to the fact  
12 that there was some general evidence to show that there's  
13 widespread knowledge or rumours about what was going on at  
14 the Hostel in the mid '80s, and that's part of the  
15 background, and perhaps assists me in drawing an inference  
16 that Board members, including Mr Wilkinson, must have heard  
17 something about that.

18  
19 So do you want to say something?

20  
21 MR ILLARI: Yes. Thank you, sir. Look, in general terms  
22 I understand that rumours have been going around Katanning,  
23 and that there is evidence before this Inquiry that that  
24 was the case. My instructions are that if those rumours  
25 are going around, that Mr Wilkinson never heard them and  
26 they were not brought to his attention, other than what I'm  
27 going to say about the letter from Mr McPharlin and  
28 Mrs Flanigan - and I'll deal with that, if I may, in due  
29 course - Mr Wilkinson never heard these rumours, and it  
30 seems, from what I understand at the time, Mr McKenna had  
31 been made Citizen of the Year on one of those years, and  
32 was - seemed to have been held in high regard by the  
33 community, and was certainly held in high regard by the  
34 Country Schools Hostels Association and Authority. And  
35 given all of that - there may well have been rumours going  
36 around town - there was also a great deal of regard for Mr  
37 McKenna, quite obviously misplaced and wrongly held, but  
38 there was that sort of situation.

39  
40 Certainly my instructions are Mr Wilkinson never heard  
41 of these rumours, if they were circulating. Sorry, sir can  
42 I just take - see if my client's got anything to add to  
43 that. No. So that's our position.

44  
45 HIS HONOUR: Yes. When it comes to the issues of  
46 McKenna's standing and being Citizen of the Year and having  
47 good reputation, that goes to whether or not people hearing

1 the rumours might have disbelieved them. It's a separate  
2 issue as to whether or not they've heard the rumours.

3

4 MR ILLARI: Yes, I understand that, sir.

5

6 HIS HONOUR: And, in fact, there's evidence from people  
7 who did hear rumours that they did nothing because they  
8 didn't believe them. So that's --

9

10 MR ILLARI: Yes.

11

12 HIS HONOUR: -- so I'm just indicating that there's a good  
13 deal of background evidence to show that these rumours were  
14 circulating, and there's a widespread knowledge of them,  
15 and I think that's part of the evidence I have to have  
16 regard to in drawing inferences.

17

18 MR ILLARI: Yes, sir. I understand that. My instructions  
19 are that Mr Wilkinson was unaware of these rumours - if,  
20 indeed, they were circulating, that he was unaware of them.  
21 I might just in passing make this comment about evidence  
22 that you may have been given about rumours circulating.

23

24 One wonders exactly how powerful, how strong these  
25 rumours were at the time. Now, with the gift of hindsight,  
26 people casting their mind back may well say, "Oh, there's  
27 all these rumours going around." There's a possibility  
28 they were. But as to how prevalent they were, it's another  
29 matter. That's a matter for you, sir. I haven't dealt  
30 with the evidence, you have --

31

32 HIS HONOUR: Well, there are --

33

34 MR ILLARI: -- but in - - -

35

36 HIS HONOUR: - - - instances where people did act on these  
37 rumours. There's the barmaid "M" that I've referred to.  
38 There's another witness, Tom Fisher, who had boys at the  
39 Hostel, and he - he heard these rumours, and he said to  
40 McKenna that if he interfered with his boys he'd end up in  
41 hospital, so his boys had safe passage through the Hostel;  
42 and other instances like that where people did act on these  
43 rumours.

44

45 MR ILLARI: Yes, sir. I entirely accept that that's the  
46 case. I want only to say that my client's instructions are  
47 that he didn't hear those rumours, and those are his

1 instructions.

2

3 HIS HONOUR: Right, thank you.

4

5 MR ILLARI: Thank you, sir. So I think that deals with my  
6 comments in relation to Mr Noel Parkin, that single phone  
7 call.

8

9 If I can now move on to Recommendation 3 of Mr  
10 Urquhart's. That's in relation to the allegations of  
11 Deborah Wallwork. I don't challenge the fact that Ms  
12 Wallwork observed various things going on at the Hostel. I  
13 don't challenge the fact that she came to serious conflict  
14 with Mr McKenna, and I don't challenge the evidence that  
15 she gave, that she attended a meeting in Mr McKenna's  
16 lounge room where she was introduced to a man who she was  
17 told was Mr Wilkinson, and who, indeed, might have  
18 identified himself as Mr Wilkinson, a member of the Board,  
19 and to a lady whose name she cannot remember.

