COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Reference: Crime in the community

WEDNESDAY, 19 FEBRUARY 2003

SYDNEY

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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Wednesday, 19 February 2003

Members: Mrs Bronwyn Bishop *(Chair)*, Mr Murphy *(Deputy Chair)*, Ms Julie Bishop, Mr Cadman, Mr Kerr, Mr Melham, Ms Panopoulos, Mr Sciacca, Mr Secker and Dr Washer

Members in attendance: Mrs Bishop, Mr Cadman, Mr Kerr, Mr Melham, Mr Secker and Dr Washer

Terms of reference for the inquiry:

To inquire into and report on:

The extent and impact of crime and fear of crime within the Australian community and effective measures for the Commonwealth in countering and preventing crime. The Committee's inquiry shall consider but not be limited to:

a) the types of crimes committed against Australians

b) perpetrators of crime and motives

c) fear of crime in the community

d) the impact of being a victim of crime and fear of crime

e) strategies to support victims and reduce crime

f) apprehension rates

g) effectiveness of sentencing

h) community safety and policing

WITNESSES

McNAMARA, Mr Glen (Private Capacity).. 543

Subcommittee met at 10 a.m.

McNAMARA, Mr Glen (Private Capacity)

CHAIR—I declare open this public hearing of the House of Representatives Standing Committee on Legal and Constitutional Affairs 'Inquiry into crime in the community: victims, offenders, and fear of crime'. I will release and make public, with the concurrence of the witnesses appearing today, the submissions of Mr McGann and Mr Fenlon, who will appear later today. Mr McNamara's submission has already been made public and is on our web site. The committee has now received over 130 submissions. Many of these comment on community safety and policing.

Mr KERR—I am not certain that this committee has resolved to formally release any documentation. Can I raise a set of issues which I think—

CHAIR—No, not at the moment. Crime in New South Wales continues to increase in particular. New South Wales experienced one of the greatest increases in robbery and assault compared to other states and territories over the past year.

Mr KERR—Madam Chair, as a member of the committee I am entitled to seek the call.

CHAIR—You are not entitled until I give you the call. People are concerned that we will never be able to reduce crime in our streets unless we have the right policing strategies in place, the police on our streets are doing the job they are sworn to do and, perhaps most importantly, they have the appropriate support from the police hierarchy. We have good police; they are entitled to do their job. At a previous hearing in Sydney, the committee heard alarming evidence from former Detective Sergeant Tim Priest about activities within the New South Wales Police Force.

Subsequent to this evidence, the committee has received a significant number of submissions from both serving and former police officers. Late last year, a Sydney public hearing was put on hold due to issues surrounding the giving of evidence in public. These issues have since been resolved, and so today we will hear from a number of officers who are willing to give evidence to this committee despite the potential ramifications. I would ask that a motion be moved that we release those submissions that I mentioned.

Mr CADMAN—I so move.

Mr KERR—Madam Chair, you cannot stifle the debate.

CHAIR—I would now ask that the witness be sworn. Would the secretary please swear the witness.

Mr KERR—Can I raise an issue I wrote to you about yesterday evening which is to this effect. It said that, whilst nobody wishes to prevent the hearings proceeding, there are issues going to how we manage this to ensure that those who are adversely named have the rights of procedural fairness. I would wish that we move into private session for a brief meeting. Any royal commission that pursues matters—

CHAIR—Are you moving that way ? Are you moving a motion?

Mr KERR—I am speaking and then I shall move a motion.

CHAIR—If you have moved the motion now, we will now deal with it. It is a procedural motion.

Mr KERR—It is not a procedural motion.

CHAIR—Just move the motion.

Mr KERR—I am speaking to a letter that I wrote to you in which I sought your concurrence. I was raising the issue of how witnesses—

CHAIR—Then do something about it—

Mr SECKER—A point of order, Madam Chair: we need a motion to debate.

CHAIR—Thank you. Yes, we do. Do you have a motion?

Mr KERR—I will move that we adjourn briefly so that this committee can ensure that those who are adversely named by those giving testimony today have a proper opportunity to respond in due course to the allegations made against them. I move that matter because there is a media release which you have issued, and which is in the press today, indicating that there are going to be serious allegations of corruption, including allegations against the Wood royal commission itself—Justice Wood and his commissioners. It appears to me that it is appropriate for us to consider how we deal with such testimony, not in order that we do not take it in public but to ensure that those who are adversely named are protected. Any committee of this parliament would normally protect those who would be adversely named and we do have obligations as members of this committee—

CHAIR—Indeed we do.

Mr KERR—to take those matters properly into account. We have not so considered those matters

CHAIR—We have a motion—

Mr KERR—and I urge that those issues be considered so that we can give assurances to all participating that fairness will prevail.

CHAIR—You are now entering into debate. We have a procedural motion. All those in favour?

Mr MELHAM—Madam Chair, I second the motion. I wish to speak and you cannot stop me.

CHAIR—No, I am sorry, it is a procedural motion.

Mr MELHAM—It is not a procedural motion.

CHAIR—All those in favour?

Mr MELHAM—The rules are quite clear.

CHAIR—All those against?

Mr MELHAM—Madam Chair, this is not your inquiry. The standing orders—

CHAIR—We will move on. I would ask the secretary to please—

Mr MELHAM—are being subverted—

CHAIR—I would ask the secretary to swear in Mr Glen McNamara, whom I call.

Mr MELHAM—I insist on my right to address the motion before the committee.

CHAIR—The witness is now being sworn.

Mr MELHAM—It is pretty obvious to everyone present that you have a predetermined course of action in relation to the calling of witnesses and in relation to stymieing proper inquiries. The standing orders are very clear.

CHAIR—Mr McNamara, we will be asking you to make an opening statement, and then there will be questions—

Mr MELHAM—The standing orders are very clear. You are in breach of the standing orders.

CHAIR—from me first and then there will be questions from members of the committee once they have the call from me.

Mr MELHAM—Madam Chair—

CHAIR—I inform—

Mr MELHAM—I move that the chair's ruling be dissented from.

Mr KERR—I second that motion.

Mr MELHAM—And I insist—

CHAIR—All in favour?

Mr MELHAM—on my right to speak.

CHAIR—It is a procedural motion.

Mr MELHAM—It is not a procedural motion.

CHAIR—It is a procedural motion. All those in favour?

Mr MELHAM—A dissent from the chair is not a procedural motion.

CHAIR—To the contrary?

Mr CADMAN—Yes.

Mr MELHAM—Madam Chair, you are turning this committee into a farce. I move dissent from your ruling.

CHAIR—And we have just voted on it.

Mr MELHAM—I insist on my right as a substantive member to be able to speak under the standing orders which allow me to speak. If you take advice from the secretary of the committee, you will find that a member is entitled to speak uninterrupted and you do not have the power—because this is a subcommittee—to cut me off. I believe that substantive meetings—

CHAIR—The cutting off was done by you, and the parliament made a judgment about that.

Mr MELHAM—No, there is no cutting off. I am moving dissent from your ruling. I urge you—

Mr CADMAN—We have voted on that.

Mr MELHAM—No, there has been no vote yet. I am trying to speak.

CHAIR—Daryl has moved dissent from my ruling.

Mr MELHAM—I have moved dissent and I wish to speak to it.

Mr KERR—And the procedural motions that govern this are the procedures of the House which entitle a member to speak for at least 20 minutes in relation to such a motion.

CHAIR—No, you will not be speaking for 20 minutes.

Mr KERR—Can I say there is no intention to thwart these processes—

Mr MELHAM—Absolutely.

Mr KERR—but there is an intention to ensure that we do actually—for example, in this paper this morning there is a transcript of a newspaper article indicating that allegations of corruption are going to be made against Mr Justice Wood of the New South Wales Supreme Court—

CHAIR—Mr Kerr, you do not have the call.

Mr MELHAM—I have the call to my motion.

CHAIR—Mr Kerr, you do not have the call. We have had a motion to dissent from my ruling.

Mr MELHAM—and I am speaking to it.

Mr KERR—We have a history of parliamentary committees—

Mr CADMAN—I move that the member be no longer heard.

CHAIR—The motion is that the member be no longer heard.

Mr MELHAM—Madam Chair, that is out of order; I am moving a dissent motion.

CHAIR—It is not out of order. We will put the motion that the member be no longer heard.

Mr MELHAM—You point to the standing orders—

Mr CADMAN—I moved that the member be no longer heard.

CHAIR—All in favour? Carried.

Mr MELHAM—I request that you point to the standing orders that give Mr Cadman the authority to cut me off while I am speaking.

Mr SECKER—That was from the parliament.

Mr MELHAM—I have taken advice from the Clerk; I have moved a motion.

Mr CADMAN—I move that the member be no longer heard.

CHAIR—We have had a motion before us that the member be no longer heard.

Mr MELHAM—And I am moving it! Madam Chair, this is a farce.

CHAIR—Is that seconded?

Mr SECKER—Yes.

Mr MELHAM—This is an absolute farce. This is not a parliamentary inquiry; it is a circus.

CHAIR—All in favour? Carried.

Mr MELHAM—Madam Chair, I moved a motion and I intend to speak to it.

CHAIR—Mr McNamara, you are getting interference—

Mr MELHAM—Madam Chair, I wrote to you with Mr Kerr on 17 February—

Mr SECKER—I raise a point of order, Madam Chair: this speaker has not got the call.

Mr MELHAM—I have the call—

Mr SECKER—You have not.

Mr MELHAM—and it cannot be taken off me.

Mr SECKER—It can, and you know it can.

Mr MELHAM—I have taken advice from the Clerk—

Mr CADMAN—The motion has been carried, Daryl.

Mr MELHAM—Madam Chair—

Mr SECKER—Dry up.

Mr MELHAM—The advice from the Clerk is that when I move a motion—

CHAIR—We checked last night—

Mr MELHAM—I know we checked.

CHAIR—and I asked you if you had any other concerns.

Mr MELHAM—Yes, Madam Chair—

CHAIR—and you declined to give any.

Mr MELHAM—and I told you that I have a situation where I will raise issues—

CHAIR—I think you are not behaving in good faith here, Daryl. You were given every opportunity to raise anything that concerned you.

Mr MELHAM—I am speaking to a motion and you do not have the right to interrupt me. You do not have the right to cut me off—

Mr SECKER—You do not have the call.

Mr MELHAM—and you cannot point to the standing orders which we are governed by. Madam Chair, you were in the Senate at one stage and you went until three o'clock and four o'clock in the morning. You understand more than any the power of individual members under the standing orders. I do not seek any special favours. I seek from you—

CHAIR—I point out to you that we are not in the Senate. This is a House of Representatives standing committee.

Mr MELHAM—protection of my rights as a member. I have taken advice from the Clerk and I suggest—

Mr CADMAN—I think this is really disruptive.

CHAIR—Yes, it is.

Mr MELHAM—I am entitled to move—

Mr SECKER—Filibustering.

CHAIR—This is absolutely appalling. You will go to any lengths to stop these people giving their testimony.

Mr KERR—A point of order, Madam Chair—

CHAIR—Mr McNamara, I think we are going to have running interference this morning—

Mr MELHAM—You are not going to have running interference.

CHAIR—but we are just going to have to put up with it—

Mr McNamara—That is fine.

CHAIR—so if you would begin your statement—

Mr KERR—Madam Chair, I make a point of order.

CHAIR—I will hear your point of order.

Mr SECKER—He does not have the call.

CHAIR—He can have it for a point of order.

Mr KERR—I have a point of order, and I raise this with you.

CHAIR—Which standing order is it under?

Mr KERR—The standing orders that I raise with you are those relating to the proper procedures of a parliamentary committee.

CHAIR—What is the standing order you are raising? You know you are obliged to quote the standing order.

Mr KERR—I raise with you issues that I have sought to—

CHAIR—If you cannot indicate the standing order, we will move on. Mr McNamara—

Mr KERR—Madam Chair, this is absurd. The processes of this parliament have always allowed us to decide—

CHAIR—You are going to have to put up with running interference.

Mr KERR—The standing orders of this parliament have always enabled us to deal with and decide issues relating to the interests and propriety of those who are witnesses giving testimony before a committee and any such allegations that are made. Madam Chair, you have taken away our ability to have a private meeting to consider those serious issues and you are acting in a way which is inappropriate.

Mr McNamara—I was employed by the New South Wales police force from 5 July 1976 to 7 June 1990. I attained the rank of detective senior constable. During the period of employment with the police, I investigated numerous serious criminal offences, including murder, mass murder, sexual assaults, drug importation and drug sales. I also worked on secondment for a period of time with the National Crime Authority. I regarded myself as a very serious and very well qualified investigator.

Mr KERR—This witness is not being treated fairly by this committee, nor are members of this committee being treated in a fair way.

Mr McNamara—In March 1989 I became aware, as a serving police officer, that a detective sergeant named Larry Churchill, of Kings Cross, was involved in the distribution and sale of methyl amphetamine, known as speed.

Mr MELHAM—On 17 February I sought supplementary advice in relation to the televising of committee proceedings and I received guidelines on the broadcasting of committee proceedings. The guidelines on the broadcasting of proceedings—Mr McNamara can continue or carry on—and I move, Madam Chair, that Mr McNamara be requested to—

Mr McNamara—As a consequence, on 17 March 1989 I approached Lola Scott and Ken Watson of the internal security unit of the New South Wales Police. I explained my knowledge and concern regarding Churchill's alleged conspiracy to supply drugs. I volunteered to act as an undercover operative. I had experience in that regard, and it was obvious that Scott and Watson did not.

Mr MELHAM—Madam Chair I move that Mr McNamara be requested to refrain from giving evidence until the question of dissent from your ruling is determined. I move that motion, Madam Chair.

Mr McNamara—Prior to gaining an operation, I extracted a promise of secrecy from Scott and Watson in respect of the conduct of my undercover operations during the investigation. I indicated to them that it was important that the operation be carried out in the strictest secrecy, as in undercover work, particularly with drugs, lives are often at stake—most usually those of the undercover officers.

Mr MELHAM—I want my objection noted. These proceedings are not conforming with the standing orders that the chair act with propriety and, frankly, she has now raised serious issues of privilege that I intend to raise at the appropriate stage.

Mr McNamara—Scott and Watson promised secrecy, and as a consequence Operation Hawkesbury commenced. Scott and Watson successfully applied to the Supreme Court of New South Wales for a listening device warrant. I wore the concealed listening device throughout the course of Operation Hawkesbury. That warrant also extended to telephones which I used during the course of Operation Hawkesbury to also be fitted with listening devices.

During the course of Operation Hawkesbury, in my role as an undercover operative, I met with Robert 'Dolly' Dunn, Colin Fisk and Allan Saunders. My inquiries established that Allan Saunders was a professional drug dealer who had previously been arrested by Churchill. He had been robbed of his drug sales proceeds by Churchill and subsequently put to work by Churchill to sell drugs in the Sydney metropolitan area. My inquiries established that Dunn and Fisk were commercial manufacturers and drug suppliers of amphetamine. They also disclosed to me throughout the course of my undercover operations with them—and they were recorded on listening device warrants—that they were actively engaged in paedophilia.

All the information that I obtained in respect of their drug admissions and their admissions with respect to their paedophilia were recorded on listening device tapes and land lines. During a meeting with Dunn and Fisk at the Doncaster Hotel on Sunday, 26 March 1989, whilst I was wearing a concealed listening device issued pursuant to the same listening device warrant obtained by Scott and Watson, I engaged Dunn and Fisk in a conversation in relation to their involvement in amphetamine manufacture and sale. The conversation was a precursor to convincing Dunn and Fisk of my credibility to act as their supplier. I also was aware that Dunn had in his possession approximately one kilogram of high-grade amphetamine and it was my mission to obtain the amphetamine and remove it from the streets. During the course of this meeting I gave Dunn and Fisk money, which had been given to me by Scott, and purported it to be the proceeds of drug sales, as I had previously obtained samples from the drug dealer Saunders and we had fooled and deceived all three offenders by pretending it had been sold. This went a long way to convincing Dolly Dunn and Colin Fisk of my bona fides as a drug dealer and corrupt police officer.

The concealed listening device was hidden inside my jeans. The microphone was miked up the side of my body and came out near my neck. It meant that I had absolutely clear audio and that the recording on the tape was of the highest standard. In this conversation, Dunn discussed the possibility of providing me with a million dollars worth of speed, which he had possession of, and he indicated to me that he had it in the boot of his car. He was scared that the drug dealer Saunders was going to rip him off and rob him of the proceeds of the drugs, and that was a reasonable fear to have. Saunders, being a professional drug dealer, would consider ripping off a soft target like a drug-dealing paedophile easy money. It was my job to get in between them, and I successfully managed this.

However, during the course of this conversation Dolly Dunn told me that the real reason that he was an amphetamine manufacturer, seller and distributor was that he needed large quantities of money to finance his paedophilic lifestyle. At this stage Colin Fisk entered the conversation and said to me, 'Look, Glen, we need enough money to live with young boys just like decadent Roman emperors.' Dunn responded to this statement with, 'That's right, Glen—decadent

Roman emperors.' He emitted a burst of high-pitched laughter. The demeanour of Dunn and Fisk at this time was that of successful drug dealers celebrating drug sales, being in receipt of money purported to be from drug sales, looking into the future and seeing that they were going to make a million dollars out of this particular endeavour which would be shared amongst corrupt police and these paedophiles.

Fisk then said that he was the eyes and ears of the Larry Churchill paedophile protection racket which had operated in Sydney since 1974. Fisk explained that he was always on the lookout for paedophiles with money so that he and Churchill could set them up to be extorted or robbed, or a mixture of both. Fisk joked that he had managed to rob Dolly Dunn of $40,000 in August 1987. He explained that Churchill had taken the $40,000 from Dunn on the threat of charging Dunn with child sexual assault matters. Dunn confirmed the extortion and said, 'It was the price for loving boys.' Dunn said that now that Churchill had befriended him—after he paid the $40,000—he and his paedophile friends were protected from police involvement and investigation, and he regarded the $40,000 as being money well spent. He said, 'Like an entry into a private club, I can't be touched.' Dunn went on to explain that, through his knowledge as a science teacher, he could easily make millions of dollars of amphetamines and he specifically indicated that he was in fact considering just that arrangement.

I wish to indicate to you at this time Dunn and Fisk were happy. There was no suggestion they were being investigated. There was no suggestion they were being exposed. There was no suggestion they were going to prison for a very long time. They were looking forward to drug dealing and they were looking forward to a life gorging themselves sexually on young boys.

A short time later, we moved our drug deal to the car park of the Doncaster Hotel. Dunn opened the boot of his car, and I saw a garbage bag much like a garbage bag you use for household cleaning—a large one. I opened it and it was full of speed. At the same time that I looked in the boot of Dunn's car, I saw the robes and the clerical collar of a Catholic priest. Fisk, animated and happy, said to Dunn: 'Oh, Robert, you're still not pulling that one, are you? You dirty little bugger!' I said, 'You're not a priest, are you?' Dunn said, 'No, never.'

I realised something was terribly wrong with Dunn's possession of the robes of a Catholic priest, but I led him on and I said, 'They're the robes of a priest. Have you been to a fancy-dress or what?' As I wanted him to do, Dunn explained to me, 'Well, Glen, I put them on when I meet boys' parents. You know, they think the boys are safe with me.' I said, 'What, so they think you're a priest?' Fisk said, 'Tell him the rest, Robert.' Dunn said, 'Well, when I have sex with the boys I wear them.' Fisk began to laugh loudly and he said, 'You deviate. Glen, when he is with the boys and he has them sexually, he doesn't wear undies. He just lifts up the robes. You cheeky little deviate, Robert.' Dunn and Fisk laughed loudly.

I continued with my cover, and I removed the amphetamines from Dunn's vehicle, put them in my vehicle and returned to the Internal Police Security Unit. All of the time the listening device, which was concealed on my person, was still operating. Protocol dictated that after each recording the audio tape would be replayed in the presence of Scott and Watson so as to ensure that the audio recordings were of a high quality and so that ongoing and further inquiries could be easily made into admissions made by the persons affected on the tapes. I walked into the office of the Police Internal Security Unit, carrying the garbage bag over my shoulder. Scott and Watson looked at me, and they were ecstatic. They realised that I had pulled off being able to con Dolly Dunn out of his million dollars worth of speed. I said, 'If you think that's good, have

a listen to these disgusting bastards.' I removed the concealed listening device in the presence of Scott and Watson. I placed the tape into a cassette player in the office, and we played the tape. And I say to you people on oath: the clarity of that conversation was as clear as the clarity is here today.

At the conclusion of the tape, I was aware that Dunn and Fisk had gone back to Fisk's terrace house in Cleveland Street at Chippendale—essentially, you could throw a golf ball from the IPSU offices, which were at Regent Street at the time. It was two kilometres away, and that was by using the streets. In a straight line, it was much closer. I said to Scott and Watson, 'Let's lock up Fisk and Dunn now.' Scott and Watson refused to participate, and they directed me not to do so. A furious argument ensued. They were my superiors. Although Scott was a sergeant—one rank above me—Watson was an inspector. From that point, my professional relationship with Scott and Watson deteriorated to contempt and disgust, although I had to deal with them.