20

21 But, the significant thing about her evidence, in my  
22 submission, is this: she never met Mr Wilkinson before this  
23 date. She did not know Len Wilkinson. She never saw him  
24 again after this date. She was introduced to a person  
25 called Len Wilkinson, and she gave a description of a man  
26 who at the time she thought was in his late 30s - sorry,  
27 late 40s, with - I think her description was "dark wavy  
28 hair", and who looks different to the way he looks - Mr  
29 Wilkinson looks now.

30

31 Now, it's entirely possible that she was introduced to  
32 these two people, including the person introduced as  
33 Wilkinson; that, in fact, they weren't, they were  
34 imposters. At first blush this seems like a - maybe a  
35 strange submission to make, until one bears in mind, of  
36 course, the character of McKenna, and the other things that  
37 were going on that Mr McKenna was involved in.

38

39 Certainly Mr Wilkinson has denied ever being involved  
40 in disciplining proceedings with Ms Wallwork; has denied  
41 ever being at a meeting in the lounge room of Mr McKenna's  
42 residence, and he says that he's - his description at the  
43 time did not fit the description given by Ms Wallwork. So  
44 it's a question, certainly, if it had been Mr Wilkinson,  
45 then, of course, he should have brought the matter to the  
46 attention of the Board, he should have acted on it. We  
47 simply say it wasn't Mr Wilkinson.

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Who it was, we don't know. We can't really - beyond that, it's speculation, of course. We simply say that on the evidence available, it might well have been someone else posing as Mr Wilkinson, and that's as far as we can go with that. We simply reject Ms Wallwork's evidence in defence that it was Mr Wilkinson who attended that meeting.

HIS HONOUR: All right. Well, Mr Illari, before you continue --

MR ILLARI: Yes, sir.

HIS HONOUR: -- now, in considering that submission that McKenna arranged for an imposter to take the place of Mr Wilkinson for that meeting at the Hostel, I have to have regard to the fact of the nature of the meeting, which was for the purpose of McKenna trying to arrange for Ms Wallwork to be suspended and then expelled.

Now, we know for a fact that expulsion can only be made by the Board, by a decision of the Board as a whole, and, therefore there would have to have been --

MR ILLARI: Yes, sir.

HIS HONOUR: -- a report to the Board as to what had happened at this meeting, and it's difficult, in my mind, to envisage that in those circumstances McKenna would arrange an imposter to pretend to be Mr Wilkinson.

MR ILLARI: Yes, sir. Well, that's, if you like, precisely my point. You'll recall that, in fact, nothing happened to Ms Wallwork. She wasn't suspended. She wasn't expelled. You would have expected that if a Board member - Mr Wilkinson or anyone else - had been present and had listened to what Mr McKenna had said, and had also spoken to Ms Wallwork, asked for an apology and been told by - as Ms Wallwork said she did - that she wasn't going to apologise, that some disciplinary action would have flowed.

If, indeed, members of the Board were present at that meeting - Mr Wilkinson or someone else - you would have expected that there would have been a report to the Board, and you would have expected that some disciplinary action would be taken against it. The mere fact that no disciplinary action was taken suggests, I would say, that

1 the two people present were not members of the Board. I  
2 don't want to take the conspiracy theory too far, and I  
3 don't want to speculate too far, but one can - this is a  
4 situation where this young girl is going around saying  
5 things about McKenna, and he decides in some way that he  
6 wants to shut her up, and that he then arranges a meeting  
7 with persons he introduces as members of the Board, and may  
8 introduce as Wilkinson in order to convince her that she's  
9 on the carpet, as it were; whereas, in fact, it's all a  
10 put-up job simply to keep her quiet, to stop her going  
11 around saying things about him, and to stop her from  
12 bad-mouthing him.

13  
14 The fact that she wasn't disciplined, she wasn't  
15 expelled, she wasn't suspended, says something very strong  
16 in my submission about the fact that no members of the  
17 Board was present. If --

18  
19 HIS HONOUR: Just before you continue.