As a consequence of this furious argument, and as we were approaching the finality of the whole operation, a leak of my involvement as the undercover operative was leaked from the Internal Police Security Unit to a detective sergeant named Denis Kimble Thomson at Kings Cross. Two days before the arrest of Churchill, Thomson was observed by surveillance police to leave the police station and walk to a public phone booth. There was a listening device attached to Churchill's residential telephone line. He telephoned Churchill and he said, 'McNamara is an ISU dog; you're gone.'

As a consequence, Churchill and Saunders were able to manufacture a large number of untrue allegations about me. They were conveniently investigated by Scott and Watson—particularly Scott pursued the investigation with great vigour. Between March 1989 and February 1990, she prepared briefs of evidence and forwarded them to the then Director of the Department of Public Prosecutions in New South Wales, Mr Reginald Blanch QC. She recommended that I be charged with a number of criminal offences. With respect to procedural fairness in relation to this particular issue, I was never afforded an ability to comment on the proposed charges at that time. I was not afforded legal advice. In fact, the brief was forwarded to Mr Blanch without my knowledge. Mr Blanch examined all of the documents forwarded by Scott, and he indicated to her that no charges of any criminal type or any other type would be proceeded with against me because there was no evidence.

Not daunted, Miss Scott forwarded the same brief of evidence to the Ombudsman of New South Wales, who at the time was Mr David Landa. Mr Landa made an examination of the documents and wrote me a letter, in which he advised me that he had made a finding adverse to me. He invited me to make submissions. I did. As a consequence, he responded to me. He apologised for any distress or anxiety that his original findings had caused me. He sent a letter advising the police service of the same thing, and he noted that the persons involved in the complaint were the drug dealers whom I carried out undercover work with at the direction of internal security—facts that Scott conveniently forgot.

Notwithstanding those matters, Scott, through the leak, was able to allow Dunn to flee justice. Dunn fled Sydney in late March 1989. He took with him 17 videos from his home. He was arrested in mid-October 1989 by the Victoria Police. He had been the subject of a warrant for his arrest. He had been circulated as being wanted throughout the whole of Australia. The warrant had been sworn by Scott and Watson and was enforceable throughout every state and territory in Australia. In the meantime, Churchill, Saunders and Fisk had been arrested. They all

pleaded guilty, the brief was that good, and they were sentenced to terms of imprisonment. Dolly Dunn subsequently pleaded guilty, and he was sentenced in May 1990.

However, during the course of my undercover operations—and particularly I refer to the Doncaster tape—Dunn had disclosed a $40,000 extortion payment to Churchill. Two other detectives were also named. As a consequence, Scott vigorously pursued these other police, to the extent that I say she prepared a P16 indemnity application form for Robert Dunn to give evidence in relation to that matter. She completed that application on 18 January 1990.

Mr KERR—To assist the committee, can you explain what a P16 indemnity application is?

Mr McNamara—A P16 was a form the New South Wales Police used in the late 1980s. It was an application form for a person to receive an indemnity. During the course of the application, two questions were asked of Scott. The first one was whether the applicant had a criminal record. Scott wrote 'Not known' at criminal records. The second question was whether the applicant was an associate of criminals. Scott wrote in the negative—that he was not. I would like to read to you from His Honour Judge Davidson's summing-up in Regina v. Robert Joseph Dunn 98/11/0478. He refers to the indemnity application.

Mr MELHAM—This was cited before Judge Davidson in the Sydney District Court?

CHAIR—You can come to that when we come to questions. You can ask the question.

Mr MELHAM—He did cite it.

Mr McNamara—3 September 1999. I have a copy of the transcript. It is voluminous; I am prepared to provide it. Exhibit 00 is the P16 indemnity application form completed by Scott for Dunn. His Honour Judge Davidson said:

> Exhibit 00, the indemnity application, was completed by Detective Sergeant Scott. It discloses that the applicant was then a person not an associate of the criminal element. In light of the fact that Detective Sergeant Scott had recorded interviews between the applicant and Mr Watson on the 15th, 16th and 17th January 1990 she was challenged as to this statement in cross examination. Her explanation to the effect that she had regarded this statement as being justified by the lack of any recorded convictions of the applicant I found unconvincing. For present purposes, the P16 form relating to the applicant supports the inference that it was the intention at least of Detective Sergeant Scott to represent to those who were to advise the Attorney General as to whether an indemnity should be extended to Mr Dunn that he was a person who might appropriately be granted an indemnity.

His Honour made those remarks in the absence of the evidence that I will continue to give today. The comments made by His Honour scream out for a missing link. The tape that I made at the Doncaster with these paedophiles was never played, for if it had been produced and played Scott would have incriminated herself on at least conspiracy to pervert the course of justice from 18 January 1990 at her P16 indemnity application and for perjury before His Honour Judge Davidson in this matter.

Two other notorious paedophiles, Colin Fisk and Brian Wayne, also received indemnities. Their applications were also completed by Scott. These is no examination of those documents, but I would strenuously say to this committee: for God's sake find the applications because you will find the same lies in these applications. The criminality associated with Fisk is virtually the same as a criminality expressed by Dunn in the Doncaster tape of 26 March 1989. Scott had

knowledge of all of that criminality at 7 p.m. on the evening of Sunday, 26 March 1989. She knew from the outset.

In the matter of Wayne, he was a person fleeing from justice. He was a person subject of an arrest warrant in the state of Queensland for sexual offences against children. The arrest warrant had validity in every state and territory. Dunn knew this and harboured him.

At paragraph 16 of the same judgment His Honour Judge Davidson stated:

It is clear that the decision to prosecute was based on the versions of these four potential witnesses and without their evidence the Crown would have not have a case against X, Y and Z.

They were the police that were charged and subsequently acquitted. As a consequence, committal hearings occurred. All three were committed for trial. Two separate trials were run, the reason being that Churchill was still serving a sentence for the drug matter to which he pleaded guilty. The other two police who were accused were suspended on full pay and on bail.

During the course of the period between the committals and the trial I consistently telephoned Scott—she would not take my calls in the end—begging her to use the tapes, begging her to add some context to what was otherwise a conspiracy by her to pervert the course of justice. I begged her to be able to give evidence to put the record straight so people knew the context in which this $40,000 extortion—or, as Dunn called it, an ‘entry to a private club where I cannot be touched by police’—was made. She refused. As a consequence of the two trials running, the state of New South Wales incurred great expense. Three of the four witnesses were indemnified; the fourth witness would not have been required if only he had given evidence.

The effect of the indemnity being granted directly relates to Scott lying to the Director of the Department of Public Prosecutions and to the Attorney General. The Attorney General at the time was the eminent Supreme Court judge, Mr John Dowd. I can see no way at all that Mr Dowd or Mr Blanch, who was the Director of Public Prosecutions at the time, would have had any truck with lies and deals in relation to the issuance of indemnities on a false basis. As a consequence, Churchill was acquitted. The other two accused men were acquitted in a separate trial. One of those men, a man named Peter John Wells, should never have been charged. Not only was Wells acquitted, he was completely innocent of the charge. Since his acquittal in 1994, Peter John Wells has taken every opportunity to vigorously pursue his innocence—forget his acquittal, he is pursuing his innocence.

There are notes, which I will get to, from Mr Hume that were provided to Judge Davidson during the course of this indemnity hearing. In these notes, he says:

I was led to believe that police officer X—

who is Peter John Wells—

was aware of the videotapes existence—

They are the disgusting videotapes for which Dunn is now serving his sentence—

but I was misled.

By whom? Lola Scott. Hume recants many years later: ‘I was misled. It wasn’t as I thought.’ In the face of the facts, why wouldn’t you recant? He is only telling the truth: he was misled by this woman. Why does she charge three of them? Why not two? Certainly two of them are guilty because the facts are these: Churchill had a 15-year relationship with Colin Fisk. Richard Hazel was a workmate of Churchill. Peter Wells had sworn out a warrant to search those premises as a consequence of other information. Peter Wells’s workmate was absent from the police station that day—not an unusual occurrence, particularly in a busy city station. Wells never worked with Hazel, and Wells said: ‘Look, I’ve got a search warrant to do. There are time limits that apply to these things. Will you come and help me?’ He said yes.

During the course of the search, a number of things occurred, but the evidence appears clear that Hazel removed the tape and returned it to the police station where Churchill viewed it. These disgusting images of Dunn engaged in sexual intercourse with boys aged between eight and 14 did not trigger: ‘Let’s go and lock him up’. They triggered: ‘Let’s go and extort him. I’ll ring Colin Fisk, the paedophile, and we’ll arrange an extortion.’ That is how the $40,000 was removed. Wells had nothing to do with it; he was none the wiser. Maybe he should have been, but I can tell you from working in busy city stations—and Redfern is as busy as it gets—that he would have got back to the office and done 10 other things by himself. So why does he get dragged in? Again, the answer is contained in Davidson’s transcript of the summing up. Within a year, Detective Sergeant Scott was in charge of Operation Speedo. Fantastic. It was an inquiry into paedophiles.

Mr SECKER—Can I just get a clarification there. You said Detective Sergeant Scott. Is that Lola Scott?

Mr McNamara—Yes.

Mr SECKER—I thought you said she was an inspector.

Mr McNamara—No, Watson was the inspector. Scott was the person who vigorously pursued the three. She used the shotgun approach rather than facts. Why? Within a year of these people being arrested she was in charge of Operation Speedo, investigating paedophiles, coordinating a task force. In 1989 it was unheard of for a detective sergeant or a sergeant to operate a task force. Her career ascension had begun, and it was based on fraud. It is interesting, in relation to Operation Speedo, that her No. 1 man, Robert ‘Dolly’ Dunn, was not on the list of paedophiles to be investigated.

Mr SECKER—What year was that?

Mr McNamara—1990. She used Dunn throughout the course of his incarceration for a drugs charge and falsely indemnified him. Dunn himself is a victim of sorts; he had a false belief that he was free. During evidence—

Mr KERR—I am sorry, I do not wish to interrupt, but I do not understand that comment because it seems a bit odd—

Mr McNamara—Certainly it is odd. Dunn was under the influence—

Mr KERR—that Dunn was a victim. I cannot understand why he was.

Mr McNamara—I will read this and it might make a little bit more sense. Through his counsel he provided a statutory declaration before Judge Davidson. He alleged that Scott spoke to him on a jail visit—just the two of them—when he was refused bail at Long Bay Jail in relation to the drugs charges. There are no documents as a consequence of that meeting. There are no records as to why she was there. If you read the transcripts it appears as if she rubbed her forehead and a crystal ball and decided to go and see him. There is no record of any directions by anyone to do it. She had a conversation with him. Indeed, upon his arrest, the fix for Wells, who was innocent, was in. It was not because she did not like him or anything like that; it was about her money and power. Watson did not go. Dunn alleged to Judge Davidson that during this visit Scott said to him: 'If you cooperate you will have no worries about charges being laid against you as a result of your involvement in the matter. In fact, your cooperation would benefit your present situation in that a letter will be provided to you, detailing your cooperation, and it will be passed on to the judge who hears your matter'—that is the drug matter. I will get to that in one moment.

Mr KERR—That was Dunn's testimony?

Mr McNamara—That was Dunn's testimony before Judge Davidson—

Mr KERR—In the—

Mr McNamara—Yes. Dunn alleged in the same document that after the indemnity had been granted there were some drafting issues—it was redrafted on a second occasion. The drafting had nothing at all to do with the facts surrounding Scott's application. It had nothing to do with it; it was a drafting matter. It was raised by, I think, Mr Teal, who represented Churchill at the committal. But there was a level of concern, so much so that the magistrate, Mr Falzon, who presided, suggested Dunn obtain independent legal advice. Dunn alleged in the same document that he had a conversation with Scott in the cells. He said: 'I'm concerned about my protection and the indemnity. I would like to take the opportunity offered by the magistrate to speak to an independent lawyer.' Reasonable stuff, isn't it, even for a paedophile? Dunn alleged that Scott replied: 'There's no need for this as the indemnity is adequate. We've already told you we have no intention of charging you.' And they did not. Those conversations and Scott's attitude completely passed by due process, procedural fairness and the rights of a person to receive a fair trial. It passed over a number of executive functions and the independence of the judiciary. It made a mockery of the Director of the Department of Public Prosecutions, who just said, 'I don't know anything about it'—he took the Fifth when he went in front of Judge Davidson, and who could blame him because he had been deceived.

The career ascent, by the time these trials came around in 1994, was complete—she had been rapidly promoted: at that stage she was, I think, a commander. And still none of the paedophiles from Operation Speedo had ever been arrested and charged with anything. We are talking about paedophiles of the likes of Colin Fisk, who had served a period of imprisonment in respect of my drug dealing inquiry, and Phillip Bell. In relation to the promise I say that Scott made in relation to those allegations, she in fact did supply the sentencing judge, Judge Court QC, of the city district court, a letter of comfort in respect of Dunn's conspiracy to supply $1 million worth of speed. Judge Court said—

CHAIR—Could you repeat that?

Mr McNamara—When Dunn was sentenced in May 1991 for conspiracy to supply methylamphetamine—the original Operation Hawkesbury; and all he was charged with was supplying $1 million worth of speed—she supplied a letter of comfort to Judge Court QC, the sentencing judge.

Mr MELHAM—Judge Roger Court?

Mr McNamara—As I understand it, yes.

Mr MELHAM—Was that letter of comfort public?

Mr McNamara—No. Give me two seconds and I will get straight to it. For supplying $1 million worth of high-grade amphetamine, he received three years imprisonment. He served 2½. Judge Court's comments were that the prisoner was entitled to an ample discount, as was the prisoner Fisk, whom he had previously sentenced. Scott had done a deal in relation to false indemnities with Fisk as well because Fisk was one of the other witnesses who gave evidence against the three charged with extortion. So you can supply high-grade amphetamine in New South Wales, you can even make it, and do not even worry about being charged with that. But you can supply it to undercover police, you can have it on tape, you can go and see Lola Scott, you can cut a deal that ascends her career into the stars, she will send you a letter, she will pervert the course of justice and you get 2½ years for a $1 million supply. Are we tough on drugs? I think not. Addicts were injecting this stuff and falling over—that is how strong it was. Dunn boasted that, as a science teacher, he knew how to make it; he could make it stronger. He boasted about that on the Doncaster tapes of 26 March. There was never any charge preferred in respect of conspiracy to manufacture. It just did not happen.

Mr Melham, I will get back to your comments now. I would urge you people, as a committee representing the national interest, to find these letters of comfort for Fisk and Dunn, open them and examine them. I am not a betting man but—

Mr MELHAM—You want us to break the rule here?

Mr McNamara—I will ask—

Mr MELHAM—Is that what you are asking?

Mr McNamara—No. Examine, make inquiries; see if what I say is true. Test me. You can get 2½ years for a $1 million drug supply. That is good. In respect of why Dunn was associated with criminals, on the Doncaster tape of 26 March he stated that he and his homosexual lover had manufactured a $2 million batch of amphetamines in early 1989 which they intended to sell. Drug squad police executed a search warrant at their residence and seized about $1 million worth of speed. Dunn's lover was arrested, charged and refused bail.

Mr SECKER—I am sorry, we have gone on from there but just on the letters of comfort issue: is that a normal thing that happens?

Mr McNamara—It is not normal.

Mr MELHAM—Are you sure about that?

Mr SECKER—Who did they go to?

Mr McNamara—They went to the sentencing judge.

Mr SECKER—Who was that?

Mr McNamara—Judge Court QC.

Mr MELHAM—Madam Chair, I want to make sure that I did not mishear that. Mr McNamara, are you saying letters of comfort are not normal?

Mr McNamara—During the period of my employment as a detective in the New South Wales Police, I never gave one to a judge, ever.

CHAIR—Are we talking about letters of comfort from prosecuting police?

Mr McNamara—From prosecuting police to judges.

CHAIR—I think a letter of comfort from a third party would be not uncommon.

Mr McNamara—No.

CHAIR—But from prosecuting police—is that what you are talking about?

Mr McNamara—Perhaps I should clear that up. I am talking about letters of comfort from investigating police to judges who are sentencing prisoners.

Mr KERR—Again, to clear this up, these are events that occurred a decade ago—and I do not know the background myself—and what you are saying, if accurate, is a terrible indictment of those who were then acting in this way. But it is not unusual for the information that somebody has given assistance to police to be provided to judges as part of the prosecution task, as I understand it. In this instance, you are alleging that that assistance was in a sense falsely constructed. But it is certainly not unusual for prosecutions to advise judges of the fact that a particular person has been of assistance in some way or another in relation to other investigations that they are pursuing.

Mr McNamara—That is correct. What was unusual—and what I refer to as never having done during my period of service, Mr Melham—was that the chain was broken. It went directly from Scott and Watson to the judge. There is no evidence it went through the DPP. There is no evidence in the transcripts that I have available that the prosecutor appearing for the Director of Public Prosecutions at these sentences had anything to say about it.

Mr MELHAM—Chair, I do not want to divert Mr McNamara but I think it is important.

CHAIR—All right. I think it is fair to get his statement; I think we have done that. One more point, and then we will complete his evidence.

Mr MELHAM—Mr McNamara, you have just given evidence that, in your time, you have not been involved in this sort of letter of comfort. So you do not know what the procedure was? You have not personally been involved in that period of time—I think you said you were an officer from 1976 to 1990.

Mr McNamara—Correct. I was never involved in that type of letter of comfort.

Mr MELHAM—There are other inferences in relation to how letters of comfort are given to judges in terms of following protocol and procedure, aren't there?

Mr McNamara—I am not aware of what you are getting at.

CHAIR—Mr McNamara, I think you said there was no evidence of it going through what you described as proper channels.

Mr McNamara—Correct. It was not transparent.

CHAIR—Did you have knowledge if it was done? Perhaps you can clarify this in your own evidence. We will move on.

Mr MELHAM—We will do it later—on transparency.

Mr McNamara—I will go back to why he was an associate of criminals and why the P16 indemnity application form completed by Scott was untrue. After the police had arrested and charged his lover, Dunn buried the other million dollars worth of speed in a backyard. The police failed to detect it during a search. Dunn then retrieved the drugs and approached Colin John Fisk with a view to recruiting him to assist in the sale of the remaining million dollars worth of speed. Dunn complained to Fisk that he wanted to corruptly free his homosexual lover and he was prepared to make payments for that to be achieved. Fisk contacted Churchill. Churchill, Fisk and Dunn met, and Dunn briefed Churchill on the whole affair. As a consequence, the drug deal—the conspiracy to sell the remaining million dollars worth—was commenced.

Then Dunn admits that he made a bargain with Churchill to split the moneys from the sale of the speed. Dunn complained that he had to pay the police the $40,000 on or about 21 August 1987 so he was not charged with offences in relation to paedophilia and harbouring a wanted felon. As at 21 August 1987, he readily admitted that Brian Wain was a wanted felon from the state of Queensland. Dunn and Fisk admitted on the tape that they had previously been involved with Churchill in relation to an insurance fraud committed at Dunn's home. It was a burglary. They split the proceeds.

In relation to during the course of the drug deal, I refer you to the robes of a Catholic priest which I saw and Dunn's admissions at that time as to his uses of them to deceive parents and as a sexual turn-on during sex acts with young children. Scott admitted to me, after Dunn's arrest in October 1989, that she had viewed the videotapes—these famous videotapes. She told me that they displayed Dunn in various types of sexual activities with young boys and that she found the contents of the tape to be disgusting, which is highly reasonable.

CHAIR—You are saying that she told you she had seen the paedophilia tapes—

Mr McNamara—Correct.

CHAIR—prior to filling out the P16?

Mr McNamara—That is absolutely correct, Mrs Bishop. She viewed those tapes in late October 1989. So she was aware from an audiotape of all the other information I have just given you, on the evening of 26 March 1989.

Mr CADMAN—When do you think that letter of comfort would have been written?

Mr McNamara—Dunn was sentenced in May 1991, so sometime then.

Mr CADMAN—Two years after she had viewed the tapes?

Mr McNamara—Almost two years—correct, Mr Cadman. She had an extraordinary knowledge of his criminal behaviour and his criminal associations.

Mr SECKER—So she had heard the tape of your stuff—

Mr McNamara—My dealings with her.

Mr SECKER—when you were all hooked up and she had seen the pornographic tapes, but you are saying she still wrote a letter of comfort.

Mr McNamara—Absolutely. The trick was keeping the balls in the air, if you like. That is why I was never called to give any evidence in relation to the trial of the three fellows charged with extortion. That is why, if I had have, the three indemnified witnesses would have been hunted out the door. Their evidence is inadmissible on the basis of a false, flawed and untrue indemnity process. Each application was a conspiracy by her to pervert the course of justice.

As a result of those matters, Peter Wells suffered enormously—he still does—but he vigorously asserts his innocence. He was acquitted. It is unusual, in my experience, for a person to be acquitted in 1994 and still vigorously assert their innocence nine years later. The man Hazel, who was charged with him and who I believe was the person that removed the videotape and showed it to Churchill, made a tearful confession to his involvement in it, which corroborated the Doncaster tape even more. He made a tearful admission, but he made that admission whilst he was protected giving evidence to the police royal commission.

Mr KERR—That is the Wood royal commission?

Mr McNamara—It is, Mr Kerr.

Mr KERR—That is Hazel who made—

Mr McNamara—Richard John Hazel made that admission.

CHAIR—What was the year of that? That would have been in 1997.

Mr McNamara—I understand he made that admission about 1997. He was never charged; he had been acquitted. The admission he made was under the guise of the police royal commission, so he was unable to be charged and he was not able to incriminate himself in relation to the evidence he gave.

CHAIR—What has happened to him?

Mr McNamara—He led a tragic existence.

Mr KERR—He committed suicide.

Mr McNamara—Well, they say suicide.

CHAIR—Why do you say that?

Mr McNamara—I say that because the facts in relation to the death of Richard John Hazel are these: he was separated from his wife and children but they both lived in the same suburb. He lived in a residential home unit—habitually, according to his wife. He habitually closed the sliding door leading out to a balcony. He was found in his pyjamas in the lounge room of his home. He had a stab wound in his chest. The weapon that caused the wound that killed him was a knife taken from his kitchen. When his ex-wife examined the scene, she noted that the sliding door, which he habitually had locked, was left open. She said he would never do it.

Two weeks before his death, Richard Hazel broke down and became tearful in front of friends. He complained that he was being dragged back into the paedophile thing. A week before his death he approached a petty criminal. He asked this criminal to carry out a hit on someone. The person refused and Hazel died.

Mr KERR—I only note you, at page 4 of your written submission, to assert your view then when you wrote to us that Mr Hazel committed suicided at Caringbah—

Mr McNamara—Under suspicious circumstances. Since that time, I have made inquiries. These inquiries have not been made by the police. It is an embarrassment that this fellow is dead. It is an embarrassment that his death could somehow be related to paedophilia and to Scott. I am advised by his ex-wife that, although he did do this terrible thing with the money, Scott persecuted him. If he had been in a properly run trial with just the two accused, he would have gone to jail, which is where he should have gone. Surely to goodness he would have been a person who would have reacted well to rehabilitative services. He could have gone on with his life, moved on perhaps and put it behind him, yet he is still dragged into it.

In relation to what happened to me after these people were arrested, we continually received crank telephone calls at home. My wife received calls at her place of business, which was difficult to change because it was a retail area and it is suicide to change those phone numbers—she tried to get out of it. However, Scott and Watson were in charge of issuing telephone numbers to me. Despite that, I continued to receive these hoax phone calls. I was later advised by a detective I had previously worked with that a false ad had been placed in the

Police News, in which I was purported to be offering electrical equipment for sale. My name, where I worked and my current home telephone number appeared—I have copies of it here. I reported that to Scott, outraged. People have described it as one of the most outrageous breaches of security. She made some inquiries. No-one was ever charged, because it was her.

In August 1989, my wife and I went to the US. Prior to leaving, we deposited an itinerary with Scott and Watson. Two days after arriving in Los Angeles, when we returned to our hotel, a witness protection officer calling from Australia was on hold on the phone in the reception area. His name was John O'Neil. He told me that a plot had been uncovered in Sydney—people were planning to go to Los Angeles and murder me. He told me it was so serious that they had already called the AFP office in Los Angeles to arrange safe custody for me. It was the most gut-wrenching experience of my life. I thought I was going to collapse in the foyer of this hotel; I could barely get to the room. I told my wife and probably half an hour later, when I was wondering what to do but deciding not to have anything to do with the police or anything coming from Lola Scott, my wife complained of severe stomach pains. She went to the bathroom, and I went in a few minutes later when I heard noises. I saw that she had her dress up and there was blood everywhere—not red blood, blue-black blood. She was miscarrying. She was in agony. We were petrified; we were so scared we did not go to a doctor in Los Angeles. We changed our itinerary and got back to Australia. She went and had to have surgery; her gynaecologist confirmed that it had been a miscarriage.

I complained to Scott and Watson, using rough language and threats of physical violence to them. From that day to this there has never been one iota of apology for my wife or her suffering. There has never been an indication that they are even sorry about it. She suffered enormous pain; it was our first child. We had planned to have three. That child today would be 13 or 13½ years old. So the effect of that was simply mental torture. Scott used the same thing on other people; she has used it on people that I do not even know, which I will refer to shortly.

Our marriage, in a lot of respects, suffered greatly. It never goes away. You can have six good months and it will come back in the heat of a domestic argument or heated debate—I am sure everyone who has been married has undergone those things. One of the bonds for our marriage, the glue, is this sadness over this death. But there was nothing—not a bit of sympathy, not a get well card, not a prayer anywhere. So that is what happened to us.

Later, when they pleaded guilty, I pursued all those other options; they did not work and I was legally gagged by this woman. I was not actually legally gagged, but she has abused every piece of court process from that day to this. She has deceived and tricked prosecutors and judges; she has deceived and tricked parliamentarians. The very brave Deirdre Grusovin, who got on her feet in this House many years ago and asked questions as to this cover-up, had her political career assassinated by Scott. I recall clearly Bob Carr as the then opposition leader and John Fahey as the then Premier standing solid, condemning Grusovin for her bravery. If there were a war today, you would have Grusovin next to you; this is the power of this woman—it is not just me.

There are other people involved. As her power and influence grew, she became bolder and bolder. She lived in an almost virtual reality, in a veneer, between the executive arm of government, the legislative arm of government and the judicial arm. She relied upon intimidation. She relied upon having the goods on someone or on back scratching to get where she got. I refer you very briefly to the matter that is currently before the New South Wales

courts of Joseph Fitzpatrick v. the State of New South Wales—and I will have a document to provide to you later on.

Mr KERR—I do not wish to relitigate matters but it may be that there is a sub judice issue here if it is before the courts. It may be a requirement for us to consider how we proceed on that.

CHAIR—Is the Fitzpatrick matter before the courts?

Mr McNamara—It is still before the courts.

CHAIR—Perhaps we will refrain from discussing the Fitzpatrick matter.

Mr McNamara—In relation to other parts of Fitzpatrick which are not before the court, and I do not want to commit sub judice—

Mr KERR—I appreciate that. Please understand that this is a difficult process because we have not discussed our procedures beforehand. I just do not wish to potentially create a difficulty for a trial.

Mr McNamara—Nor do I.

CHAIR—We have agreed that it is sub judice and we will not deal with it.

Mr McNamara—In relation to other aspects of it—

Mr MELHAM—On that question of sub judice, is there a trial or is there a sentence?

Mr McNamara—I beg your pardon. It is a civil proceeding. Fitzpatrick is suing the state; it is a civil matter.

Mr MELHAM—So it is a civil matter.

Mr McNamara—Yes. Fitzpatrick is the plaintiff. He is alleging false imprisonment, malicious prosecution and assault.

CHAIR—We still will not deal with it.

Mr McNamara—Tell me to stop and I will in relation to this. There were complaints to Internal Affairs about the manner in which the police dealt with the boy Fitzpatrick—that is a separate issue. Please tell me to stop and I will. Arthur Katsogiannis is a detective from Newtown. He made an independent inquiry in relation to a woman named Pauline Bellemore. Ms Bellemore was a sergeant in the Endeavour police patrol, which is in Newtown. It is alleged—

CHAIR—Is this relevant to the court case at all?

Mr McNamara—No. There are allegations—and they are on the public record—that amounted to assault by Bellemore on Fitzpatrick. Katsogiannis sent a report internally to the

police recommending that Bellemore be charged with assault in a criminal jurisdiction and that she be dismissed. The former commander of Internal Affairs for the New South Wales Police, Mal Brammer, wrote those documents and recommended that she be criminally charged and that she be dismissed as a consequence of other breaches.

CHAIR—Was she charged?

Mr McNamara—Never. I am informed that Scott protected Bellemore from charging and that, indeed, they let the 181D sit on a desk and expire.

Mr SECKER—What is a 181D?

Mr McNamara—A 181D is an order issued under the Police Act governing New South Wales, which is instant dismissal for misconduct. Scott let that expire. As a consequence, instead of being charged as recommended, Bellemore was promoted. She was promoted from the rank of sergeant to the rank of inspector, and she was moved from the Newtown police patrol to the Hornsby police patrol.

Mr KERR—It might be helpful if we knew roughly what this civil court proceeding is about. If it is a litigation between Fitzpatrick and one of these people, it might well be an issue that is subject to sub judice.

CHAIR—Yes. I will reinforce that issue: if it pertains to any of the people related in the civil proceedings, we will not deal with the matter here in this public hearing.

Mr McNamara—Sure. I have one more sentence to add, and it does not relate to the civil proceedings—

CHAIR—Or any of the people in them?

Mr McNamara—or any of the people in them. The promotion papers for Bellemore were signed by Scott and the then deputy commissioner, Ken Moroney. Both had full knowledge of the criminal charges recommendation and the 181D recommendation. In the spring of 2000, the indemnity problems arising from Judge Davidson had been brought before Mal Brammer of police Internal Affairs. He was the commander in charge. He made inquiries—

CHAIR—Was that by way of complaint?

Mr McNamara—Yes. Observers from Internal Affairs were sitting in Judge Davidson's court during the conduct of that indemnity application by Dunn. When His Honour made those unconvincing comments in respect of the P16 indemnity application by Scott, a police Internal Affairs inquiry commenced. It was called Operation Retz. Brammer, as the then commander of police Internal Affairs, recommended to the then commissioner that Scott should be immediately stood down and that she was unfit for duty. He also told the then commissioner that he required Scott to be interviewed pursuant to the Police Act.

CHAIR—Who asked for that?

Mr McNamara—Mal Brammer, the former commander of police Internal Affairs.

CHAIR—And he is now in charge of evidence in ICAC.

Mr McNamara—Yes. These substantive matters were finally coming to a head. The whole notion of the force of misleading indemnities—

CHAIR—Just so we get that: that is the same Malcolm James Brammer mentioned in Operation Malta, the report of which came down last week.

Mr McNamara—Correct.

CHAIR—So we have got to spring 2000. Mal Brammer looks at a complaint made re the indemnities given by Scott in respect of the paedophiles.

Mr McNamara—Correct. He said to the police commissioner, 'She should be stood down, and I have to interview her.' She was not stood down, and she refused a lawful direction to be interviewed by Brammer. It is written in the Police Act. Brammer was the commander of Internal Affairs—he has sway—yet she still refused. So the fix was in. The deputy commissioner at the time, Mr Moroney, arranged to have an acting inspector, in fact a sergeant, named Glynnis Cameron to conduct the interview. So you have gone from the commander of police Internal Affairs, the appropriate officer, to some poor sergeant who has to go and interview an assistant commissioner in relation to serious matters of corruption. Moroney also sat in as Scott's support person. Also present was a senior officer who represented the Commissioned Police Officers Association.

So we had a deputy commissioner, an assistant commissioner and a commissioned officer on one side of the table, and a sergeant on the other side trying to ask these tremendously hard questions. The interview had barely commenced when Scott began to cry. In relation to that, I have a psychological report about this very behaviour with Scott, and I have copies that I invite you to read. As a consequence of these crocodile tears, Moroney usurped his duties as an observer and became a supervisor. He ordered Cameron to stop the interview.

Mr MELHAM—Did you request that?

Mr McNamara—No.

Mr MELHAM—So you have heard this through other sources?

Mr McNamara—I have made inquiries and I have heard it through other sources. If you would let me finish, in two or three sentences you can ask me. The behaviour at least constitutes professional negligence by Mr Moroney, but really it amounts to a cover-up. Retz was an ongoing inquiry for a couple of years. The Minister for Police in New South Wales was profoundly misled by Mr Moroney when he became the commissioner. Mr Moroney said that he did not know the currency of Retz, when in fact the substantive issue in Retz was the perjury of Scott, in relation to the P16s, and Scott's conspiracy to pervert the course of justice. The interviews for that were a sham and he had been a part of them. They are on documents, and Glynnis Cameron from police Internal Affairs would be able to give evidence to that effect. In

May 2001, in relation to this very matter, Brammer filed a complaint with the Police Integrity Commission regarding Moroney's behaviour in this instance. That matter—and it is now February 2003—has still not been resolved.

Mr KERR—Who filed that?

Mr McNamara—Mal Brammer. And it still has not been resolved.

Mr KERR—To your knowledge, is that known?

Mr McNamara—It is.

CHAIR—What was the date he filed that?

Mr McNamara—May of 2001. I am not sure of the exact date, but that is when it was filed. Again, it is on the public record. It was not completed, and has not been completed, because of a whitewash.

Mr KERR—You say the complaint is on the public record.

Mr McNamara—Brammer's complaint is on the public record.

Mr KERR—So, if I am understanding this correctly, he is complaining that the matter was taken out of his hands?

Mr McNamara—Correct. He is complaining that the matter was taken out of his hands unlawfully, that the matter was whitewashed, that Moroney had a part to play in that whitewash and that he knew a lot more about Operation Retz than he ever let on.

There is another very serious matter during which Scott was the commander of the Endeavour region. I refer to the matter of Reuben Sakey and the shooting to death of a car thief, Edison Berrio. When Scott won her promotion as a commander of the Endeavour region, she signed on on the basis that she would reduce the incidence of workers compensation and sick leave by police in Endeavour police command—laudable, but Scott, being Scott, knew no boundaries. Sakey had been on sick leave for a period of about six weeks. He was on sick leave because an offender had taken Sakey's service pistol from him and struck him across the head with it. Sakey was examined by a police psychologist, a woman named Lette. She was so concerned about him that she urged him to seek further private psychiatric treatment, which he did not do. Sakey was passed fit to return to light duties at the Endeavour police patrol. Those light duties were in fact to do clerical work at a desk. Within a week with Scott as the commander no-one is sitting at a desk; we are all out on the road.

Mr KERR—Madam Chair, this is one of the issues I wished to raise in private. Mr Melham asked in relation to some of this testimony before about its hearsay nature and whether the it was known directly to the witness. Plainly, this material is not directly known. So the question is: is it worth while us to have a civilised private meeting to discuss how we address these matters, because—

CHAIR—We will ask the witness whether it is hearsay or whether he has evidence that this in fact happened. Do you have that evidence?

Mr McNamara —There is evidence available.

CHAIR—What is the nature of the evidence?

Mr McNamara —The nature of the evidence is medical reports and Sakey's return to work program.

CHAIR—And they exist? Have you seen those?

Mr McNamara —I have.

CHAIR—You have sighted those documents?

Mr McNamara —I have sighted those documents.

CHAIR—And you would know where we could request that those documents be made available to this committee?

Mr McNamara —Through New South Wales Police you could sight those documents.

CHAIR—And we would be given access to those documents?

Mr McNamara —I would assume so.

Mr KERR—I am worried not about the documentation but about statements about where people were sitting and the like. I am actually trying to work out how we deal with what is a mix of, obviously, matters that are known directly to you—and you have said things which are profoundly disturbing and which we will follow through—and a range of other matters which you have indicated are not known directly from your experience. We have not worked out our own processes for dealing with these issues.

CHAIR—Mr McNamara, I think it would be helpful if with the remainder of your statement—and I can see your statement is getting shorter and shorter, so we are nearly through—you could indicate where it is something that you know first hand and if you could indicate, with other things that you are saying, the source before you make the statement. If you would not mind telling us that, that would be a fair way to proceed.

Mr McNamara—I understand. The source in relation to Sakey and Berrio was a police investigation, because Sakey was charged with murder. This include the psychological reports to which I have referred.

CHAIR—Which you say you have seen?

Mr McNamara —Which I have seen—correct. I am saying that Scott inflicted on Sakey: 'You're not just going to work at a desk—

CHAIR—Are you saying that as part of her policy to reduce workers compensation and sick leave he was prematurely returned to front-line duties?

Mr McNamara —To full duties—correct.

CHAIR—What was the result of that?

Mr McNamara —As a result of that—and this is a matter for the public record; it concerns the coroner's court and it has been reported widely in the press—a short time after he returned to active duty he pulled over Berrio driving a stolen motor vehicle, he thought he saw something (Berrio was unarmed) and he drew his service revolver and shot him to death.

Mr KERR—Sakey shot—

Mr McNamara —Sakey shot Berrio.

CHAIR—He was then charged with murder?

Mr McNamara —Yes, he was then charged with murder. Might I provide an opinion on which I base my expertise in relation to these matters?

Mr KERR—Yes, please. But can you excuse me for being more than unusually ignorant because amongst this eminent group I am one of the few members who are not familiar with the New South Wales—

Mr MELHAM—He is a Tasmanian.

Mr KERR—Yes, I am a Tasmanian. I am a long way away and I do not know these things as a matter of common discussion.

CHAIR—You are further.

Dr WASHER—We are further away.

Mr MELHAM—We have a South Australian and a Western Australian here.

Dr WASHER—That is right, so we are not familiar with that either.

Mr KERR—And there are three New South Welshmen.

Mr McNamara—As a matter of course in New South Wales, where there is an unusual death it is reported to the coroner. Most usually, the coroner will hold a coronial inquest. If there is a suspect, at a certain point during the coronial inquest he turns it into a committal, advises that person of their rights and later advises the DPP as to whether or not charges with respect to murder or manslaughter are preferred. In this matter, with unseemly haste to avoid the spotlight of a coronial inquest and these matters being brought out before the coroner, he was charged. That immediately stopped the coronial inquest process in relation to Mr Berrio. The course of justice was perverted.

CHAIR—So you are saying the normal course of events—

Mr McNamara—would have been to go down to the coroner's court—

CHAIR—should have been that there was a coroner's inquest and then there should have been charges?

Mr McNamara—No, not then there should been charges.

CHAIR—If they arose from the coroner's inquest.

Mr McNamara—Let the coroner do his job and let the coroner make a decision. It is the coroner's job.

Mr KERR—Even for one as remote from this jurisdiction as the far-off island of Tasmania, I am aware that there are a mix of different procedures and that people are charged, sometimes directly, when the evidence appears to be clear-cut.

Mr McNamara—Correct.

Mr KERR—If somebody is shooting somebody directly, and in circumstances where there would appear to be no doubt that they are the actual shooter, it might be not unusual for that to have occurred.

Mr McNamara—You are correct again. However, when the murder committal commenced, it was thrown out on the basis of the psychological state of Mr Sakey. That is the whole issue.

Mr KERR—So there was an acquittal on the basis of insanity?

Mr McNamara—No. He was not even committed for trail. It was dismissed at committal.

Mr KERR—On the grounds of insanity?

Mr McNamara—No. They did not find insanity. It was on the grounds of Sakey's existing beliefs and mental condition at the time.

Mr MELHAM—Are you saying that he was not fit to stand trial?

Mr McNamara—No, it was dismissed at committal, based on his mistaken belief that Berrio was armed.

CHAIR—I see. Are we nearly through?

Mr McNamara—Just about.

Mr CADMAN—It is obvious that you feel that he was required to return to work before he was fit—

Mr McNamara—Obviously.

Mr CADMAN—and, as an outcome—

Mr McNamara—this occurred, through Scott's drive to reduce workers compensation and sick leave.

CHAIR—Just to put that in context: you say on the record that at the committal proceedings the charges were dismissed because it was found he believed that he was in danger at the time.

Mr McNamara—Mistakenly, because of his psychological condition.

CHAIR—Okay.

Mr McNamara—In summary, there are just a few matters to consider in relation to Dunn. Between 1992 and 1997, from his release from prison and before he was ever brought to justice, Dunn continued to gorge himself sexually on young boys throughout Australia, Indonesia and South America. No-one has ever stood up for those children. Dunn is serving a sentence for some, but not many, of the offences committed in Australia. Certainly nothing has even been done for the children in Indonesia and South America that he had sexual relations with; no-one has ever stood up for those children.

Additionally, there has never been any inquiry in relation to the modus operandi of a man dressing himself up as a Catholic priest, pretending to be a Catholic priest to the parents of boys and then having sexual relations with young boys whilst wearing the robes of a Catholic priest. I would encourage law firms in this country to find out who these victims are. I would encourage them to consider a class action, to sue Scott personally and to sue the state of New South Wales.

I would encourage the Catholic Church, which has been the subject of much speculation in respect of these issues, to seek a legal opinion as to its position regarding this lack of effort put in by Scott—the cover-up put in by her—over the robes of a Catholic priest. I would encourage them to seek a legal opinion. I would be pleased to attend court and give evidence if any court actions arose from those matters.

Finally, I would encourage law firms to consider the position of Peter John Wells as a person who has been terrorised by a legal system at the behest of Scott. I would encourage law firms to approach him with a view to commencing an action against Scott personally and against the New South Wales Police.

CHAIR—Thank you. I have some questions I want to ask you. Other members are entitled to ask questions when I give them the call. Was the way you were wired up and pretending to be a drug dealer with the money you say was given to you by Lola Scott normal undercover work?

Mr McNamara—Yes.

CHAIR—So there would be many other instances of that?

Mr McNamara—Yes.

CHAIR—You took some tapes, and you have given us a lot of evidence of 'he said', 'she said'. Was that in fact from transcripts of those tapes?