20  
21 MR ILLARI: If there had been, if there --

22  
23 HIS HONOUR: Just before you continue. Now, you say the  
24 fact that there was no record made and no recommendation  
25 supports your submission, but her evidence is to the effect  
26 that the indication she got from Mr Wilkinson was that she  
27 was going to be expelled until she said that she had a  
28 relative who was the Minister for Education, and she was  
29 going to arrange for the Minister for Education to  
30 investigate Dennis McKenna.

31  
32 And when she said that, then there was talk about her  
33 staying and being reviewed week by week or month by month,  
34 et cetera. So on her evidence there is a reason why a  
35 decision was made not to take the matter further.

36  
37 MR ILLARI: Yes, but one would have expected nonetheless  
38 that there would have been some report to the Board of the  
39 meeting, and the place where the meeting takes place in the  
40 lounge room of Mr McKenna's residence as opposed to in his  
41 office - it's a very odd scenario. Again, there may well  
42 have been a meeting, but one would have thought if members  
43 of the Board were present, it would take place in an  
44 official setting, rather than in a lounge room somewhere.

45  
46 HIS HONOUR: I do understand that submission, but I just  
47 wanted to raise those points because I think they tend to

1 count against the submission, but I've heard what you say.

2  
3 MR ILLARI: Thank you, sir. One other brief submission I  
4 have in relation to Ms Wallwork's mother, Mrs Chamberlain -  
5 that her daughter was extremely upset about what had  
6 occurred to her. Can understand she would be upset. The  
7 strange thing, I have to say - and it's more comment than  
8 anything else - is that notwithstanding that, no effort was  
9 made or no attempt was made by Mrs Chamberlain to remove Ms  
10 Wallwork from the Hostel, and that notwithstanding that  
11 apparently Ms Wallwork and Mrs Chamberlain's family were  
12 living in Gnowangerup and, as you may know, sir,  
13 Gnowangerup is about a 30 minute drive from Katanning,  
14 thereabouts.

15  
16 Now, that might seem a long way for people living in  
17 Perth, but for country people, a drive of 30 minutes to and  
18 from school, school runs, is not an enormous distance, it's  
19 quite a usual distance, so why then do they leave her with  
20 these complaints and these problems at the Hostel? It  
21 raises a question as to how much she did, in fact, say at  
22 the time that she was there.

23  
24 I take that matter no further, sir. I just make that  
25 comment in passing, if you please you. Thank you.

26  
27 HIS HONOUR: Thank you.

28  
29 MR ILLARI: That deals, I think, with the recommendations  
30 1 and 3. If I can now move on, your Honour, to the  
31 Recommendation 2, because in relation to that Mr Wilkinson,  
32 of course, accepts that there was some complaint made to  
33 the Board in some form, and that action - appropriate  
34 action was not followed through. The matter was not  
35 investigated as thoroughly as it should have been. Now,  
36 your Honour, just looking at Recommendation 2, the  
37 complaint that comes to the Board comes really third hand  
38 and it is by a note written by Mr McPharlin and  
39 Mrs Flanigan.

40  
41 It appears that this was written at the behest of Mr  
42 and Mrs Trezise, and it would seem that Mr and Mrs Trezise  
43 asked for this note to be written, not in order to be  
44 raised or castigate McKenna, so much as part of bolstering  
45 their argument about why they shouldn't have to pay fees  
46 for a full year for their daughter.

1           So it comes about in this way. Mr and Mrs Trezise  
2 hear that Mr McPharlin/Mrs Flanigan have removed their  
3 children from the Hostel and haven't had to pay fees, so  
4 they go to them and they ask, "Can you write a note just to  
5 confirm this", which Mr McPharlin and Mrs Flanigan in fact  
6 do. And then Mr and Mrs Trezise use the note to say,  
7 "Well, we shouldn't have to pay fees either", as against a  
8 background where, obviously, their daughter was extremely  
9 unhappy at the Hostel because of the behaviour of McKenna.

10  
11           The note itself uses the term - contains the term "the  
12 children were removed because of a suspicious suggestions".  
13 It's a highly ambiguous term. And it's my submission, sir,  
14 that that term viewed now obviously has sexual connotations  
15 that it might not have had in the mid-1980s. The term was  
16 never clarified. In fact, we now know that the allegation  
17 was that one of the boys had his fly undone by McKenna, and  
18 several times, and another of the boys did, in fact, have a  
19 verbal - some verbal suggestion put to him, but all that  
20 was said in the letter was that there were suspicious  
21 suggestions made.