Mr McNamara—Transcripts of those tapes were made. In 1998, after Dunn had been extradited—I think he went from Miami back to Australia—the Child Mistreatment Unit was tasked with the responsibility of compiling a brief of evidence against him. I knew that I would get no assistance from Scott so I telephoned the Child Mistreatment Unit myself—this is eight years after I had left the police. I have moved on with careers and business and all those sorts of things, and I still have an abiding interest in it. I found the detective who was compiling the brief. His name is Steven Singleton. I spoke to him on the telephone. I told him about the tape. He said, 'I have the transcript here, but the transcript shows it has been wiped.' Scott had the tape; Scott wiped it; Scott provided a wiped transcript of these tapes.

Mr KERR—There was no transcript taken contemporaneously?

Mr McNamara—There were notes that I made. The words 'decadent Roman emperors' and 'what one does with the robes of a priest'—

Mr KERR—But you have clear recall?

Mr McNamara—Absolutely clear. A haunting—not clear—recollection. Mr Singleton told me that when they were tasked with this responsibility he had contacted Lola Scott and requested that they have a meeting so that she would be able to brief him on her knowledge of it. It was not an Internal Affairs inquiry—no rabbit up the sleeve, no hidden agenda—but just one cop asking another cop: 'Can you help? You know all about him.' She went to the office. He asked her questions. She refused to answer his questions.

CHAIR—Would it have been normal, in your view, that in the prosecution of Dunn you would have been called as a witness?

Mr McNamara—In relation to the drug matter, he pleaded guilty. In relation to—

CHAIR—The $40,000.

Mr McNamara—the $40,000, absolutely. I was able to provide the context under which this was said. The comments about 'entering the private club', 'never been caught by the police' had the echo, the ring, of a green light; never said.

CHAIR—Who would have made the decision that you were not called? Would the DPP have known?

Mr McNamara—Scott and Watson would have made the decision. And this is the problem. They controlled the flow of evidence from go to whoa. This is where they make a mockery of lawyers, a mockery of the criminal justice system, a mockery of parliament and of law-makers. These people are hogtied because of the disgraceful and corrupt way they handle evidence.

CHAIR—So you are of the view that the DPP never even knew of your evidence.

Mr McNamara—They knew that I had been involved in the drug deals—

CHAIR—The drug deals.

Mr McNamara—because there had been arrests. But if they had known what was on this tape, I cannot believe any officer of the Supreme Court would not have called me. There was never any advice, there was never a written letter saying, 'We're not going to call you' or 'We are going to call you'—nothing.

CHAIR—So you are saying that they controlled the flow of evidence?

Mr McNamara—Absolutely controlled it.

CHAIR—I have been told that there can be a practice where a brief of evidence to the DPP can be prepared and documents—vital documents—can be taken out of it. The brief of evidence is sent to the DPP, who may decide not to proceed, and then the documents will come back and they will put the document they took out earlier back into the file and it is then closed. Have you heard that?

Mr McNamara—I have heard that, yes, and I have heard people speak about that in relation to Lola Scott.

CHAIR—So you think there is a need for reform of who controls the flow of evidence?

Mr McNamara—Absolutely. The problem with senior police, and police as they start to ascend, is that there is a great temptation to control the facts completely and just go for money and power. Scott fell for that. This is all about money and power. The control, the perversion of the course of justice and the perjury are simply mechanisms.

CHAIR—I want to ask you about your statement in which you said that false allegations were made against you once you had, presumably, complained. Did you make a formal complaint about Scott?

Mr McNamara—No. There was no-one to complain to. There was no facility. I attempted later, on a number of occasions, to write to another police commissioner but I was never able to make contact.

Mr KERR—What do you mean by 'attempted to write'?

Mr McNamara—I attempted to write to Mr Lauer, who was police commissioner in 1991.

Mr KERR—But either you write or you do not write. How do you 'attempt to write'?

Mr McNamara—I beg your pardon. I should say that I attempted to complain; I wrote him a letter.

CHAIR—You wrote to him but you could not make personal contact.

Mr McNamara—I could not make personal contact. No action was ever taken. The other context is that, in this period, I continued to receive death threats. By that stage I had a young child. We had moved out of Sydney. There is also the element of self-preservation; you need to keep your head down a bit. I knew I was gagged.

CHAIR—But the answer to my question is that you did write to Lauer and make a complaint?

Mr McNamara—I did, yes.

CHAIR—You said that false allegations and charges were made against you.

Mr McNamara—Yes.

CHAIR—In reading the evidence that has come before us, there does seem to be a pattern that when somebody is a whistleblower, when somebody goes against what is the perceived culture suddenly they find that they have charges against them.

Mr McNamara—Absolutely correct.

CHAIR—Is that what you think happened to you?

Mr McNamara—Absolutely.

CHAIR—I think you said the Ombudsman initially made a finding.

Mr McNamara—The Ombudsman, without my knowledge, made an adverse finding against me based on the skewed documents sent by Scott, which I have never seen. I sent him a submission and he reversed his original finding. He found the complaints were not sustained and he also wrote apologising for any inconvenience, anxiety and distress caused by his original finding. I have those documents here; they are very short. Additionally, when he wrote a letter to me, he wrote the same letter to the Commissioner of Police and cc'd me.

CHAIR—If you have those letters here, you might like to include them as evidence supplementary to your submission. Would a committee member like to move that we receive the letters as evidence?

Mr MELHAM—Could I see them before we move to receive them as evidence? I would not mind seeing the documents before I make a considered decision as to whether they should be admitted into evidence.

CHAIR—They are being admitted as supplementary to his submission.

Mr MELHAM—I accept that. Can I request that committee members sight the documents before we make a decision as to whether we receive them into evidence and have privilege attached to them?

CHAIR—He has given evidence about it. I have asked him to substantiate it. So if these letters are in fact substantiating I think that is perfectly in order.

Mr MELHAM—I am not saying that there is going to be a problem; I just want to sight something before I am asked to vote on its receipt as a document. That is the usual procedure for committees. We do not table things without seeing them.

CHAIR—There is nothing usual about the procedures, Mr Melham.

Mr MELHAM—I know, Madam Chair. You have taken us to a new level.

CHAIR—You certainly have.

Mr MELHAM—The low road is always a good option.

CHAIR—Perhaps the documents can be given to me.

Mr MELHAM—I want to proceed down the high road, Madam Chair, not the low road.

CHAIR—That will be new for you. This is a letter from—

Mr MELHAM—Can I ask that members of the committee sight the document, Madam Chair?

CHAIR—I think the quickest way is if I read it. The letter comes from the office of the Ombudsman and is written to the police commissioner, Mr Lauer, on 20 September 1991.

Mr SECKER—Madam Chair, if it is from the office of the Ombudsman, surely it is legitimate evidence.

Mr MELHAM—I just want to sight it.

CHAIR—I will just read it out. We do not want to get into that sort of precedent and get bogged down in it.

Mr SECKER—We are not going to question the Ombudsman's letters, are we?

CHAIR—I think it is quite important to know that Mr David Landa, the then Ombudsman, took the care to write to the commissioner for police. He wrote:

As you are aware, a report of provisions conclusions on the investigation of the above allegations was prepared and sent out for comment on 7 May 1991.

I have now had the opportunity to consider the submission made by Mr McNamara in response to the provisional statement, together with the material provided through the police investigation. On the basis of Mr McNamara's submission, I have reconsidered my decision on this matter.

I am of the opinion that the evidence relating to the complaint is insufficient to allow any finding other than not sustained. Mr Saunders' credibility in such matters has been discredited, and the tape recording produced by Ms Grant is inconclusive and of itself cannot be relied on.

In light of this, I find the allegations against Mr McNamara to be not sustained.

I have advised Mr McNamara of my determination, and a copy of that notification is enclosed for your information.

The letter to Mr McNamara says:

As you are aware, the above complaint has been investigated in accordance with the terms of the Police Regulation (Allegations of Misconduct) Act, 1978 and a report of provisional conclusions prepared.

I have now had the opportunity of considering the submission you made in response to the provisional statement, together with the material provided through the police investigation. On the basis of your submission, I have reconsidered my decision on this matter.

As you state, Mr Saunders' credibility is in serious doubt following court decisions on other matters in which he has given evidence. This fact, together with the inconclusive evidence of the tape recording produced by Ms Grant, which of itself cannot be relied on, has led me to believe that the allegations made against you in this instance cannot be sustained. I also take into account your statement that you were acting on instructions from the Internal Security Unit at the time.

The Commissioner of Police has been advised of my decision on this complaint. No further action will be taken in this matter.

I apologise for the delay in informing you of my revised finding, and for any distress you may have been caused as a result of my earlier finding.

Yours sincerely

David Landa

Mr MELHAM—What was the date of that, Madam Chair?

CHAIR—The date of that letter was, I think, 20 August—or is it September—1991?

Mr McNamara—It was 20 September 1991; I have the originals here.

CHAIR—The letter to the police commissioner is dated 20 September 1991; it looks like 20 August. It was around that period.

Mr MELHAM—Does Mr McNamara want that in evidence? I am happy to move that it be received into evidence.

Mr McNamara—Thank you.

CHAIR—It will be received as an attachment to the submission.

Mr MELHAM—Can I please have a copy of that?

CHAIR—Mr McNamara, you said that in 1990 Robert 'Dolly' Dunn was not on a list of paedophiles but that he should have been. Is it normal practice to have a list of paedophiles?

Mr McNamara—It is normal practice, in a task force, to have a list of suspects. Simply by their operation, task forces are tasked for specific duties. For instance, when I was at the National Crime Authority, in reference to a task force we received specific instructions on what we were looking for and who our suspects were. Exactly the same thing occurred in Operation

Speedo, and Dunn was not listed as a paedophile of interest. He did not even get on the list, so thorough was the whitewashing.

CHAIR—I want to give other members an opportunity to ask questions, but I do want to ask you about Jetz and Malta because the state government has in the last 10 days released both reports. The Operation Malta report is a very curious document, and I understand the author of the document is not known. Judge Urquhart conducted the hearings. I understand the chain of events was that he was given an extension of time to write Operation Malta but, in fact, under the hand of Mr Tim Sage from the Police Integrity Commission—

Mr McNamara—Correct.

CHAIR—when he was given the extension he was specifically told he could not write his own report. So we do not know who authored this document but we do know—

Mr MELHAM—Where does that come from, Madam Chair?

CHAIR—From the documentation that is on the record.

Mr KERR—It would be useful if we had that document.

CHAIR—I do not have it in my possession.

Mr KERR—So you have put on the public transcript a conclusion in relation to impropriety for which you have no documentation?

CHAIR—I did not say it was an impropriety; I simply said it as I understand the documentation shows.

Mr MELHAM—You verballed someone or you verballed the document and you do not have it in your possession to table.

CHAIR—I simply said—

Mr KERR—You said that Judge Urquhart was prepared to accept an extension on the basis that his report be written by somebody else.

CHAIR—I understand that was the situation.

Mr MELHAM—What is the basis of that statement?

Mr KERR—What is the basis of that statement?

CHAIR—I understand it is on the public record.

Mr MELHAM—Where?

Mr KERR—Where?

CHAIR—I am asking the questions here.

Mr MELHAM—Madam Chair, you have made a very damaging statement.

Mr KERR—It may be accurate but—

Mr MELHAM—It may be accurate, but it may be very wrong.

CHAIR—Then we will attempt to get the documentation to go with it.

Mr KERR—Madam Chair—

CHAIR—All I am going to is that in that report it is said of Mr Brammer, 'the commission considers Brammer to be an affected person under the legislation, that he misused SCIA'—that is the serious crime investigation—what does the 'A' stand for?

Interjector—Special crimes intelligence—

CHAIR—'investigative powers'—

Mr MELHAM—Madam Chair, I think it is inappropriate for members of the audience to be providing statements. They should be required to sit and observe in silence. That was an inappropriate intervention by people who should know better, one of whom is a witness.

CHAIR—I will note your comments. He 'misused SCIA investigative powers to conduct a wide-ranging witch-hunt into members of the CMSU', which was the unit, I understand, that was set up by former Police Commissioner Ryan to oversee the cultural change. It was a management support unit—is that correct?

Mr McNamara—Correct.

CHAIR—It continues, 'and a personal vendetta against Seddon', who was another English policeman who was brought to Australia to oversee that unit—correct?

Mr McNamara—Correct.

CHAIR—It then goes on—I am reading from the report tabled in this parliament here: 'He used malicious and unfounded investigations into individuals as a means of maintaining the old control and punishment mechanisms in order to derail and delay genuine reform. There is no evidence that Brammer was involved in any criminal conduct.' In fact, the entire report—which I understand cost $8 million, had 61,000 pages of evidence and went on for a protracted period—found nobody was guilty of anything.

Mr McNamara—Correct.

CHAIR—But I would have said that for Mr Brammer—about whom you spoke and who now heads up investigation at ICAC—that finding in those terms is quite a serious allegation to

be made in this report. You were saying that Brammer in fact filed a complaint against Moroney in May 2001.

Mr McNamara—That is correct.

CHAIR—This inquiry was still on foot in 2001.

Mr McNamara—That is correct.

CHAIR—In your opinion, is that a fair assessment of Mr Brammer? If this is true, perhaps Mr Brammer will have many problems to answer subsequently, where he is now—although they say in this report that because he is no longer in the Police Service they cannot even take disciplinary action. Could you clarify some of that?

Mr McNamara—Two issues arise out of that. The first is natural justice and the second is balance. In respect of natural justice there is no mention in that report, as I understand it, of Mr Brammer's complaint about whitewashing by Mr Moroney—and, as I understand it, the report is not completed and is itself becoming a whitewash.

Brammer was forced out by a push from Moroney, Ryan and Scott. The only way they were able to do it was to discredit him without using evidence. The parallels between Brammer's situation, mine and that of many other police are striking. It is: 'Discredit at all costs; don't worry about procedural fairness; don't worry about natural justice; just discredit them and remove them. If we can have it published it must be true.' That is the whole thing. If you can write something down now about a person that is adverse, pull it out of an envelope in six months time purporting it to be a report into their character or into the way they conduct themselves, adverse inferences will be drawn.

Mr KERR—That is precisely why I have some concerns about the manner in which we are conducting these proceedings.

Mr McNamara—I would invite Ms Scott to come along and defend herself.

Mr KERR—Those are issues that we have to take up.

Mr McNamara—Anytime.

Mr KERR—No: I welcomed that comment.

CHAIR—Indeed that is the intention, I might add, of this committee. You have come forward saying that you wish your evidence to be tested. This committee would be very keen to hear from people who have a different point of view to put. There would be no problem with that evidence being taken.

Mr MELHAM—The Bronnie royal commission!

CHAIR—Would other committee members like to ask some questions?

Mr MELHAM—You have finished, have you?

CHAIR—No, I have not finished; I am just giving other people a go.

Mr CADMAN—Regarding your relationship with Inspector Watson, who was one above your direct superior in the period you have taken us through: why did you not refer to him?

Mr McNamara—I did but, although Watson was senior, it was apparent to me that Scott was running the operation. Watson was approaching retirement and it appeared he was taking a back seat in this inquiry. It appeared later, in the police royal commission, when the whole issue of the indemnities arose in a limited form, that Watson took the heat. There was never any mention of Scott being examined as to her complete involvement in the whole process. But the answer is: Scott was in charge of the operation.

Mr CADMAN—I am not familiar with police systems, but how frequently in this undercover surveillance process would you report to your superiors?

Mr McNamara—Thank you for asking that; it is a relevant question. In relation to wearing a concealed listening device and doing field work, the warrant issued by, in this case, the Supreme Court of New South Wales—

Mr CADMAN—The warrant is a permit to carry a concealed listening device?

Mr McNamara—It is permission to tape and record conversations with parties named in the warrant. The warrant has strict reporting procedures. These reporting procedures come out in the form of a protocol with the people who are the undercover operators and the people who are running the operation from that point and instructing the undercover operators. What happens is that each tape is numbered. Say it is the first of the month and we have a meeting with 'John Smith' at 10 a.m. At, for instance, 9 a.m. I would be given written instructions, which would be read onto a record: 'You are to do this, this and this; meet with Mr Smith, record and go from there.' Then, at the conclusion of that field activity work, I would come back to the office, the concealed listening device is removed, the tape is removed from it and it is immediately checked for clarity in front of the people who have given the instructions. In this case, it was always Scott. Then the tape immediately becomes an exhibit, and there is a whole new protocol in relation to the keeping of exhibits. In this case Scott was in charge of the exhibits.

Mr CADMAN—What does being in charge of an exhibit mean?

Mr McNamara—It means entering the tape, in this case, into safe custody, and writing in an exhibit book—a book marked 'Exhibit'—for instance: 'One tape made by McNamara, Operation Hawkesbury' with the time it was placed in and the time it was removed, the date and the duration of the tape. The tape would be numbered. It would then be placed by that person in a place of custody—usually a safe—and another column would be signed to that effect. That happened on each and every occasion in respect of the concealed listening devices.

Mr CADMAN—What about where you were not wearing a concealed device? How often would you report and what was the reporting process?

Mr McNamara —The two types of listening devices one uses as an undercover operator are the concealed device and a device when making a phone call setting up meetings and engaging those people in conversations about criminality. Those calls are usually made from your office. To a specific phone a technician will fit a recording device. The recording device is activated when you pick the receiver up, so there is no other give-away buzz when the person who is the target at the other end answers the telephone. The whole of the conversation is recorded. When all of those tapes were made during Hawkesbury, Scott and Watson were sitting next to me at the desk. I would talk on the phone and they would hear first hand what I had to say. The call would be concluded, the phone hung up and the tape would be removed from the recording device. It would be played and the clarity of the audio checked and—the same thing again—it would be numbered and the time, date and place recorded immediately. Scott, as the exhibits officer, would sign it off. They are the two ways in which that type of recording is made. However, the treatment of tapes which become exhibits is the same.

Mr CADMAN—In the whole of Operation Hawkesbury, how many times would you have had contact with your superiors in a reporting-back process?

Mr McNamara —Every day. For instance, I recall when I was active and doing a drug deal with Saunders. We came back and then we went and did some phone calls with Fisk and we had a meeting with Fisk, all within an eight- or nine-hour period. That is three different sets of directions in respect of the same warrant, so it would have been on three occasions.

Mr SECKER—Mr McNamara, quite a few questions have already been asked about this but I was interested that earlier in your evidence you said that you were given money by Detective Sergeant Lola Scott to give to 'Dolly' Dunn for the $1 million worth of—

Mr McNamara —I may not have made myself completely clear then. This goes to the discussions of what I said before. Before these meetings we would plan how they would move and, of course, there is great fluidity once you are there by yourself. We needed more samples of the drugs because we knew we had to match them analytically with the other drugs, and we were very concerned because they were so strong. But I also had a feeling that Dunn was very wary about being ripped off. Where that falls into what you are saying is this: I had this feeling that I would be able to convince him to give me the drugs. I would propose to him falsely that I would sell them on his behalf and give him money. We had another problem because, while we had taken drug samples from Saunders and had been able to match them analytically, we had to pass that loot falsely and provide Dunn with money purported to be from the drug sales. That money—and I think it was a reasonably small amount; maybe $200 but not much more than $400—came from the operational float. That money would have been signed out by Scott in much the same way, but in reverse, as the tapes.

She gave that to me so that when I was meeting with Fisk and Dunn I gave them the money—and I used some of the money to buy drinks so that we made the drug deal convivial. There is no use being tense about these things. You are going to tell someone a lot more information if you feel happy and comfortable with them. The position of giving them the money was to say to them: 'Fantastic drugs. Everything is going along tremendously well. Here is your money.' It certainly was not $1 million; it was couple of hundred. During the course of the conversations with them I was able to convince Dunn that it would be in his best interests—so that he was not robbed by Saunders—to give me all of the drugs so that I could run the whole of the operation.

Mr SECKER—Where is the Detective Sergeant Lola Scott now? What position does she hold?

Mr McNamara—She held the position of assistant commissioner, I understand, until December last year. I understand that the commissioner terminated her services in early December—I am unsure of the date. My understanding is that she has been sacked and is presently unemployed.

CHAIR—It was on the Monday morning following the aborted hearing here—on 6 December.

Mr SECKER—What has happened to Inspector Ken Watson?

Mr McNamara—Watson retired. He achieved a promotion before he retired. I understand he is living in retirement on the South Coast, though I am not sure.

Mr SECKER—You mentioned at one stage that Churchill was told by Denis Kimble Thomson that he knew that you were an ISU 'dog'. Where is Churchill now?

Mr McNamara—Churchill has been released from prison. I think he had done 4½ years from a 12-year sentence.

CHAIR—Four years from a 12-year sentence?

Mr McNamara—Yes. Everyone got a deal except me.

CHAIR—Four years—how could that be so?

Mr McNamara—It was immediately prior to the introduction of truth in sentencing legislation in New South Wales.

CHAIR—One of those.

Mr McNamara—He was sentenced in 1989.

Mr MELHAM—Under the Greiner government. A Liberal government.

Mr McNamara—Correct. Truth in sentencing did not commence until it was enacted in October 1989, I think. Would that be right?

Mr KERR—I think a bit later than that.

Mr SECKER—Under a Greiner government?

Mr McNamara—Under a Greiner government he got a deal.