22  
23           That was a highly ambiguous statement, viewed in the  
24 context of the Trezises arguments with the Board about  
25 having to pay their fees. When this is put before the  
26 Board, one might say, looking at the time, that they would  
27 have viewed this document as really being an attempt to  
28 avoid paying fees. So they might not have placed as much  
29 value on the term "suspicious suggestions" to members of  
30 the Board that they should have done.

31  
32           And it follows and it's involved in also the fact that  
33 a copy of letter was sent to the Authority, to Mr Colin  
34 Philpott, who apparently authorised the Board to take some  
35 action, and it seems to have been in Mr Philpott's mind  
36 that that was his original evidence, that he directed the  
37 Board to employ a lawyer to sort the matter out. So the  
38 Board would have followed the lead given by the Country  
39 High Schools' Authority, and perhaps the direction for Mr  
40 Philpott to pursue the matter in that particular way.

41  
42           HIS HONOUR:    Can you just pause there?

43  
44           MR ILLARI:     Now, that --

45  
46           HIS HONOUR:    Can you just pause there?

47

1 MR ILLARI: Yes, sir.

2

3 HIS HONOUR: I've heard evidence from Mr Philpott, the  
4 Chairman of the Authority, that he did not instruct that  
5 the lawyer be instructed. He didn't direct Mr Wilkinson to  
6 go to the lawyers. Are you saying that I should come to  
7 the conclusion that Mr Wilkinson did get that instruction?

8

9 MR ILLARI: No, Mr Wilkinson cannot recall the matter of  
10 whether or not that instruction was given, but - and I'm  
11 not saying that - I am saying that instruction was given,  
12 and the tenure of the instruction was such that it  
13 indicated the sort of action that the Board eventually  
14 took, of instructing solicitors to write to  
15 McPharlin/Flanigan on one hand, and the Trezises on the  
16 other hand. Now, whether Mr --

17

18 HIS HONOUR: What I'm trying to clarify with you is I  
19 understand from your written submission that you are  
20 assuming that Mr Wilkinson went to these solicitors,  
21 because he was told to by the Authority; is that right?

22

23 MR ILLARI: Well, maybe that's putting it too strongly.  
24 The approach that the Authority seemed to be taking towards  
25 this complaint or this letter indicated, as far as looking  
26 back on it, as far as Mr Wilkinson can discern now, a  
27 manner of dealing with the matter which led them to  
28 instruct solicitors. Now, we don't know whether, in fact -  
29 I mean, Mr Philpott started off by saying that he thought  
30 he instructed him to instruct lawyers, but then he  
31 retracted that at a later stage.

32

33 But certainly the lead given indicated a certain  
34 course of action, and the Board followed what the  
35 Authority - direction the Authority were going in. I can't  
36 put it any clearer than that, sir, because this is all  
37 subject, of course, to Mr Wilkinson not really having a  
38 memory of the incident at all, but accepting that that's  
39 the documentary evidence before the Inquiry.

40

41 HIS HONOUR: All right, thank you.

42

43 MR ILLARI: Thank you, sir. It has to be borne in mind  
44 that the Board consisted of unpaid members of the  
45 community. Mr Wilkinson was certainly one, sitting,  
46 perhaps, once a month; that they were highly reliant on the  
47 reports given to them by McKenna. Given that they really

1 had their own lives to lead, that they had families, their  
2 own jobs, their own social interests, quite apart from the  
3 Board, and they came together as a Board perhaps once a  
4 month, perhaps more often, perhaps less often, and in that  
5 context they would have had to have placed reliance on the  
6 paid servants or paid officers of the Authority, such as Mr  
7 McKenna, and what he told them about what was going on.

8  
9 In that sense it can be seen that the Board may well  
10 have been in a position where they felt they really had to  
11 accept much of what Mr McKenna said, and because he was, as  
12 it were, the man on the site, the man that was on - on  
13 the - in the Hostel, and from day to day, and would have  
14 been absolutely familiar with the running of the Hostel, so  
15 they were in that sort of situation.