Mr MELHAM—He got a deal under a Greiner government.

Mr McNamara—He got a deal; he should have done 12 years.

Mr SECKER—But they also brought in the truth in sentencing. Where is this Denis Kimble Thomson now?

Mr McNamara—He was promoted after his appearance at the disciplinary committee. But subsequently he was caught—colloquially speaking—with his hand in the till by investigators from the police royal commission and sacked.

CHAIR—He was promoted first?

Mr McNamara—He was promoted after Scott did not take my advice and consider conspiracy to pervert the cause of justice charges against him and Churchill, he was later promoted and then caught with his hand in the till in relation to taking money from strip club operators, I think.

Mr KERR—In the early part of your written submission you indicated that you raised the matter of the possible corruption of two police officers. Are they the two police officers you referred to but did not name in that submission at that point?

Mr McNamara—No. That is in relation to the possible corruption of Churchill and Hazel in relation to the $40,000—the third person being Wells. I nominated two instead of the three because I am of the view that Wells is innocent.

Mr SECKER—You were talking about an interview that instead of being done by Moroney, up at the top, went down to the bottom to Sergeant Glynnis Cameron, who interviewed the then Assistant Commissioner Scott. They had Mr Moroney assisting her. Who was the other one?

Mr McNamara—There was a man named Corboy—I think he is an inspector or a chief inspector—and he was attending upon Scott on behalf of the Commissioned Police Officers Association.

Mr SECKER—Where is he now?

Mr McNamara—Still a member of the police, as I understand it.

Mr SECKER—And Moroney?

Mr McNamara—Moroney is the Commissioner now.

Mr SECKER—And Sergeant Glynnis Cameron: what has happened to her?

Mr McNamara—She is still in the police force. I do not know what sort of day she is having today—one of some trepidation, I would have thought.

CHAIR—You indicated that if we called her she could give evidence.

Mr McNamara—She would give evidence that would corroborate what I have said.

Dr WASHER—Mr McNamara, looking at the internal security unit and the protocol that occurs where you interface with criminals, or alleged criminals, have cash money and the courting process coming back later, why was it so loose? Obviously, if one person can pervert that process, there is something critically wrong with the protocol.

Mr McNamara—Absolutely.

Dr WASHER—Can you elaborate on that? Here we are: you are at great risk yourself—you would realise that—of possibly being set up. I am not saying you were, but I am saying possibly. But the whole system would require multiple people and channels of documentation and cross-referencing. Yet, from the way you have told it and from the way I understood it, one person could wipe that out and it would be your word against theirs ultimately. Can you elaborate a little on that?

Mr McNamara—You are correct in relation to one person. What it takes is someone with a reasonable degree of intelligence, and she has that. It takes audacity and it takes untruthfulness as your base not to follow these procedures. Police, particularly detectives, are honoured with society's obligations to bring the facts forward. But what happened with this model is that it morphed into something that used pliable people to achieve a result. So instead of saying: 'An offence has been committed in Sydney. Go and investigate it and find out what the facts are,' the view was: 'John Smith has committed that offence in Sydney; go and get him. Do whatever it takes to lasso this fellow. We don't care. Break whatever rule you wish. Breach every piece of protocol you wish; breach every trust. Just get this guy, and we don't care if the evidence is true or not true.' That is what happened.

It sounds simple. It all happened in this case, and it has taken since 26 March 1989—and it is now 19 February 2003—for me to be able to give this evidence in what has been described as a 'robust' democracy. This person and people of her ilk with whom she worked have taken away my civil liberties and those of the people who were affected. But they have also affected society in terms of the cost, the untruths and the expectations that will never be met because they are based on lies—all of those things. When it comes to public trust, no-one should believe the police when they say, 'John Smith said this,' or, 'I have this information,' unless it has been double-checked, particularly the police in New South Wales.

It is a disgrace and it is a tragedy because, more often than not, the cops, the working people in this police force, are knocking themselves out day in, day out doing their best, but they are up against a system in which the management hierarchy, such as the one Scott was a member of, ascended the ranks in the same manner. There is no trust. For instance, I do not know how, after this evidence is published, the Director of the Department of Public Prosecutions will view specialised police task forces, particularly the internal affairs ones or the areas where it is political, because there is so much push and shove, there is so much spin and there are so many lies. These people have been outrageously used. I think Mr Hume is on the bench; I think he is a judge.

Mr MELHAM—A Supreme Court judge, I think.

Mr McNamara—I think so. His Honour Judge Dowd is a Supreme Court judge, a QC, a former Attorney General of the state. You just could not contemplate ever doing those things. People like that have the public trust—particularly an Attorney-General, who is an elected

member of parliament. How could you do it? They did it, and the reason they did it was to get notches on their resumes so that they could achieve money and power. Look at Scott's ascension in her career and you will find that she went from sergeant to assistant commissioner in about eight years.

Dr WASHER—I find it absolutely incredible that you would have a police force where you do not have that cross-referencing—with tapes wiped out and no cross-checking. My second question is on a matter of protocol. You went into the witness protection program?

Mr McNamara—Correct.

Dr WASHER—And you knew the system. You had a pretty bad outcome, as you stated.

Mr McNamara—Absolutely.

Dr WASHER—Can you elaborate on how the heck that program fell apart so badly? You knew the system and you got screwed, so to speak. If I were the average Joe Blow on the street and were going to be involved in the witness protection program I would feel pretty anxious about the system.

Mr McNamara—As you should. The police will argue now that everything has changed—probably everything and nothing. One of the things which has changed is the value of the drugs being peddled, and there is a greater propensity for violence. In that respect, things have probably gotten worse. As it related to me, I wanted to go back to work. I was happy to look for something to do in terms of work. I spoke to my witness protection guy and said: 'Look, I need to go back to work. I need to draw a line in the sand and move on.' He said: 'Look, you can't. One of two things will happen: (1) someone will find out where your locker is at work, open it up and load you up with heroin or (2) you will be called to a false job at an isolated location and shot.' So I decided that I would not go back and work for them.

But the culture that would even think that a policeman would 'load someone up with heroin' raises questions. Where do you get the heroin? What laws are you breaching to do that? Why are you breaking into someone's locker? Why would you even think of those things? These were, he alleged, the two schools of thought coming out of the police about me returning to work. So their occupational health and safety and their rehab was not good.

Mr KERR—I have a few preliminary questions to put this in some context. You were a serving officer for 20 years?

Mr McNamara—About 14 years.

Mr KERR—You would be aware that, before your time and since, there have been ongoing problems with the New South Wales police force. Allegations of corruption and misconduct have been endemic in New South Wales, and you have highlighted a particular period. Is it correct that the period you have given evidence about is principally the period between 1989 and 1991?

Mr McNamara—The perjury of Scott stretches to His Honour Judge Davidson in 1999.

Mr KERR—I understand that. The period we are speaking about, in principal, is that three-year period. There has been—I think from an outsider's perspective, coming from the state of Tasmania—a sense that during the Askin years there was entrenched corruption in the New South Wales police force. I do not know whether that is your perception; it was certainly written about as if that were verifiably true.

Mr McNamara—I have only read a few books about that.

Mr KERR—The period you have given testimony about is part of a period of coalition, or Liberal, administration—I think the then Premier was Nick Greiner and John Dowd was Attorney.

Mr McNamara—That is correct.

Mr KERR—I personally know John Dowd and regard him, as you do, as a man of immense integrity.

Mr McNamara—Yes.

Mr KERR—So it is possible—I put it as no more than this—that this is a systemic and long-term set of issues which have gone to the confidence of the New South Wales community in policing stretching back to Askin's years. For example, there were allegations that Roger Rogerson, while a serving detective, loaded people up—and he is alleged to have shot and killed Lanfranchi. All these allegations of corruption which spanned the period led to the establishment of the Wood royal commission. Is that a fair perspective?

Mr McNamara—It is brief. The problem with the analysis of all of this is that until Scott's ascension—and what she has done to stay there, with the other people I have mentioned—everyone thought that the only cops capable of committing crimes in New South Wales were constables and sergeants. They looked at the poor old worker.

Mr KERR—I am not so sure of that. If you read David Hickie's book about the allegations between the then police commissioner and the then Premier during the Askin years—a long time ago—I do not think anyone would suggest that the allegations were that there were entrenched and systemic problems.

Mr McNamara—I read the Hickie book some time ago, and I would have to read it again to refresh my memory, but I do recall that. I will go back to the other parts of your question about matters relating to Mr Rogerson. He appeared before a coronial inquest, before a jury of four, in relation to the matter of Lanfranchi. That inquest found that it was justifiable homicide. He has been the subject of much debate and numerous media articles and television programs. Going back to the rule of law, I accept what you say in painting a picture. But, again, he is a sergeant. In the Wood royal commission they pulled a couple of superintendents for offences they committed when they were sergeants. No-one was found guilty. There is ongoing litigation in relation to that. There was always involvement from above. The management hierarchy of the New South Wales Police for decades has been, by and large, conflicted.

Mr KERR—I accept that. I do not wish to dispute that. That was exactly the point I was trying to make: that for four decades there have been arguments about police management in

New South Wales and arguments about the extent of corruption. One of the issues is the difficulty of sifting through competing versions of the truth from people who ostensibly hold senior and responsible positions of public office within the New South Wales police force. I indicated in a previous committee hearing that I am aware of instances of that. For example, when I was Minister for Justice I was briefed that certain matters were not made available to the New South Wales Police because they did not know which particular police to trust at that time. That was before the Wood royal commission.

Mr McNamara—I would absolutely believe that.

Mr KERR—So you have a good man like John Dowd within a coalition government which I am sure has no interest in tolerating or allowing corruption, but at that stage, you say, some gross abuse was occurring within the New South Wales Police.

Mr McNamara—Correct.

Mr KERR—Subsequent to that, other governments have dealt with this by a series of mechanisms which may have been fully or partially successful, depending on whose view you accept. I have here the legislation that has passed since then. There are the amendments to the Protected Disclosures Act, the Ombudsman Act, the Police Integrity Commission Act and the Independent Commission Against Corruption Act, which I think was passed at the beginning of 1988. There has also been the Wood royal commission, and the chair has referred to the Urquhart inquiry, both of which have been faced with witnesses who give different accounts of events and require very difficult assessments of credit. Sometimes, to make findings that entitle a matter to go to court—where you need evidence beyond reasonable doubt or you need, as in civil matters, the balance of probabilities—making those assessments may be inherently difficult.

Mr McNamara—It would depend on the circumstances.

Mr KERR—Of course. Now if I can go to the matters about Ms Scott. You have indicated, and I paraphrase your words, that over her time she deceived and tricked senior police, judges and prosecutors and, you indicated, was responsible for setting up Deidre Grusovin. Plainly, from your account, she is a person capable of deceiving honest people.

Mr McNamara—Correct.

Mr KERR—The extent to which she has the capacity to persuade people around her and the degree to which we can make conclusions about their participation in what you assert to be her wrongdoing depends, I suppose, on the degree to which we infer that they had knowledge of what she was doing, and were participating in it, or the degree to which they were tricked and were gulls for her.

Mr McNamara—Correct.

Mr KERR—I must say that from this distance I find it difficult to make any assessment of credit, as I imagine anyone in this position would. I want to take you to a couple of specifics. One is the letter of comfort issue. I understand why you were concerned about that, but where you have an informant, particularly one who might have been engaged in paedophile activities,

if you were going to provide some information to a sentencing judge about the assistance they had provided, you would not do that in a public court, would you? To do so would really be a death sentence, or at least an invitation for a bashing, considering the way people are dealt with in the prison system. I understand that to be a fact in the prison system—at least from what I read in the papers. I am not an expert in it.

Mr McNamara—Let me say from the outset that there is no transparency in relation to the letter of comfort. Again, in relation to your questions, I accept what you say with respect to the general overview you have given. But you have to look at the facts of each matter. The lack of notes and the lack of the feature of conversations with a prosecutor from the Department of Public Prosecutions causes me to have serious concerns as to the validity of any letter of comfort. Notwithstanding that, I accept that often, through prosecutors, judges are made aware in a transparent manner whether or not someone has offered assistance.

In relation to the prison system, the incidence of informers is so vast in this state that they have a jail specifically for informers—so that area is looked after. What causes me tremendous concern with Scott and the letter of comfort is that it came in May 1991; it came after what I say is all of her knowledge from 26 March 1989 and after all of her knowledge in relation to the interviews over three days with Dunn on 15, 16 and 17 January 1990, when he essentially reproduced much of the same stuff. Certainly, he was much more remorseful on paper, but then she carried out the indemnity the next day—the 18th. You have had three days of interviewing someone who is telling you about how they have sex with boys; you do not put on ‘an associate of criminals’ or ‘not known at criminal records’.

Mr KERR—I must say that if I were in that position I would form the same conclusion as the district judge formed about the wisdom—

Mr McNamara—Absolutely.

Mr KERR—But I was trying to clarify, as a matter of practice and fact, that if the prosecutor is to provide information in relation to assistance provided by somebody who is an informant, and particularly a paedophile, to my knowledge that would not be done in open court, because of the risk to the life of the person.

Mr McNamara—I agree with what you are saying, but there could be a protocol written. Back to Dunn: he got the benefit of this indemnity in the application of 18 January 1999. He was sentenced in May 1990, with the letter of comfort. I think I may have said ‘1991’ before; it is May 1990. It is just a flow-on effect. If you look at the allegations he makes, which I read very much earlier, about Lola Scott saying to him in the unmentioned October 1989 visit, ‘We can help you out; look after yourself; we can give you a letter,’ you will see that that is exactly what happened. In between, it is dotted with these falsehoods that she has perpetuated.

Mr KERR—When you began your testimony and when you ended it, you made a number of points about how you felt when you were falsely charged with misconduct.

Mr McNamara—I was never charged with misconduct, any other criminal offence or departmental offence. There were unfounded allegations made by these fellows who had been warned, courtesy of Scott, Kimble Thomson and Larry Churchill. They were investigated.

Mr KERR—Perhaps I can put it more accurately: you were very upset about the allegations that were being made about you, both publicly—to the Ombudsman, to the police commission—and privately, obviously, being circulated within the police force that you believed were damaging your reputation.

Mr McNamara—Have damaged.

Mr KERR—Yes.

Mr McNamara—Who would be pleased about being called a drug dealer when you have put your life on the line and you have seen your wife—a long way from home, running—lose a child on the floor? Then the Director of Public Prosecutions says that there is no evidence, and then they still pursue me—even though I have left, just trying to live my life. He sends me a letter of apology. I would defy anyone here to come and sit in my chair for a little while, see what I see—see it through my eyes—and see this disgrace perpetuated. It is not about anything other than money and power.

Mr KERR—Yes.

Mr McNamara—I left in 1990; this is 2003.

Mr KERR—The point you were stressing was the necessity, I suppose, to set up some processes that give procedural fairness.

Mr McNamara—Correct.

Mr KERR—When it came to these matters that you have raised with us, you said that there was no-one to complain to, and you indicated that the only action that you took was a letter to former Commissioner Lauer.

Mr McNamara—Correct.

Mr KERR—I am not from New South Wales, so I am not sure when Lauer was commissioner.

Mr McNamara—I wrote the letter shortly after 7 May 1991. It might have been 8 May.

Mr KERR—Would you have that—I am not asking for it now—

Mr McNamara—I haven't, no.

Mr KERR—You do not have a copy?

Mr McNamara—Since that time we have moved three or four times. No, I do not. I never got a reply. I never received a receipt saying, 'Thanks for the letter; we will look into it'—nothing.

Mr KERR—Was it a detailed set of complaints?

Mr McNamara—Yes.

Mr KERR—I am just trying to identify what you actually did.

Mr McNamara—It was two pages summarised in bullet form about what I said in relation to Scott and how I had suffered innumerable security leaks in relation to where I was living.

Mr KERR—So it was mainly about the way you had been treated as a protected witness?

Mr McNamara—That is correct, but also in relation to the miscarriage of my wife's first child.

Mr KERR—Of course.

Mr McNamara—I suspect that went in the shredder, because nothing ever happened. I will be able to put it to you that in relation to those matters being ignored the letter dated 20 September 1991from the Ombudsman to Mr Lauer, the police commissioner, was supposed to be made on a record somewhere, in a file with my name on it, in some archive that the police hold. I know it is not, because there was a man named Conwell, whom I worked with many years ago. He is sufficiently of good fame and repute to be a legal practitioner in the state of New South Wales. His employer required—

Mr KERR—That does not always—

CHAIR—I think we have to take exception to that, coming from a Taswegian!

Mr McNamara—In this case it does. His employer, a very large multinational company, required that he have a security licence as well. He applied for one and was declined. He took the matter to court, and the court made an order that the police service should release reasons as to why he could not be granted a security licence. He rang me and told me about that and said, 'I've just been given your complaint history—all these unfounded allegations from 1989.' I said, 'That's outrageous.' I asked him, 'Did you ever receive a copy of the Ombudsman's letter to Mr Lauer in relation to me?'—which has been read into evidence. He said no. I said, 'Did you ever receive with these documents a copy of my certificate of discharge in relation to these matters?' and he said no.

The copy of my certificate of discharge—this is where it is so difficult—says that I meritoriously served the government and the people of New South Wales as a member of the New South Wales Police and was honourably discharged. It said 'meritoriously' and 'honourably'. To go back to how this relates to your document, they never sent Conwell's lawyers a copy of a letter from an outside agency which would support my character, they never sent him a copy of the certificate of discharge—because those things would put out of balance the view that I am a bad person. These documents would in fact balance things and negate all these other things. They never said, of course, that I had never been charged with anything. I suspect my letter of complaint, along with the Ombudsman's letter, has gone in the shredder.

Mr KERR—This is going back to 1991. I am sure that the secretariat may wish to try to find that, because it would be a useful contemporaneous account of what you were complaining of,

without the passage of time since then. Can I say, though, that when you said there was no-one to complain to, you have certainly raised issues here. In the period between 1991 and today there have been a number of legislative and administrative instrumentalities put in place from time to time. There was the Police Integrity Commission, the Wood royal commission, the Urquhart inquiry, which has been referred to by the chair, and the Independent Commission Against Corruption. I find it very odd that these matters are being raised in public in such a forceful way if you did not see fit to raise them before those bodies.

Mr McNamara—That is a good question. The answer is that, up until early December last year, Lola Scott controlled the flow of information to all of those authorities. I, as a citizen, for much of that time had no recourse to them, because they would simply respond by saying, 'McNamara is a criminal,' and send off the manufactured complaints from police Internal Affairs. The people you spoke about would look at them and on balance say, 'Oh.' They never sent them anything about the Ombudsman saying: 'Not sustained. We are sorry.' They never sent them certificates that said 'honourably' and 'meritoriously'. They never sent them advice from Mr Blanch QC saying, 'No evidence to charge this guy with anything.' It is about total control of those facilities.

Mr KERR—Let us go outside the formal legislative processes, the Independent Commission Against Corruption and the police complaints bodies. The Wood royal commission was established, if I understand it—and it got publicity Australia wide—to inquire into and report on alleged corruption in the New South Wales Police. Those making submissions to its investigators did not go through Ms Scott.

Mr McNamara—That is correct.

Mr KERR—And you did not make any submission?

Mr McNamara—I did.

Mr KERR—You made a submission to the Wood royal commission?

Mr McNamara—I was interviewed on a number of occasions, particularly in relation to paedophiles. They never called me to give evidence; I never had the opportunity to be cross-examined by lawyers representing affected parties. I gave them written submissions; I allowed myself to be interviewed; I told them about these connections; I told them about the tape. The police royal commission was staffed by pliable investigators: that is to say, people in career ascendancy who were going to work the result they were told to work. They were not going to find the facts. In fact, despite damning evidence in relation to these things, despite the fact that, for instance, Churchill was called and there was much publicity about Dunn, I was never called to tell this story. I was gagged by Scott. At the same time, Scott referred to herself from time to time as an agent of the royal commission. If you look at the media reports at the time you will see that Watson appeared to take the fall for the P16. But it was never explored; it was a one-minute thing.

Mr KERR—You did say that Mr Watson was dealt with by the royal commission's report?

Mr McNamara—He gave evidence and they put to him questions in respect of this indemnity, but they had the wrong person. Scott was the person whose name was on it, but

Watson had retired. He was sitting there copping a police pension thanks to the taxpayers. Scott, in career ascendancy, could not have anything that was going to be adverse to her career.

Mr KERR—I understand what you said earlier that, in your view, Mr Justice Dowd is a man of impeccable character. I actually have a fairly generous view of the character of most people who have held the office of Attorney General of New South Wales throughout all the time I have known them, including currently. I also, though I do not know him particularly well, have been given to understand that Mr Justice Wood is a man of impeccable character. As I understand it, he did not just appoint police; he brought police in from other states; he brought police in from the federal scene; he brought in independent investigators; he brought in lawyers; and he set up independent investigations. I am puzzled that through those processes you did not make formal submissions in relation to what you have set out now, which is a very detailed attack, if I can put it bluntly. I do not think you would disagree with that.

Mr McNamara—I do disagree: it is not an attack; it is a recital of fact. In relation to Mr Wood: I have no evidence that he is anything else but of impeccable character. I am not suggesting that he set out to do anything adverse. What I am suggesting to you is that existing—and I spoke about it before—in this virtual reality level is this group of career mercenaries moving from state to state and doing these things. Hypothetically, when you were the Minister for Justice, would you have been aware of everything members of your staff were doing?

Mr KERR—Not at all. But the Federal Police, if I can be blunt about it, did have grave reservations sometimes in their cooperative arrangements with the New South Wales Police, for the reasons that were exposed by the royal commission. All I am saying is that, from an outsider's point of view, there was the appointment of Wood, to whom we gave powers for telephone interception, tapping and a range of things cooperatively through the federal government. Wood appointed not only state police—I do not think he appointed many state police at all; he appointed most from interstate and from the federal level—

Mr McNamara—I am not sure of the staffing but I do not think many came from New South Wales.

Mr KERR—He was deliberately trying to take it out of the New South Wales clique, I suppose. That is as I understand it. He may have failed, but that was his intent.

Mr McNamara—This was in 1995-96 and I had been out of the police for a number of years. I do not know what happened from that point of view.

Mr KERR—This is burning away at you and here is a commission into corruption in the New South Wales police force. You are saying that, right at the heart of the New South Wales police force, at a deputy commissioner level—I do not know whether she was then—

Mr McNamara—She was ascending.

Mr KERR—Deputy commissioner then?

Mr McNamara—She may have been a commander—very senior.

Mr KERR—there is a woman who has been responsible for protecting paedophiles, destroying critical evidence and engaging in a range of conduct which is fundamentally corrupt. You say in evidence to us that there was no-one to complain to, when there was a royal commission established to look into corruption.

Mr McNamara—I did not say that at all.

CHAIR—I thought you said that you were interviewed at length by people for the royal commission but they refused to call you.

Mr McNamara—Correct.

CHAIR—In other words, you made every endeavour you could to give evidence to the Wood royal commission and you were prevented from doing so.

Mr McNamara—Absolutely correct. Did I make a submission in the style that I have made to this committee? No, because the facility available to make a submission was to be interviewed by way of a police style interview, which I voluntarily submitted myself to.

Mr KERR—And you made the allegations to them that you now make to us?

Mr McNamara—Correct.

Mr KERR—Okay. That makes it more complex for us. If a royal commission has had this material in front of it and not proceeded in relation to the matters that you have put forward and yet proceeded in relation to other matters, it makes it very difficult to sort this out. That is an issue we are going to have to deal with. Did you take the matters you raised with Commissioner Lauer to the Police Integrity Commission when it was established?

Mr McNamara—No. This was 1991. I do not believe that was constituted until—

Mr KERR—It was 1996, I think.

Mr McNamara—No, 1998. There was a lag. It was after the conclusion of the police royal commission. I had already been to the police royal commission. My understanding is that the Police Integrity Commission is just an ongoing police royal commission with a different name but the same powers.

Mr KERR—Were you provided with transcripts of your interview with the royal commission?

Mr McNamara—No, despite my requests.

Mr KERR—You requested that?

Mr McNamara—I did.

Mr KERR—That might be a matter we can also follow up.

CHAIR—Did they take transcripts?

Mr McNamara—They took some tape recordings and some notes—some records of interview.

CHAIR—Tape recordings?

Mr McNamara—Tape recordings and notes.

Mr KERR—I am not trying to characterise what you are saying, but if it is established as truth these are extremely serious matters going to criminal conduct of a person who held senior rank in the New South Wales Police for well over 20 years.

CHAIR—I take it, Mr Kerr, that you were not imputing to the witness that he was telling anything other than the truth as he understands it when you said, 'if it was established as truth'?

Mr KERR—I am not imputing anything.

CHAIR—Good. He is giving sworn testimony. If he tells lies under oath then he is committing perjury.

Mr KERR—Yes. But the problem here is that people allegedly have given false testimony to a range of people.

Mr McNamara—Were you putting to me that I am committing perjury?

Mr KERR—No. Please, understand—

Mr McNamara—If you are—

Mr MELHAM—He has not done that.

Mr McNamara—make an allegation and I will answer it.

Mr KERR—No, please.

Mr MELHAM—He has not done that.

Mr McNamara—I am not talking to you.

Mr MELHAM—I was listening and I tell you that he has not done that.

Mr KERR—What I am saying is, if these matters were put to a tribunal and found as fact, they would constitute serious criminal matters, as I understand it. That is the nature of your submission to us.

CHAIR—The only point that I was making, Mr Kerr, is that the witness has come here and told us that he is telling the truth. I was ensuring that you were not trying to say that he was not; and you have established that, so that is fine.

Mr KERR—It is none of my business to do that. It is for the committee to establish the weight it gives to any particular piece of evidence, isn't it?

CHAIR—Yes, it is. But I do not think the truth is always determined by a tribunal.

Mr KERR—Perhaps I have asked my question inelegantly. Let me start again. You have testified that for some 20 years a person who has grown in seniority but was very senior at the time of these events and was a part of the police integrity unit at the time—you are testifying that it was roughly 12 years ago that these events occurred—remained in the senior levels of the New South Wales police force until very, very recently. The sorts of matters that you have testified about, if proven in a court of law, would be serious criminal offences.

CHAIR—I think it is fair to say too that, indeed, Assistant Commissioner Scott was sacked in December by the police commissioner. I do think that that is fair to have on the record.

Mr KERR—I am simply making a prefatory remark by saying that these are serious matters.

Mr MELHAM—It was on the front page of the *Daily Telegraph* on Wednesday, 11 December 2002.

CHAIR—Presumably they did it because it was a serious matter.

Mr KERR—What I am raising, though, is that in my assessment John Dowd, the Attorney General at the time, for example, was an entirely honourable man. Unless you have some reason to suggest otherwise it is my assessment that, irrespective of the political colour of the governments of the day, the holders of those offices—the Attorney General and other senior ministers responsible for the administration of justice—have been honourable men and women seeking to do their best in an environment where there is an inherent problem of entrenched corruption in New South Wales policing.

Mr McNamara—That is correct.

Mr KERR—They established formal mechanisms, staffed by people of immense probity, to try to get to the bottom of what we all know is at least a component of the New South Wales Police. I suspect the vast majority of New South Wales police do their job honestly and do it as well as they can. But everything we know about the New South Wales Police from the day of the Rum Corps is that there has been a not insignificant, a quite substantial, slab of bent cops in New South Wales. That is being blunt about it. What do you do about it if you are an honest administrator? Don't you set up something like ICAC? Don't you set up a royal commission? Don't you appoint an independent judge like Urquhart to look at it? What else could a good and honest Attorney do? What did John Dowd not do that he should have done? What did successive attorneys not do that they should have done? Do you go to the political process and suggest a different course than they have taken? Do you put people of apparent probity in to follow these things up and to test as best they can the various contentions of people? I have to tell you that, from what you tell me, you have some very clever people setting people up against

each other. What you said was that Scott was clever enough to deceive really very senior, good people.

CHAIR—Until she was sacked.

Mr KERR—Until she was sacked.

Mr McNamara—She was. All of those committees and procedures work to a certain degree. When you get someone who is completely able to subvert the course and flow of evidence from the point of its source and to control those witnesses, it has the effect of rendering all of those types of overview committees in general terms as being void.

Mr KERR—What I am trying to get at is this: is there anything you are suggesting? This was occurring when Dowd was Attorney, and I make the point that he is well known to me. I regard him as a friend and as an entirely honourable man. He is not of my political persuasion. I cast absolutely no aspersion on him.

CHAIR—No—

Mr KERR—What ought he have done that he failed to do while the police were in this state during his time?

CHAIR—Alan would just like to follow up on that.

Mr CADMAN—I want to pursue with a question the issue that Duncan is taking up, if I may, as to what could anybody do.

Mr KERR—Of course.

Mr CADMAN—I think that is reasonable. During your presentation you mentioned that the now commissioner was involved in a process with Scott and Bellemore, in the Bellemore case, to examine whether Bellemore had committed a criminal offence.

Mr McNamara—Correct.

Mr CADMAN—Would you believe that the current commissioner, in those circumstances, was aware of what he was in?

Mr McNamara—Yes.

Mr CADMAN—So you believe that he had been briefed by Scott and others as to what the circumstances of Bellemore were.

Mr McNamara—Yes.

Mr CADMAN—I think you said he overrode those junior officers or less senior officers to take the front in that examination by a detective sergeant.

Mr McNamara—Cameron, of Scott. Yes. That was in the early part of Operation Retz. It went for 2½ years and culminated in what constitutes the commissioner misleading minister.

Mr CADMAN—So if we go back to Mr Kerr's question, how do you deal with things like this if people—you claim—at the top know of bad practice if not criminal activity and refuse to take action?

Mr McNamara—In relation to that, there is still no 100 per cent guaranteed deterrent against skilled knowledge of a system and intelligence. I know that it was with some fanfare that Minister Costa became the Minister for Police. My understanding is that he is doing an absolutely outstanding job and he is getting all of this static back from the police because they do not like to be intruded upon. They see what they are doing as their own private domain and it is not. It is the domain of the people and the minister is our representative elected to represent us.

In relation to Retz, shortly prior to the sacking of Scott my understanding is that Minister Costa made an inquiry of the Commissioner of Police as to what was happening with Retz. My understanding is that he was told that the commissioner did not know but would find out. He very well knew. So you get to the stage where you have these very, very senior bureaucrats—and they are just bureaucrats—lying to ministers of the Crown who are our elected officials. How in the hell are you going to worry about putting in other institutions? They are happy to lie with impunity.

Mr KERR—This is the problem, I suppose—

CHAIR—Can I just intervene here? We are running behind schedule now. We have got two other witnesses to hear today. Mr Melham has not had an opportunity yet. Everybody else has kept their questions reasonably short.

Mr KERR—I will just finish.

CHAIR—If you could do so then we can give Mr Melham a reasonable time and we will move on to the next witness.

Mr KERR—I was just following through the point that I suppose I teased out and that Mr Cadman has very usefully asked some further questions about. You indicated that you had great confidence in Dowd. You have indicated that you think that Minister Costa is now doing an excellent job. Successive governments have grappled with this by appointing people I understand to be of the highest possible character, and I think that Wood is—certainly all the advice to me when I was Minister for Justice was that he was.

We facilitated him having extraordinary powers to try to get to the bottom of police corruption in New South Wales at the request of the New South Wales government. He brought in people from outside; he did not rely on the New South Wales Police. And yet you say this problem still exists. I just wonder what we would take forward from this. Certainly, insofar as your particular evidence goes, it has had an impact. There is no doubt that—using your own terms—'if you publish it, it must be true', and it seems to be confirmed by the dismissal of Ms Scott. The chair links those two things together—on the face of it, they appear to be linked, so I do not dissent from that. The two events may not be linked but they appear to be linked.

CHAIR—Whether they are or not, they are a matter of fact.

Mr KERR—The problem is this: how do you deal with evidence that may be given in public which is designed to damage people's reputations? You have said how important it is to you that your reputation was damaged. Your evidence plainly has damaged somebody you believe to be guilty of great wrongdoing. But—incidentally, I assume—there are a number of other persons named who, in your language, 'would be feeling fairly uncomfortable today'. And I am given to understand other witnesses will come forward in the course of today to make allegations against other people, including Wood himself and his staff. How can you have a process that sifts out who is telling the truth if somebody is saying, 'Wood is an honest and upstanding judge of this court, employing independent staff, trying to get to the bottom of a difficult and entrenched systemic problem of corruption,' and somebody else comes forward and says, 'Wood and his staff are corrupt.' How can we sift through that?

CHAIR—I do not think we ought to be pre-empting evidence at this stage.

Mr McNamara—I have not said that. I never said that.

Mr KERR—Another witness is saying that.

Mr McNamara—It was not me.

CHAIR—We have not had any others yet.

Mr KERR—So you have actually—

Mr McNamara—I say I have evidence. Go and look at the P16s for Dunn. I can tell you what they say. They say, 'not known at Criminal Records'. He was arrested in Victoria pursuant to the first incident warrant and, I understand, was fingerprinted, photographed, appeared before a magistrate and was extradited back to Sydney. That sort of blows out 'not known at Criminal Records' a little for me.

Mr KERR—I must say I got some briefings about Robert 'Dolly' Dunn when I was minister and I have to tell you I do not regard him as a man of good fame and character. He is an evil and dreadful man.

Mr McNamara—He is a dreadful bloody person.

CHAIR—That is the point you are making—he was allowed to be at large when he should not have been.

Mr McNamara—How can he be at large when he should have been locked up?

CHAIR—Your evidence is that, had they acted when you came back with your tape—had he been arrested then—then a lot of other little boys might have been saved.

Mr McNamara—The thing with this is that he was not brought to account for the kids who were sexually assaulted while he was on the run in Victoria and when he got out of jail before

he should have got out of jail. If he got 2½ years for the drug conspiracy, good. He got 30 years with 23 on the bottom. He should have started that at the conclusion of the drug sentence in 1992-93, not in the year 2000 or whenever he was sentenced. He has had all this freedom. Again I come back to the Catholic Church and the robes—what is that about? They have these task forces, but there has been no task force specifically targeted in relation to a person fitting his description assaulting little boys whilst wearing the robes of a Catholic priest.

Mr SECKER—Can I just follow up something Duncan was saying. It goes to the point of: who do you believe? There is no doubt it is always a problem knowing who to believe, but you have been here for three hours now, almost to the dot. I think you have shown that you were right about Lola Scott. You were right about Churchill. You were right about Denis Kimble Thomson—he has served four years.

Mr McNamara—No, Churchill served four years. Thomson got caught with his hand in the tills of strip club operators.

Mr SECKER—Was he charged with anything?

Mr McNamara—No. He rolled over at the police royal commission, like a lot of them did.

Mr SECKER—So you were right about him. Has Lola Scott been charged with anything yet?

Mr McNamara—Not yet.

Mr SECKER—Do you find that strange?

Mr McNamara—No. I think they should carefully examine these things before they rush into anything. But I think Judge Davidson will have some interest in what I have had to say.

Mr SECKER—You were right about then Detective Sergeant Lola Scott; you were right about Churchill; you were right about Dennis Kimble Thomson; you were right about Peter Wells, who was acquitted in 1994. It seems as if you have been right all the way along, with all the evidence that has come before us. It worries me that someone like the present commissioner, Moroney, was there when Scott was being questioned and that he did not go through the right process and order a stop to the inquiry by a low-ranking officer. Where does he come into it? Has he been questioned about this role?

Mr McNamara—Not to my knowledge. But I do know that Brammer knows and Brammer made a complaint about that to the Police Integrity Commission, which is not mentioned in the reports that you have tendered.

Mr SECKER—It is not in the latest huge report that was tabled last week?

Mr McNamara—No. If you look at it as a consequence of whistleblowing, Brammer has gone to the PIC and said, ‘This stinks.’

Mr SECKER—So you think Brammer is okay?

Mr McNamara—Brammer has made a complaint about this very thing. And what happens to Brammer? He gets shifted. He is moved out of the police. He takes another high-ranking job, but he is shifted out of the police. Then a report comes out that is critical of him but does not say, 'By the way, Brammer made a complaint about this very behaviour. We have not told you that.' In the process of procedural fairness, one would assume that that would have occurred. It did not occur with Brammer. It has most certainly never occurred with me. I refer to the Commonwealth matter when they sent the manufactured complaints and did not send all the other documents which voided them.

Mr SECKER—So we have had assistant or deputy commissioner, Ms Scott. What was her role?

Mr McNamara—She was an assistant commissioner at the time.

Mr SECKER—What is the difference between a deputy and an assistant?

Mr McNamara—She was an assistant and Moroney was the deputy, so he was one hop above her. The next stop was the commissionership.

Mr SECKER—He has gone up.

Mr McNamara—Yes.

Mr SECKER—He is No. 1.

Mr McNamara—Minister Costa has done a great job. He has tapped into this and found out about Retz. That had nothing to do with me. He raised hell and said, 'What the hell is going on?' He is the guy who has to manage the thing. So there are all these types of things. They have all scurried. You can say Brammer gets a bad report, but because he makes a complaint about this very whitewash, it is not included to give a bit of balance.

Mr SECKER—Tell me if I am wrong—I do not want to say the wrong thing or to slur anyone—but should not the present commissioner be asked to explain why he went through the wrong process and supported someone who has since been sacked?

Mr McNamara—That would be a very good question. It is professionally indefensible.

Mr SECKER—It may not be that he was corrupt. You are saying that it is professionally indefensible.

Mr McNamara—It is professionally indefensible for a CEO heading an organisation of 17,000 to 18,000 people to behave like that. Imagine if he were a shareholder. What would happen if he were a shareholder?

Mr KERR—I think it is useful, though. I am trying to be careful. I absolutely mean no disrespect, but in some of your testimony you have said that you had no direct knowledge of the matters but you understood that there were materials which would support them.

Mr McNamara—There was a material complaint. Ask Brammer.

Mr KERR—I understand that, but I am saying—

Mr McNamara—Ask Glynis Cameron.

CHAIR—I think we will note that.

Mr KERR—I understand precisely what you are saying. All I am saying is that, thus far, what we have are your accounts that somebody else would give evidence to the effect that you understand.

Mr SECKER—He has been right on everything else.

Mr McNamara—Pull the PIC complaint out.

CHAIR—We also have the disgraceful Malta report.

Mr McNamara—Go and pull out the PIC complaint about it. It is a whitewash.

Mr MELHAM—Have you finished, Duncan? Do you have more questions you want to ask?

Mr KERR—No. That is all I was going to say. You have indicated how sometimes you do get this situation: if you publish it then it must be true—a trial by media. You must know the impact of your statements with respect to Commissioner Moroney and various other persons. I leave it only at that, and it is for us to work out how we address the obligations that we have for procedural fairness, which we have not yet discussed.

CHAIR—Mr McNamara, I think it is fair to say to you that your career and you personally were destroyed behind closed doors, were you not?

Mr McNamara—Absolutely correct.

CHAIR—You never got an opportunity to speak. You tried to before the Wood commission and they denied to call you there, and you have come forward to this hearing.

Mr McNamara—That is correct.

Mr MELHAM—I have a number of questions. Mr McNamara, your submission is dated 17 October 2002 and in it you tell us that you were a police officer from 5 July 1976 through to 7 July 1990. Further down on the first page you make the following self-serving statement:

I regarded myself as an experienced criminal investigator and professional witness.

Mr McNamara—Correct.

Mr MELHAM—What is the basis on which you regarded yourself as an 'experienced criminal investigator and professional witness'? Was that as a result of, firstly, the 14 years in the force?

Mr McNamara—Firstly, it is not self serving; it is fact.

Mr MELHAM—It is opinion evidence.

Mr McNamara—It is fact. Secondly—

Mr MELHAM—What? That you are a professional witness? Is that a fact?

Mr McNamara—It is a fact that I am an experienced investigator and a professional witness—not self serving. During my period in the service, I often attended criminal trials and gave evidence.

Mr MELHAM—How often?

Mr McNamara—At least once to twice a week each week, and sometimes more.

Mr MELHAM—At which courts?

Mr McNamara—District courts, local courts, the Supreme Court.

Mr MELHAM—So you had a trained memory?

Mr McNamara—No. I relied on making contemporaneous reports and notes.

Mr MELHAM—You had a police notebook in which you took contemporaneous notes?

Mr McNamara—Yes.

Mr MELHAM—Did you make it a practice to take notes regularly of conversations with particular people?

Mr McNamara—Not in relation to dealing with other police. In relation to dealing with members of the public or suspects where you have arrested someone, yes of course. If you are suggesting that I made notes in relation to dealing with a superior officer or a junior officer, of course not. That is not the purpose of a police notebook. If you are—

Mr MELHAM—Did you take other notes then?

Mr McNamara—Let me say—

Mr MELHAM—Just answer the question.

Mr McNamara—that I did not take notes. What question was that?

Mr MELHAM—The question is that you did not take notes in relation to dealing with superior officers and fellow officers. There is no contemporaneous note in relation to discussions and conversations you had with Lola Scott. Is that what you are telling me on oath?

Mr McNamara—What I am telling you on oath is that the discussions I had with Lola Scott are not only in my memory but are burned in my memory.

Mr MELHAM—There is no contemporaneous note taken by you of those discussions with Lola Scott, is there?

Mr McNamara—Why would I take notes—

Mr MELHAM—I am just asking as a question of fact, Mr McNamara.

Mr McNamara—and I have already answered this question—

Mr MELHAM—So you did not take notes?

Mr McNamara—You do not take notes when you are dealing with other police. So, the answer is no.

Mr MELHAM—So you have no contemporaneous notes of what it was that Ms Scott said to you at all? Let us put that beyond doubt.

Mr McNamara—When?

Mr MELHAM—On any conversation you had with Ms Scott. Did you take a contemporaneous note of any meetings with Ms Scott?

Mr McNamara—In relation to?

Mr MELHAM—Any conversation in relation to these incidents.

Mr McNamara—They were recorded on tapes. The information in relation to this was all recorded on tape.

Mr MELHAM—So every time you met with Ms Scott it was a taped conversation; is that the case?