16  
17 If they didn't have his report on how the Hostel was  
18 being run, from what other official source would they have  
19 been able to gain an idea of what was going on in the  
20 Hostel? Now, with the gift of hindsight, one can look back  
21 and say, "Well, they should have made better inquiries and  
22 more inquiries", yes, but looking back it's easier to say  
23 that now than it would have been at the time.

24  
25 So these are Board members who are doing community  
26 service work. They are unpaid. They are there, really, to  
27 oversee McKenna, I suppose, in the running of the Hostel,  
28 but they're very much in McKenna's hands. And so what the  
29 letter from Mr McPharlin and Mrs Flanigan comes through  
30 Trezise, undoubtedly Mr McKenna would have been asked what  
31 it was all about. He may well have been given an entirely  
32 plausible and believable explanation at the time -  
33 believable in the context of things as they were then. And  
34 the Board would have - it would appear the Board accepted  
35 his explanation.

36  
37 Now, I note that Mr Urquhart has said in his  
38 recommendations had Mr Wilkinson made inquiries of Mr  
39 McPharlin and Mrs Flanigan, he would have found out about  
40 the details of the allegations. Looking back in hindsight,  
41 that can be said, but we don't know for sure what would  
42 have been told, what they would have been told at the time,  
43 whether they would have been told anything more. That's  
44 pure speculation. We don't know what would have been said,  
45 had he followed it up.

46  
47 It is accepted by Mr Wilkinson that more should have

1           been done on this issue, it was accepted that they should  
2           have gone further, but that's with the gift of hindsight.

3  
4           HIS HONOUR:    Just pausing there.

5  
6           MR ILLARI:     Yes, sir.

7  
8           HIS HONOUR:   And the point is this: do you agree that  
9           because the solicitors were instructed to send out letters  
10          threatening defamation proceedings, that the words  
11          "suspicious suggestions" must have been determined as  
12          referring to sexual misconduct?

13  
14          MR ILLARI:    Well, I don't know necessarily that one can  
15          draw that conclusion. I accept that the fact the  
16          solicitors were instructed, it would seem - probably more  
17          by Mr McKenna to send out letters of this kind - would  
18          suggest that the matter was taken extremely seriously.  
19          Obviously he wouldn't have gone to solicitors otherwise.  
20          The Board seems to have been advised of that  
21          retrospectively, and approved of what was done --

22  
23          HIS HONOUR:   Right, now --

24  
25          MR ILLARI:    -- at the next meeting.

26  
27          HIS HONOUR:   -- I'm just putting to you that - and I  
28          think, in fact, it's Mr Wilkinson's evidence - that it's  
29          pretty hard to interpret those words as meaning anything  
30          else, but I think it's an important point. If letters were  
31          sent out from solicitors because the words "suspicious  
32          suggestions" were regarded as defamatory, that would seem  
33          to indicate that it was regarded as an allegation of sexual  
34          misconduct. Can you suggest any other interpretation on  
35          those words?

36  
37          MR ILLARI:    I thought about this, sir. I cannot suggest  
38          another interpretation. It is difficult to know, looking  
39          back on it, what was in the mind of McKenna when he went to  
40          the solicitors and instructed them, and it is difficult to  
41          know what was in the mind of the Board when they approved  
42          that action. In all honesty, I cannot take that matter any  
43          further.

44  
45                        The "suspicious suggestions" was never spelt out.  
46                        Where we stand now, sir, looking backwards, it certainly  
47                        seems to have a sexual connotation. At the time, look,

1 that is also a possibility. I cannot suggest other  
2 possibilities.  
3  
4 HIS HONOUR: Further evidence --  
5  
6 MR ILLARI: Can I just take instructions?  
7  
8 HIS HONOUR: By all means, yes.  
9  
10 MR ILLARI: I am obliged. Thank you, sir. My client has  
11 pointed out to me that Mr McKenna was very jealous of his  
12 reputation around town and that the term "suspicious  
13 suggestions" might have in some way referred to McKenna  
14 misusing Hostel property or being in some way dishonest  
15 with Hostel property, or that sort of situation. It is  
16 suggested that is a possible reason why "suspicious  
17 suggestions" would have been seen as something fairly  
18 important to deal with at the time.  
19  
20 Again, we speculate of course, because looking back we  
21 do not know. There is a possible explanation.  
22  
23 HIS HONOUR: I can say the words "suspicious suggestions"  
24 must be interpreted in the context in which they are used  
25 in the letter; "suspicious suggestions to the boys" not  
26 "suspicious suggestions in public" - but "suspicious  
27 suggestions to the boys".  
28  
29 MR ILLARI: Yes, we understand.  
30  
31 HIS HONOUR: What could that have been interpreted as  
32 other than sexual abuse?  
33  
34 MR ILLARI: It might have been, if it was being suggested  
35 that there was improper use of Hostel facilities by boys at  
36 the Hostel. That might be a possible interpretation. I do  
37 not know, sir, in all honesty, that I can take that matter  
38 any further. I understand what your Honour is saying.  
39  
40 HIS HONOUR: Thank you. I wanted to put those matters to  
41 you because they are part of the evidence that I am looking  
42 at.  
43  
44 MR ILLARI: Yes, sir. I understand.  
45  
46 At the end of the day, in relation to the second  
47 recommendation, it is my submission that when one looks at

1 the circumstances pertaining at the time that the Board in  
2 not following up this letter and finding out what  
3 "suspicious suggestions" actually meant, it was more of an  
4 error of judgment rather than, if I can put it in these  
5 terms, a neglect or dereliction of duty towards the  
6 boarders of the Hostel, the young people at the Hostel.  
7 The Board simply made an error of judgment, rather than  
8 pursuing the matter as they perhaps should have done to  
9 find out exactly what was involved in the terms of the  
10 letter.

11  
12 Again, I repeat, the letter is a very short note, a  
13 handwritten note "To whom it may concern" as opposed to  
14 being addressed specifically to the Board, to the Authority  
15 or to any particular person. It is "To whom it may  
16 concern". It is a letter that has been generated, as I  
17 say, at the request of Mrs Trezise in order to deal with a  
18 question of payment of the year's fees.

19  
20 From a Board's point of view they would look at the  
21 letter and say, "Well, obviously they are trying to avoid  
22 paying the fees". Obviously we now know more. But at the  
23 time the Board would have looked at the letter and said,  
24 "The Trezise' are trying to avoid paying fees. They got  
25 this letter written by someone else. What do you say about  
26 this Mr McKenna", or "Dennis?" "Yes, that is the  
27 explanation. Fair enough. Move on. Let's go on to the  
28 next item."

29  
30 Now we look back and say, well, that was wrong. They  
31 should have done more. At the time one can see how that  
32 process unfolded, and it is an error of judgment rather  
33 than neglect, in my submission.

34  
35 Given that, in relation to recommendation two it is my  
36 submission that no adverse finding should be made against  
37 Mr Wilkinson.

38  
39 HIS HONOUR: Thank you, Mr Illari. Does that complete  
40 your submissions?

41  
42 MR ILLARI: Yes, thank you, your Honour. Is there any  
43 other particular point you want to take up? Those are my  
44 submissions.

45  
46 HIS HONOUR: Thank you. I have raised all the issues I  
47 wish to. I will ask Mr Urquhart if he has anything to

1 respond.

2  
3 MR URQUHART: It will not take very long, thank you, sir.

4  
5 Maybe if we can do the same technique as we have  
6 before with the muting at that end, if Mr Illari does not  
7 mind. Thank you.

8  
9 Just a couple of other things. Dealing with  
10 recommendation two, I hear what Mr Illari has said. He has  
11 tried his best to argue on behalf of his client, but the  
12 fact remains that the phrase "suspicious suggestions" in  
13 the way in which it was used in that letter speaks for  
14 itself. The very fact that as far as the law firm was  
15 concerned and, indeed Mr McKenna, there was nothing  
16 ambiguous about it at all. The Board lawyers immediately  
17 sent that letter stating that libel action will be taken  
18 against the Trezises and Mr McPharlin and Mrs Flanigan  
19 unless that phrase is immediately withdrawn. Of course, it  
20 was not.