Mr SECKER—Of course it would not be.

Mr McNamara—No. In relation to the suspects?

Mr MELHAM—I am talking about your submission here in relation to Ms Scott. Let us confine it to that. For instance, at paragraph 5 you say:

When I alleged to Lola Scott and Ken Watson that they were the source of this leak not only could they not look at me, they could not answer me.

Did you take a contemporaneous note?

Mr McNamara—At the time that I made that allegation to them I was in a police car with them, moving quickly away from a residence. They were concerned to move me because of a threat against me, and I did not take a note.

Mr MELHAM—Did they deny at that stage that they were the source of the leak?

Mr McNamara—They did not answer the question. They could not answer. When someone puts an allegation to them that includes language that has profanities in it—and they are senior police—and says to them, 'You have given me up,' and they do not answer—

Mr MELHAM—You did not take a subsequent note when you left Lola Scott and Ken Watson?

Mr McNamara—When I did—

Mr MELHAM—Just answer the question. Please answer the question, Mr McNamara.

Mr McNamara—I am answering the question.

CHAIR—Just a moment.

Mr MELHAM—I have asked you: did you take a note afterwards?

CHAIR—Mr Melham, you have asked many times whether Mr McNamara made a note. He has told you, 'No, not when dealing with senior police.' He has given you an answer to that question. I think you could perhaps move on.

Mr MELHAM—Sure.

CHAIR—Just take it slowly, Mr McNamara. You have been here for over three hours. Anyone would be entitled to feel a bit sad.

Mr MELHAM—It is interesting that I only just got to ask questions and I am now being interfered with by other members of the committee.

CHAIR—I would not dare interfere with you, Daryl; it would turn me off!

Mr KERR—The chair does make a good point. Professional or otherwise, the witness has been here for a long time. Mr Melham is entitled to examine—

CHAIR—Indeed, he is.

Mr KERR—and it may be convenient for us to take a short break.

CHAIR—I think we will finish with Mr McNamara, then we will take a short break of five minutes only and then we will go on to Mr McGann.

Mr MELHAM—Mr McNamara, have you read the terms of reference of this inquiry?

Mr McNamara—No.

Mr MELHAM—Did you attend Parliament House here on 6 December in anticipation of giving evidence on that day?

Mr McNamara—Yes.

Mr MELHAM—Is that the first time you have attended public hearings of this committee?

Mr McNamara—Yes.

Mr MELHAM—Do you recall how the inquiry was brought to your attention?

Mr McNamara—I spoke to an associate of mine, Mr Basham, who indicated that there was an inquiry which may have been of some interest.

Mr MELHAM—Who instigated that—you or Mr Basham?

Mr McNamara—There had been a number of conversations between Mr Basham, me and others on general matters relating to police. I cannot recall specifically who it was, but I obtained the address details of the committee—I still have not read the terms of reference—and details in relation to what the committee was looking into.

Mr MELHAM—But you did not read the terms of reference?

Mr McNamara—I did not read the terms of reference.

Mr MELHAM—You made a submission to this committee without reading the terms of reference?

Mr McNamara—Correct.

Mr SECKER—A pretty good one, too.

CHAIR—You were aware generally from—

Mr McNamara—I was aware generally, but I had not read the terms of reference. When I submitted my submission it was on the basis that this committee was my last hope to be able to bring these things into the public eye for some scrutiny.

Mr MELHAM—There was an AAP wire—

CHAIR—So you saw this as your last hope?

Mr McNamara—I did, indeed. I had been denied, effectively, by Lola Scott, through her fraudulent and misleading behaviour, any chance of being able to go to court, give evidence and be cross-examined vigorously by people.

Mr MELHAM—Lola Scott is not on your Christmas card list, is she?

Mr McNamara—Never—no.

Mr MELHAM—Would it be fair to say that you are pretty embittered towards Lola Scott?

Mr SECKER—I would be, too.

Mr MELHAM—If you want to get in the witness box then I can get you to answer questions, Mr Secker, otherwise I would appreciate you letting me ask questions without your gratuitous interjections.

Mr McNamara—It is a good question but it is a difficult question to answer, because at some stage there has to be a component of forgiveness. You have to say, 'I have to forgive this to move on.' Certainly, it was a phenomenon with me that you have to let it go; you have to free yourself of it. Am I embittered towards her? No, I feel sorry that such a clever person has finished up in the way she has. I feel great sorrow for people who have been her victims. I am not embittered towards her. I think that she should look at herself and realise that the only way that she can proceed is by accepting what she has done. I feel sorry for her for those reasons.

Mr MELHAM—It was important for you to give this evidence in public, with cameras and tapes rolling, wasn't it?

Mr McNamara—Yes.

Mr MELHAM—Indeed, there was an AAP wire story on 6 December that said:

The witnesses who came today in the majority have all confirmed that they will only give evidence in a public hearing where the public can hear them giving their evidence and having it tested.

Would you put yourself in that category?

Mr McNamara—I am prepared to be tested; I am prepared to provide documents. If that is 'tested', yes. My understanding of a public hearing is that it is one open to the public—if the cameras are there—so that they can pass on our message to the community at large, of which I am a member, as to what happened and how these things should be repaired.

Mr MELHAM—Is it a condition of your evidence before this committee that it must be given in public with television and radio broadcasting occurring? I am asking you that.

Mr McNamara—I will answer your question. I am not responsible for television and radio. However, you would have been living under a rock if you thought that matters of this nature could be given in public and there would be no media interest, wouldn't you? It is just beyond belief that you would give this evidence, which is controversial, and there would be no media coverage.

Mr MELHAM—Could you just answer the question—

Mr McNamara—I did.

Mr MELHAM—Is it a condition that you want your evidence to be given in public, with cameras and TV present?

Mr McNamara—It was not a condition that—

Mr MELHAM—It wasn't?

Mr McNamara—I have not finished. It was not a condition that I give my evidence in public, with cameras rolling and radio stations present.

Mr MELHAM—So that is not something you sought?

Mr McNamara—No.

Mr MELHAM—That is not something you required?

Mr SECKER—Could you let him finish answering the question.

Mr McNamara—I would love to finish.

Mr MELHAM—If I have cut you off, I am sorry.

Mr McNamara—When I responded to my most recent invitation to appear before this committee—and that is on my laptop—the language I used, and I think Ms Thoener would have a copy of it—

Mr MELHAM—Who?

Mr McNamara—I think the inquiry secretary would have a copy. The language I used was, 'I wish to confirm that I wish to give my evidence in public.' There were not any conditions attached to that. I did not say, 'If it's not in public, I'm gonna hold my breath,' or 'You must have the media present.' It was just, 'I wish to confirm my previous advice to you that I would like to give my evidence in public.'

Mr MELHAM—If you go to your submission, on the bottom of every page the words appear:

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Mr McNamara—Correct.

Mr MELHAM—Was it your prime concern that you wanted the protection of parliamentary privilege for any submission that you made or evidence that you gave?

CHAIR—Daryl, anyone who gives—

Mr MELHAM—Madam Chair, I have asked him a question. I think it is a legitimate question.

CHAIR—Anyone who gives evidence to this committee is afforded privilege under the privileges act. That is for any witness at all that appears here. There is nothing peculiar about that for Mr McNamara or any other witness.

Mr MELHAM—Madam Chair, I have asked a question. I think it is a legitimate question. I would like him to answer it without your gratuitous interference.

CHAIR—I do have a responsibility to witnesses, Daryl.

Mr McNamara—Sorry, was it my intention to?

Mr MELHAM—On the bottom of every page of your submission there is:

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Would it be fair to say that your main concern is that you wanted to be protected by parliamentary privilege for the evidence that you gave?

Mr McNamara—Here? No.

Mr MELHAM—Why does that phrase appear on the bottom of your submission?

Mr McNamara—By using that phrase I mean privilege as to the document, not as to the evidence. When I was told later on—and, again, you would have to check with your secretary in relation to it—that the hearing would be heard within the confines of parliamentary privilege, that was the first occasion I knew. My understanding of the committee before that was that it would be more of an inquisitorial—more of an adversarial—set-up rather than a committee.

Mr MELHAM—You received a letter from the committee when you had lodged a submission?

Mr McNamara—Yes.

Mr MELHAM—Do you remember what that letter said, or did you read that letter?

Mr McNamara—It thanked me for my submission. I think there was an initial letter—you would have to check that—and there was another one closer to December. Some of it was done with email. I completed a form. There was then a letter that clearly stated that parliamentary privilege applied. That was quite some time after I had completed the submission. At the time that I completed the submission—as my evidence to you, Mr Melham, is—I did not know that parliamentary privilege would apply. I did not even know if anyone would take any notice of it. That was to the extent that I put it.

Mr MELHAM—Did you talk to members of the press about your submission before giving evidence today?

Mr McNamara—No.

Mr MELHAM—Did you talk to other potential witnesses about the content of your evidence before you gave it today?

Mr McNamara—No.

CHAIR—I think, in fairness, that Mr Melham is saying that the letter that you received gave you certain things you could and could not do. But we have had advice from the Clerk as well that separate publishings are just that—separate publishings—and are not covered by privilege, but that is a matter for any individual who gives evidence here.

Mr McNamara—That is correct.

Mr MELHAM—Have you had conversations with Mr Basham since 6 December until today?

Mr McNamara—Yes.

Mr MELHAM—Have you had conversations with any member of the committee before today?

Mr McNamara—No.

Mr MELHAM—So your communication has been restricted to the secretary?

Mr McNamara—Yes. The documents mostly came and went by email, and our conversations on the telephone were very short.

Mr MELHAM—I think the dismissal of Ms Scott occurred on a Monday.

Mr McNamara—The Friday was the sixth, wasn't it?

Mr MELHAM—The Friday was the sixth.

CHAIR—The Monday was the ninth.

Mr MELHAM—We met on 9 December.

CHAIR—No, we met on the sixth.

Mr McNamara—The sixth.

Mr MELHAM—No, let me finish my question. We met as a committee on 9 December 2002, a Monday night when parliament was sitting, and we authorised the public release of your submission at 10.30 p.m. with some editing.

Mr McNamara—That is right.

Mr MELHAM—I think that was after the announcement that Ms Scott was terminated.

Mr McNamara—Yes, I remember that.

Mr MELHAM—Did you communicate to the secretariat that you wished your submission to be released publicly after Ms Scott was terminated, or who instigated the communication between you and the secretariat?

Mr McNamara—I would have an email record. My recollection—and my apologies that I did not bring my laptop; I had other things in my bag—was that there was an email from Ms Thoener's office and the inquiry committee as to whether or not I would consider publicly releasing my submission. I considered it. I did not have much to consider, quite truthfully, in terms of its public release or not.

Mr MELHAM—But you were happy for it to be released publicly? Up until then—

Mr McNamara—The question essentially was: will you release it publicly? I considered that—

Mr MELHAM—Who instigated that? Was that from you or did that come from the secretariat?

Mr McNamara—There was a difference but the original thing was: would you please consider the public release of your submission? I did consider it, then I made an independent decision. It was late at night. I distinctly remember the evening quite well, for a non-related reason. I considered it and decided in solitude that I would release it publicly.

Mr MELHAM—And your recollection is that you were emailed?

Mr McNamara—Yes, and I emailed it to the inquiry.

Mr MELHAM—Would you still have copies of those emails?

Mr McNamara—I would say so, unless one of the children has got the email and done something appalling to it.

Mr MELHAM—That is fine.

Mr McNamara—It was a consideration but it was my decision. I did not consult or confer with anyone else.

Mr MELHAM—Were you interviewed after the release of your submission by the *Sun-Herald*?

Mr McNamara—No.

Mr MELHAM—There is a photograph of you that appears in the *Sun-Herald* on Sunday, 15 December 2002. Did you see the copy?

Mr McNamara—That is correct; I saw it.

Mr MELHAM—How was that photograph taken?

Mr McNamara—In 1999 or 2000 I had sued the New South Wales Police Service over this very matter. They eventually settled.

Mr KERR—Sued over the matters—

Mr McNamara—I commenced an action in the Supreme Court of New South Wales in 1993 or 1994 in relation to essentially the same allegations but more focused on a breach of contract—a breach of undertaking—with me. The matter took until 1999 to be resolved. It was resolved in my favour, notably after my barrister stood before a registrar of the Supreme Court and said, 'Look, the Crown keeps alleging that he is a criminal. It has been 10 or 12 years. We are happy to go down to the Downing Centre and jump into the dock and he can be charged, but we will be adding 'malicious prosecution' to the list. And by the way, we will subpoena Scott and Watson.' A week later it was settled.

The very ordinary photograph in the *Sun-Herald* was taken because I did a story with one of their journalists in 1999—it would have been August or September 1999—and they had the old photographs, I assume. The rest of the story which appeared in the *Sun-Herald* on that occasion was the obtaining of the submission off the web site. Sorry about that.

Mr KERR—In terms of contemporaneous documentation, somewhere there ought to be a transcript of what you said to the Wood royal commission. Presumably those files are kept secure—I do not know where, but they should be. Secondly, there should be pleadings in the New South Wales Supreme Court which set out the gravamen of your complaints as you made them at the time.

CHAIR—When did you say you initiated the litigation?

Mr McNamara—I started the litigation in 1993 or 1994.

CHAIR—What was the date of settlement?

Mr McNamara—It is a whole new ball game, which means I am completely not involved—I am not doing this for any other reason. About July or August 1999; I would have to check with my lawyers.

CHAIR—It was 1999, and you are saying that within two weeks of your saying, 'Call Lola Scott and Watson,' the matter was settled?

Mr McNamara—Within a week.

CHAIR—Within a week?

Mr McNamara—Within a week. What happened—

CHAIR—So that is litigation that has been going for six years.

Mr McNamara—Six years.

CHAIR—And it was suddenly settled.

Mr McNamara—What happened was that every time we went before a registrar in the Supreme Court for call-overs and dates, the Crown Solicitor's Office would send a different solicitor who would run in, inevitably late, and say, 'Just got instructions; can't make any more decisions.' I would have my barrister and my solicitor sitting there. I just said to them, 'We should push ahead with this because they are obviously hiding something.' Eventually we had a crown solicitor say before a registrar: 'You know Mr McNamara committed criminal offences. That is why we do not think we should pay.' I had already instructed my barrister, a man named Phillip Clay, and I said, 'Tell them we are happy to go to the criminal courts'—which is the Downing Centre—'and they can charge me.' Phillip got to his feet and, as a practising barrister who spends a lot of time in court, made his point forcefully and suggested that. The registrar offered that to the crown solicitors, who declined. Then Phillip indicated, again reasonably forcefully, to the registrar that we wanted a trial date, that we were sick of being messed about after six years and that it should be noted they wanted the Crown instructed that the first subpoenas issued would be one for Scott and another one for Watson. Within a week it was settled.

Mr KERR—What were the terms of the settlement?

Mr McNamara—I have signed a document. The only thing I am not allowed to disclose is the amount. I was able to, without breaching my deed of agreement with respect to settlement, discuss these matters.

Mr KERR—What were your pleadings? What was your cause of action?

Mr McNamara—My lawyers have still got the documents. That would ultimately be a much better question for them to answer than me. They centred around injury as a consequence of the security leak, the miscarriage of our first child, the threats of death and so on and so forth and the failure by the police—and I referred to Scott and Watson directly.

Mr KERR—This is again the stuff that you wrote to Lauer about, essentially the failure of the—

Mr McNamara—My lawyers were much more eloquent than me in putting it together.

Mr KERR—I am just trying to identify what the subject of the litigation was.

CHAIR—You have had a number of attempts to tell the story. You tried to tell Mr Lauer, you brought legal action, you tried to tell the Wood commission and, in your terms, you see this committee as your last chance.

Mr McNamara—Essentially they ignored me. I spent a lot of time driving into the city to speak to them.

CHAIR—Mr Melham has the call.

Mr MELHAM—Thank you, Madam Chair; I appreciate that. As a professional witness who has appeared in court, you are aware that most of the submission you have made to the inquiry would be inadmissible in a court of law?

CHAIR—We are not conducting a court of law; we are having an inquiry properly constituted.

Mr MELHAM—I asked the witness a question, not you. I would appreciate it if he were allowed to answer it.

Mr McNamara—I made the submission on the basis that it was a submission. To be quite frank, after what has happened over the last 13 years I really did not hold out much hope that any action would be taken, but I made the submission. And of course I know there is a distinction between what is admissible at a criminal level and what is a submission.

Mr MELHAM—Do you concede that vast parts of your submission would be inadmissible as evidence in a court of law.

CHAIR—It is irrelevant. We are not conducting a court of law.

Mr MELHAM—Madam Chair, will you please let the witness answer the question.

Mr SECKER—He has.

CHAIR—Do not badger the witness; he has been here three and a half hours.

Mr MELHAM—I am not badgering him.

Mr McNamara—I do not concede that because in an adversarial system with properly instructed counsel, conversation could be elicited and documents could be produced by way of subpoena which would support my contention.

Mr MELHAM—Not hearsay evidence—hearsay evidence is not admissible. Your submission to this committee contains hearsay evidence. Do you concede that?

Mr McNamara—This submission is a submission. As I have already told you, there is a distinction—

Mr MELHAM—Your submission tells me you are a professional witness.

CHAIR—He has already given you an answer, Daryl. He is not in a court of law, he is in this hearing.

Mr McNamara—There is a distinction between providing a statement in evidence to a criminal proof and a submission. This is a submission.

Mr MELHAM—You gave evidence to us a short while ago that the equivalent of a police statement was taken from you in relation to—was it the Police Integrity Commission or the Wood royal commission?

Mr McNamara—The police royal commission. It was police style—question, answer, question, answer.

Mr MELHAM—The submission that you have made to this inquiry is not a police style statement, is it?

Mr McNamara—Correct. It is a submission.

Mr MELHAM—It contains hearsay—yes or no?

Mr McNamara—I am not going to answer you yes or no. Do not tell me how to answer a question. All of the information contained in this submission is fact. Whether it can be adduced into evidence that is admissible before a criminal proceeding—and I note we are not before a criminal proceeding—is something entirely different.

Mr MELHAM—Let me take you to paragraph 5 where you start with an allegation to Lola Scott and Ken Watson.

CHAIR—I will make a pause here. So that we can properly let questions be asked, we will not take Mr Fenlon today. We will begin tomorrow with Mr Fenlon's evidence. But we will take Mr McGann today at the conclusion of this questioning.

Mr MELHAM—It is a simple question. You say, 'When I alleged to Lola Scott and Ken Watson ...' You made an allegation to them—they are your words.

Mr McNamara—It is a phrase.

Mr MELHAM—It is a phrase. The next minute it is fact in terms of the phrase.

Mr McNamara—A phrase or a fact, it is what happened.

Mr MELHAM—It is your belief.

Mr McNamara—No, it is not my belief; it is what happened. It is a fact.

Mr MELHAM—Okay. What is the evidence then that you have? Let us test your fact. You agree that you are happy to be tested on your evidence.

CHAIR—Did Dolly Dunn go from New South Wales to Victoria?

Mr McNamara—Yes.

CHAIR—I see. And was Dolly Dunn apprehended seven months later?

Mr MELHAM—You say that they were the source of the leak. What is the evidence they were the source of the leak? Admissible evidence.

Mr McNamara—The evidence of the source of the leak is that they were two police that were senior to me, I abused them and called them about this leak, and they did not respond—they remained mute. No-one I know anywhere would do that; no-one would put up with that. I quickly formed the opinion and the view and the fact that they leaked it. They were the only people capable of leaking it.

Mr MELHAM—They did not make an admission that they had leaked it?

Mr McNamara—You do not have to—

Mr MELHAM—Just answer the question.

Mr SECKER—He can answer it any way he wants. Stop badgering the witness.

Mr McNamara—I am answering. You do not have to have direct admissions, do you, at every turn in relation to a criminal proceeding?

Mr MELHAM—You have given evidence in court on a number of occasions—

CHAIR—He is giving good evidence here to you, Daryl.

Mr MELHAM—Madam Chair, I would appreciate your gratuitous interjections ceasing.

Mr SECKER—And I would appreciate your not badgering the witness.

Mr MELHAM—I am asking a legitimate question. I am asking you, Mr McNamara, a particular question and I would appreciate a good answer.

CHAIR—You are a failed prosecutor, aren’t you?

Mr MELHAM—I do have a current practising certificate—

CHAIR—So have I.

Mr MELHAM—as a barrister in New South Wales and the ACT—

CHAIR—I have a current practising certificate too, Daryl.

Mr MELHAM—so I do know how to ask questions in court.

CHAIR—This is not a court of law.

Mr SECKER—This is not a court of law.

Mr MELHAM—You wanted a public hearing and now you want to gag me from asking questions.

CHAIR—No, I am asking you to go on. You have got the call.

Mr MELHAM—The witness comes along and is allowed to be tested.

CHAIR—You have got the call in this public inquiry of a properly constituted committee of inquiry under the parliament of Australia. We are not a court of law.

Mr MELHAM—I accept we are not a court of law. My question to you, Mr McNamara, is: do you concede that the submission you have made would not be admissible in its current form before a court of law—yes or no?

Mr SECKER—Irrelevant.

CHAIR—It is quite admissible here, Mr McNamara.

Mr McNamara—Not in its current form; but when I prepared this document it was not in my mind that I would be giving evidence at a criminal proof.

Mr MELHAM—Thank you.

Mr McNamara—Good.

Mr MELHAM—In terms of transparency, and I want to go to the letter of comfort, you gave evidence in relation to that. You have been an undercover operative—indeed, that is in paragraph 3 of your submission. I think one of your complaints is that your cover was blown.

Mr McNamara—Correct.

Mr MELHAM—You accept that there should not be transparency when it comes to undercover operations with police serving in undercover—

CHAIR—The question is: are they legal? Was it legal, Mr McNamara?

Mr MELHAM—Madam Chair, I have asked the witness a question. The record will show your continued interference. It is a simple question. There is no transparency within the police force when it comes to undercover operations, is there, Mr McNamara? You are protected, aren't you—or you should be?

Mr McNamara—In terms of what happened in 1989, you absolutely should be—you are absolutely right. But I note the comments of Mr Landa, the Ombudsman, that some of these complaints about tapes and so on and so forth and witnesses were the fruit of the very undercover operation that I was carrying out.

Mr MELHAM—But not everyone is aware as to who was involved in the undercover operation. It is very restricted information, isn't it?

Mr McNamara—Correct; it should be.

Mr MELHAM—And that is designed to protect the undercover operative.

Mr McNamara—Exactly. Mine was completely blown, and 'McNamara is an ISU dog; you're gone' was contained—I do not know whether they are still held there—in transcripts given at the police royal commission.

CHAIR—So those words are there at the police royal commission?

Mr McNamara—Yes, in black and white. I printed them out in the library next door.

Mr MELHAM—In terms of transparency, when it comes to letters of comfort, are you arguing or are you submitting to this committee that there should be transparency when it comes to letters of comfort for people who give evidence that assists police?

Mr McNamara—Yes.

Mr MELHAM—In your 14 years in the service, you said to us, you had never been involved in a letter of comfort.

Mr McNamara—Correct.

Mr MELHAM—But you are aware that there are letters of comfort—

Mr McNamara—They are much more transparent than this one. That was the point I was making. I accept what you say about a distinction between a letter of comfort and an approach as to say, 'This person has been of some assistance to us,' but it is done through a prosecutor. And was I involved in those sorts of things? Yes; not often, but yes.

Mr MELHAM—And they were also very carefully done, weren't they?

Mr McNamara—There was not a policy in place that I was aware of—and I looked—in the New South Wales Police during the period of time that I was in with respect to that type of thing. It was an ad hoc arrangement, but the customary way it was carried out was that it was carried out with the knowledge of the prosecutor and knowledge of counsel on the other side.

Mr MELHAM—But that was done in a careful way to protect the informant.

Mr McNamara—Extremely careful. But it was done in a way that removed the obligation from the investigators. They should not have that obligation. It should be at another level. It should be, if you like, a mini separation of powers sort of situation.

Mr MELHAM—But other police officers were not made aware of who or who was not an informant. That is the case, isn't it? There was no practice that, just because you were member of the police force, you knew who was the informant.

Mr McNamara—It would depend. They did not have an informants register at the time. It was absolutely ad hoc in terms of what happened and what did not happen. Now I think there is a register. I cannot give specific information because I am not in it. But at the time, no. But that is not my point. My point is that, in terms of the letter of comfort, it fits in 100 per cent circumstantially with her knowledge of his true criminal associations on 26 March 1989, it fits in perfectly with her knowledge of his true criminal associations as at 18 January 1990 when she completes what I say is a fraudulent, misleading and untrue indemnity application for him and it fits in perfectly with the allegations he made before Judge Davidson in relation to the first time she ever saw him after he was arrested on 18 October 1989. The combination of those documents makes the letter of comfort itself extraordinary, a problem and, in all probability, filled with untruths to obtain a two- or three-year sentence.

Mr MELHAM—Mr McNamara, you are aware that discounts were given by judges through the eighties for informants. That was police practice. Let us be clear about that.

Mr McNamara—That is not true.

Mr MELHAM—What was the incentive for people to be informants then? There was segregation within particular prisons, wasn't there?

Mr McNamara—We are not talking about the issue of informants being given a discount for sentencing.

Mr MELHAM—Maybe we are at cross-purposes here. When I was practising as a legal aid solicitor and as a public defender in New South Wales, from the period of 14 December 1979 until I resigned as a public defender on 20 February 1990 to contest the federal election, there was a practice whereby discounts were acknowledged for informants when they came up for sentence if material was placed on a confidential basis before judges in New South Wales.

Mr McNamara—I accept that. What I am saying is—

Mr MELHAM—It was not mentioned in court. It was done, as you said earlier, through prosecution and defence but done very discreetly because in the end these individuals, if they received a sentence, were in the prison system. You have heard the word 'dog' used in the prison system before.

Mr McNamara—Of course.

Mr MELHAM—And what do fellow prisoners do to dogs?

Mr McNamara—It is not a pleasant situation.

Mr MELHAM—It is not a pleasant situation at all.

Mr McNamara—I think we are at cross-purposes because I think we are at the same place.

Mr MELHAM—Yes, because I think most of it is at cross-purposes. The point is that the discounts or whatever—the way that judges handled it—was very sensitive.

Mr McNamara—I agree with that. I am not suggesting that was not the case in other matters. What I am suggesting in this one is that it is a combination of the whole lot of it. It has the effect that even if this letter of comfort is genuine—I do not believe it is—all of the other activities that I say occur, and that Dunn says occurred, although he has no credit, render this document highly suspicious at least because of the other things that were happening.

Mr MELHAM—I accept that. Indeed, there is case law in New South Wales—

CHAIR—Daryl, can I intervene for a moment. You have had a pretty good go. We are going to get onto Mr McGann fairly soon.

Mr MELHAM—Madam Chair, I have a few questions I would like to continue to ask.

Mr SECKER—You are directing the witness rather than questioning him.

CHAIR—The truth of the matter is that everybody has had about the same length of time.

Mr MELHAM—No, they have not. I started my questions—let us be very clear—at 1.05 p.m. and I have been continually interrupted. Mr Kerr and others have taken over since then.

CHAIR—That is an hour and three-quarters; that is more than anyone else has had.

Mr MELHAM—It is not an hour and three-quarters; it is only now 14 minutes to two! I have not had an equal go. I have a number of questions that, Madam Chair, the standing orders allow me to ask. They are relevant, I think they arise from the evidence and you do not have the power to suspend them.

CHAIR—In that case, Daryl, we might let you go on. Continue to ask all your questions, and we will see if Mr McGann might come back tomorrow, too. I think we might proceed in that way. Will somebody inquire of Mr McGann if he could come back tomorrow. At this stage we might take a short break.

Proceedings suspended from 1.48 p.m. to 2.15 p.m.

CHAIR—We had a long five minutes. Nonetheless, as we have determined that will hear the witnesses scheduled for today tomorrow, we will complete the examination of this witness and the taking of evidence and then conclude when we have completed that. At the moment, Mr Melham has the call.

Mr MELHAM—Thank you, Madam Deputy Chair.

CHAIR—No, I am Madam Chair.

Mr MELHAM—Sorry about that. I do not want to demote you.

CHAIR—Believe me, I will not let you.

Mr MELHAM—I also do not want to promote you.

CHAIR—It is not within your purview.

Mr MELHAM—No, I accept the Prime Minister's judgment on that. Mr McNamara, I will not keep you long; I understand you have got some babysitting matters. I want to clarify something that I think you answered Mr Kerr on. He asked you some questions about Roger Rogerson.

Mr McNamara—Correct.

Mr MELHAM—Again, I do not want us at cross-purposes. I think some of the interchange earlier was that we were at cross-purposes. Did you say that because he was acquitted—cleared by a jury—he was a person of good character?

Mr McNamara—No.

Mr MELHAM—What were you saying in relation to that?

Mr McNamara—I simply said that, in my view, he has been adversely named. I have never met him, so I do not have any personal bias one way or the other with him. He has been one of the most defamed citizens in New South Wales. I know he has been imprisoned a couple of times for crimes for which he was rightly convicted. But precision is more what I was about in the matter in relation to the Coroner's Court. There was a hearing in relation to it and my understanding was that a jury actually came back and said that it was justifiable homicide, and that is to the level. I am aware of the blue murder tapes and things. I think Mr Rogerson is an older fellow now. The other point I made there was that he too was a sergeant and my overall view was one that only sergeants and constables were capable of committing crimes. I think I said, surrounding that, that in my view the corrupt executive management system was in fact the true root cause of those sorts of episodes occurring in the lower ranks.

CHAIR—So you are saying that if he was guilty of corruption then it had to be condoned from above?

Mr McNamara—It was more the poisonous fruit from the poisonous tree, because this corrupt management system has existed. In general terms, I accede to what Mr Kerr said about the management system stinking since Askin—and I do recall reading the book on Askin written by Mr Hickie—and how a police commissioner was corrupt. So if it is instituted there—and I only give evidence in that part in respect of general terms—if the bosses and the management of any organisation are corrupt, then you can bet the workers will follow suit.

CHAIR—I will cede to Mr Melham in just a moment, but we also had come down in the parliament the report of Operation Jetz. This was the inquiry—about which we will hear evidence subsequently, I understand—concerning the rorting of the promotion system.

Mr McNamara—Right.

CHAIR—I am only going to make a comment on this, because we will deal with it later, but I am absolutely amazed to read a report that shows that there were a good number—up to a dozen—police officers found to be guilty, or affected persons, to use their terminology, of what is clearly corrupt behaviour. And the finding! It is really, 'We took evidence under objection and we not think it was criminal behaviour, so don't take any action.' It is mind bending! They are all named here, from detective senior constable down to inspector. I have to say of the inspector, and it is a dreadful name for him to have in that context—Robert Gordon Menzies—

Mr MELHAM—I thought there was only one Robert Gordon Menzies!

Mr SECKER—I know another one at Murray Bridge, actually.

CHAIR—He's an inspector and he is allowed to resign, so he keeps his super—and he is the instigator and this is what they find—so how can you expect there to be a sound policing culture? Good people who come in and want to be good policemen see in an official government report—not old, not Askin, not ancient but 10 days ago—that they condone this behaviour; it will not do.

Mr McNamara—I completely agree with you. Each of the people in that report—and I am aware of that behaviour—has cheated to obtain and has cheated in the most base way. They have disadvantaged probably better applicants. They have cheated and have obtained a financial advantage out of that. It is my view that cheating is a deception and the result of succeeding constitutes obtaining a financial advantage by deception.

CHAIR—That is right.

Mr McNamara—I think that 178BB of the Crimes Act of New South Wales sets out five years penal servitude. When they say, 'We didn't mean to do it,' we can still say okay because at 178BB you do not need to prove intent to defraud.

CHAIR—We will deal with that later. You get the promotion and you get a $95,000 or $100,000 salary, as distinct from the $65,000 you were on before.

Mr McNamara—But the people that are paying for it are us.

CHAIR—That is right. We will return to that later.

Mr MELHAM—I think Mr Ker wanted to come in, Madam Chair.

Mr KERR—Following up this problem, I suppose successive governments have sought to have mechanisms—using a bit of colourful language—to distinguish the snake from the mongoose. It is very difficult when you have, as you have correctly identified, a Premier and a

police commissioner in the Askin days cooperating in running brothels and illegal gambling institutions. I think that we are agreed that, essentially, people of goodwill since and including the Greiner government have tried various means to address this. Do you concede that there has been any improvement at all since the days when the cops actually ran illegal brothels and gambling? Are there honest cops? I do not want to be flippant, but my impression for what it is worth is that, whilst we have had a very grave systemic problem and no doubt still have a persistence of some of that, people have had a fair old crack at trying to do something about it. There are still within the New South Wales Police Service probably a majority of people who go about their business trying to act fairly, honestly and decently in all their doings. Sometimes they may get caught on the fringe of some of this. There is probably a mates club so that sometimes they do not speak out when they should. There is a whole range of things like that. But I think there are some people who, at least in my very superficial judgment—Christine Nixon, the present Victorian Commissioner of Police, for example, is a person whom I have had dealings with and have always thought is an extremely honourable person, and I do not wish you to disabuse me of my confidence in her—in whom there must be some hope. As I have been saying to you, successive governments have done these things, they have been trying to improve it, and surely now things are at least a bit better than when cops were actually distributing the heroin and cops were actually running the brothels and cops were actually running the illegal gambling establishments with the connivance of the Premier of the day.

Mr McNamara—Again, broadly I agree with your views. I think, though, that you cannot characterise the behaviour of Scott, which I think is extremely sophisticated behaviour, with that of thugs that were running brothels and selling drugs. In that regard, I class Churchill as a thug—probably the last of the thugs. The smarter ones turned into Scott or something like her. I have a complete abhorrence of police being involved in any of those things. I have listened to you a few times and, as I said, I generally agree with you, but you have to look at things specifically. One of the things is that when these people set out to tell lies—and lawyers on the committee will understand the difficulty of cross-examining someone that sets out to tell lies—there is really no defence. I think that to a large extent, with skill and knowledge and intelligence, voids a lot of these processes—ICAC and the Ombudsman.

CHAIR—We are going to wrap up at a quarter to three. I know Daryl has a couple more questions—

Mr MELHAM—Not a lot.

CHAIR—You have a couple and I have a couple, and we are going to wrap up at a quarter to three.

Mr McNamara—Okay. One of my views is—it happens in business and I am sure it happens in lots of other places where the bureaucrats and other people are on high salaries—that they should be independently psychologically evaluated. They do for everything else. You have never seen a bad application for a position. Let us put them under some sort of psychological examination and ascertain their integrity. Get someone—a forensic psychiatrist, for instance—who is able to say, 'Let's do this.'

CHAIR—I hear the point that Mr Kerr is making, but I make the point that there is a disproportionate amount of crime in New South Wales compared with the population.

Mr McNamara—Absolutely.

CHAIR—For instance, the Bureau of Statistics most recent report of the Productivity Commission—only out last Friday—shows that the incidence of armed robbery—

Mr CADMAN—They are getting worse.

Mr KERR—It is an argument for moving to the great state of Tasmania!

CHAIR—You have got a case.

Dr WASHER—There is no-one down there!

CHAIR—The point is that it is still on the rise. The point I was making to you is this: crime is on the rise in New South Wales. You have a government report that comes down that condones corrupt behaviour—it says you can stay in the force and no action should be taken. I am sorry, some of them might get a downgrading of the incremental payments within the rank.

Mr McNamara—If I were still in the police, all I would succeed in doing is being able to charge these people with obtaining a financial advantage by deception under section 178BB or 178BA of the Crimes Act. It is punishable by five years penal servitude, last time I looked.

CHAIR—To reiterate the point that you have made, senior people tend to get off—Inspector Robert Gordon Menzies was allowed to resign; I am not sure what happened to Inspector Martlew—but the others are detective senior constables and so on, with the exception of one messenger. But we will deal with him later.

Mr McNamara—It is clearly fraud. By not taking any action and by not even calling it fraud in a report—

CHAIR—What does it do to the morale of the police when they see what has happened to whistleblowers like you and others who are going to give evidence here—such as Tim Priest, who has given evidence here—whereby they see a problem and they are the ones that then get attacked and their careers are destroyed? What message does that send?

Mr McNamara—It guts the lot of them as a group. They see that they have their backs against the wall. They see that no-one cares. They see themselves as abandoned and isolated by a management that is only concerned with power and money, influencing each other to climb the ladder and prepared to do anything. They see that and they see, essentially, rough justice handed out to themselves for the minor infractions. And they are workers. They have nowhere to turn. They usually turn to alcohol abuse. They resign or they float along in a dead-end job for a couple of years, maybe get caught in some minor corruption and then get booted out. But there is no future for them under the present regime. It is a joke. You have got a police commissioner that misled a minister for the crown—straight up misled him.

Mr MELHAM—If you look at the terms of reference after today, if there are any matters about which you might want to put in a supplementary submission to the committee in terms of policing or whatever, I think the committee would be benefited—if you have any material you

want to submit in relation to each of the specific terms of reference to do with the types of crimes, perpetrators of crimes, fear of crime in the community, the impact of being a victim, strategies to support victims and reduce crime, apprehension rates, the effectiveness of sentencing and, obviously, community safety in policing. Having made that invitation, it does not necessitate my asking a series of questions. It can be done by written submission if you so desire.

Mr McNamara—I gratefully accept the invitation. Thanks—I will.

Mr KERR—Before Mr McNamara withdraws, I wonder whether we could deal with a couple of procedural issues that arise. I would be prepared to move, subject to the committee's agreement, firstly, that the transcript of the evidence and the submissions that we have received be sent to the Hon. Justice Wood with a request that any materials that are relevant to this testimony that he holds be released to the committee; secondly, that he and/or his investigators respond to any materials that have been so addressed to us; and, thirdly, that all—

CHAIR—I do not understand the last bit.

Mr KERR—There was a suggestion that complaints were not followed up by his investigators, so matters may not be known to Justice Wood himself.

CHAIR—I certainly have no hesitation in asking the Wood commission for any relevant material they have.

Mr CADMAN—Except that one of the witnesses we were going to hear from today may have evidence or information—

CHAIR—Perhaps we will wait till tomorrow.

Mr CADMAN—which is even more relevant than today's evidence.

Mr KERR—Whatever. I am trying to establish some basic starting point for how we will address the procedural fairness issues that obviously arise, as well as those communications. We should write to police records to see whether there is any documentation relevant to Mr McNamara's testimony which they can provide to us. Thirdly, we should provide a transcript and a copy to all persons adversely named and invite their response to us.

CHAIR—I am going to move at the end 'That the committee authorises the publication of the evidence given today by Glen McNamara', and that of course will go on the web site, and anybody who is adversely affected would have access to that.

Mr KERR—No, I am actually moving that we provide a transcript and an invitation to any person adversely named. We have to work out some ground rules for how to deal with these issues.

CHAIR—The ground rules are straightforward—that anyone who wishes to come before this committee and say that what was said about them is not true and they want to refute it or

whatever is most welcome to do so. That is why we post the evidence on the web site—so that they can peruse it.

Mr MELHAM—Some people do not have access to the Web, Madam Chair.

CHAIR—I think people in the police force do have access to the Web.

Mr MELHAM—I support Mr Kerr's contention, which is that anyone adversely named should be communicated to by this committee and given an opportunity to respond.

CHAIR—I do not think that is part of our task.

Mr MELHAM—It is not part of your task to seek the truth, is it?

Mr KERR—How can we insist—

CHAIR—It does not matter to me if you want to do that.

Dr WASHER—To follow that up, I do not see any problem with that.

Mr KERR—I think it is about common fairness.

Mr MELHAM—It is common courtesy—just draw it to their attention. Some people do not have access to the Web, and if we have addresses for these people it should be brought to their attention.

Mr SECKER—I do not have a problem with it.

CHAIR—We may or may not.

Mr MELHAM—If we do not have, so be it. But, if there are people who have been adversely named here, it should be drawn to their attention; they should be given an opportunity to respond.

Mr KERR—Just as, if Mr McNamara himself were adversely mentioned—

Mr McNamara—Absolutely.

Mr KERR—in some public proceedings, he would wish that the committee or tribunal facilitate an opportunity to respond.

Mr MELHAM—This is the problem with having public hearings with cameras rolling and a whole range of other things without testing the quality of the evidence. People are adversely named—

Mr CADMAN—Just on today's hearing, three or four police commissioners have been named, some living, some dead.

Mr MELHAM—They should be written to.

CHAIR—You have a couple of people who are dead.

Mr MELHAM—Maybe you can do a seance, Madam Chair—I do not know. All I am suggesting is that people who are maligned be given the opportunity to respond. There is nothing wrong with that. This is a circus, as it has proceeded, in aspects. Let us not turn it into a farce. People were adversely named.

Mr CADMAN—Daryl, that would not be the case. You know that.

Mr KERR—I think it is very important to say that I regard Mr McNamara, from my impression of him, his demeanour and his testimony to us, to have given evidence to us in all sincerity—and he has given it under oath.

CHAIR—Correct.

Mr KERR—Some of that evidence relates to matters that he understands would be verified by others which is not to his direct knowledge. I think that should be followed up. Secondly, I think that those named adversely should be advised of the fact of the testimony and be given an opportunity to respond to it. I think that is the sort of process that should be established as ground rules.

CHAIR—I do not have a problem with that. I also think we ought to ask Mr Brammer and Ms Glynnis Cameron to come too, and we might see if there is anybody else we want to ask as well. I understand, Mr McNamara, that your intent always was that you wanted your evidence tested in public and that if somebody wants to come along and give a contrary view you have always been willing to accept that.

Mr McNamara—That is the case.

CHAIR—Are there any further questions?

Resolved (on motion by **Dr Washer**):

That this committee authorises publication of the proof transcript of the evidence given by Glen McNamara today.

Mr KERR—I am sure the secretariat has the resolution for the pursuit of the matters that we have identified in conversation.

CHAIR—We will write to those people we have identified.

Subcommittee adjourned at 2.36 p.m.