21  
22 I know my learned friend says this was just merely an  
23 error of judgment, but in my submission it goes far more  
24 than that because these parents weren't even asked what the  
25 phrase meant. Mr Illari gave the evidence that well, they  
26 may not have even told the Board if they were contacted  
27 about what the "suspicious suggestions" were, but of course  
28 that begs the question they weren't even asked in the first  
29 place. If, indeed, the Board contacted them and they said  
30 something other than what the facts were, or declined to  
31 elaborate further, then maybe Mr Wilkinson would not be  
32 held accountable for what subsequently followed. The fact  
33 is that they did not do that. In my submission that was  
34 because Dennis McKenna just had far too much influence over  
35 these people, and they were prepared to accept whatever he  
36 said. But because they were the Board, and because  
37 Mr Wilkinson was Chairman of the Board, they had an  
38 obligation to place the protection of children above the  
39 protection of the Warden.

40  
41 When I was listening to Mr Illari put forward an  
42 alternative explanation on behalf of his client regarding  
43 what "suspicious suggestions" were, he wasn't really able  
44 to do that effectively, and it just reminded me of  
45 Mr Philpott's evidence a couple of months ago, when I asked  
46 him if he could put forward a different scenario that  
47 didn't necessarily mean sexual connotations. He could not

1 do so either.

2  
3 Just a small point with respect to recommendation one.  
4 I know Mr Illari hadn't been engaged to act for  
5 Mr Wilkinson at the time that Mr Parkin gave evidence,  
6 however, Mr Wilkinson himself was aware that Mr Parkin may  
7 give adverse evidence against him, because he was notified  
8 by letter dated 9 February 2012 to that effect, and he was  
9 invited to engage a lawyer to act for him on the day, which  
10 was specified in that letter the day that Mr Parkin would  
11 be giving evidence.  
12

13 I hear though what Mr Illari has to say about Mr Alan  
14 Park's evidence, but certainly a considerable amount of  
15 Mr Park's evidence wasn't anticipated by the Inquiry until  
16 he got into the witness box. Although, I do stress and  
17 emphasise that when Mr Parks recounted the evidence of what  
18 he can recall the Board was told about regarding Dennis  
19 McKenna's behaviour, he certainly did not nominate that  
20 Mr Wilkinson was present when those matters were discussed.  
21 In fact, he didn't give an indication of who was there,  
22 aside from the exception of Mr Garth Addis. I could be  
23 wrong there.  
24

25 With respect to recommendation three, your Honour, I  
26 have already raised that matter regarding the question of  
27 whether these were imposters or not. Your Honour has  
28 already raised with my learned friend the suggestion or the  
29 possibility that no action was taken because Ms Wallwork's  
30 evidence, which appears at page 3665, regarding the fact  
31 that her aunty was friends with the minister of education  
32 and if they were going to kick her out then "we would make  
33 sure that there was going to be an investigation". Then I  
34 actually asked Ms Wallwork at line 24 on that page:  
35

36 Q. Can you recall what happened then?

37 A. There was a kind of a stunned silence  
38 for a bit and then it basically went from  
39 that I was no longer that - you know, I'm  
40 not an appropriate student to be at the  
41 school anymore and that, you know, I can't  
42 be there to - I was going to then be put on  
43 a week-by-week basis, which I said that's  
44 fine, but it wouldn't change anything.  
45

46 They are the only comments that I wish to make.  
47

1 HIS HONOUR: Thank you. That completes the hearing.  
2 Thank you, Mr Illari. We will cut the video link now.

3  
4 MR ILLARI: Thank you, sir.

5  
6 HIS HONOUR: Thank you very much.

7  
8 This is the last adjournment we know of. We are going  
9 to have probably another short hearing the week after next  
10 to read in some statements.

11  
12 MR URQUHART: I anticipate that will be the case, sir.  
13 That would not require any further closing addresses to be  
14 made. That hearing would be very short. I understand your  
15 Honour also has something to say.

16  
17 HIS HONOUR: The Premier has just announced that the time  
18 frame for my report is extended from 18 July to 3 August.  
19 There has been an extension by 12 days, which is at my  
20 request, because I felt we needed that extra time in order  
21 to do a proper job. I am very pleased that the Premier has  
22 granted that extension.

23  
24 I will adjourn, because I am quite certain there will  
25 be another short hearing some time probably in the week  
26 after next, just to clean up some statements which are  
27 still being obtained. That will then be the final day of  
28 evidence of this Inquiry. I will adjourn for now.

29  
30 AT 3.35 THE HEARING ADJOURNED ACCORDINGLY

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