COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Reference: Crime in the community

TUESDAY, 16 MARCH 2004

BRISBANE

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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Tuesday, 16 March 2004

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

Members in attendance: Mrs Bronwyn Bishop, Mr Sciacca, Mr Secker and Mr Somlyay

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

Committee met at 8.41 a.m.

GRUNDY, Mr Grahame Bruce (Private capacity)

CHAIR—I declare open this public hearing of the House of Representatives Standing Committee on Legal and Constitutional Affairs, investigating crime in the community and particularly this morning the Heiner affair. I point out that the shorthand title of this inquiry is crime in the community: victims, offenders and fear of crime. I think in this particular instance we have all the ingredients. Last October the committee was in Brisbane to hear evidence about the so-called Heiner affair or 'shreddergate', where documents containing allegations of child abuse at the John Oxley Youth Detention Centre were shredded by senior public officials and, indeed, cabinet ministers on the orders of the government, for reasons that have been challenged since the shredding took place some 13 years ago. I think it is particularly important to recognise that at least two of those then cabinet ministers in the Goss government are still cabinet ministers in the Beattie government today.

The issue has never been resolved; indeed, it has taken on a new importance now that a minister of religion has been tried for disposing of evidence relating to a sexual abuse case and found guilty of same. This is the same offence of which legal opinions were given to say that such a prosecution (a) could not be brought and (b) would not result in a conviction. There is now some further evidence available. Previous witnesses before the committee have made supplementary submissions. Today the committee will hear again from Mr Bruce Grundy and from Mr Lindeberg, both of whom have made further submissions to the committee, but also from Mr Michael Roch, who worked for the John Oxley Youth Detention Centre at the time of the alleged abuse. I now call Mr Bruce Grundy to give evidence. Mr Grundy, would you please state the capacity in which you appear before the committee.

Mr Grundy—I appear as a private citizen, although I am Journalist in Residence and a senior lecturer in journalism at the University of Queensland.

CHAIR—The committee has accepted your supplementary submission and authorised it for publication. It has also accepted as exhibits and for publication the additional documentation you have forwarded. Would you like to make an opening statement before we proceed?

Mr Grundy—Thank you, Madam Chair. In addition to that submission that I sent in response to your request to be here today, I would like to make a few further comments, because of events that have happened. But before I say anything about the matters contained in the documents you have before you, I wish to refer to another matter we talked about during your visit in October. This is one I have written about and raised in the *Weekend Independent* newspaper and the university's Justice Project for probably a decade or more.

This is the issue of convenient double standards being adopted in the application of the law in Queensland. This is no longer some kind of imagined aberration or obsession on the part of some weird or crazed academic and a few other weirdos. The 'smart state', I now suggest, is the really smart state. Unlike you, we have not just one, but two sets of law up here—one for wretched ordinary folk, and one for important and powerful people. It is a great system. It works really well if you come under the protective umbrella of the latter.

The citizen we spoke about in October, who was facing trial for an offence we were told for a decade was not an offence was, in fact, convicted of that non-offence last week. He was given a suspended jail sentence. His crime was much less serious than the other one we talked about in October. He guillotined four pages of a girl's diary into a bundle of strips of paper and later gave them back to the girl's family. A police officer was able to reconstruct the pages in 15 hours. At the time of the guillotining there was no legal proceeding relating to that diary on foot, or indeed even on the horizon. That did not happen until five years later. That man was found guilty last week, and sentenced for the offence of destroying evidence under section 129 of the Criminal Code. Yet others—politicians and a range of bureaucrats—who approved or carried out the shredding of over 100 hours of taped evidence and other documents and materials they knew were being sought for legal action were excused by people who—then, and today—operate at the very top of the legal/administrative processes and criminal justice system in this state.

That material was never returned to anyone. It was not reconstructable. It was reduced to pulp and sent to Willawong or Rochedale to perform future duty as landfill. What was said has been supported—conveniently but spuriously and fatuously, as we have seen all these years—by the senior legal minds in the criminal justice system in this state: Mr O'Regan, Mr Clair, Mr Butler, Mr Barnes, Mr Miller, Mr Nunan and, prime facie, Mr Irwin. That advice was that a legal action had to be under way before destruction of evidence could be considered an offence against section 129. It was nonsense, of course. The judge in the case last week made that clear on three occasions that I heard. But we did not need to hear him say so. The High Court of Australia, the highest court in the land, via the Rogerson and Murphy decisions, had said so long ago. But who cares about the High Court of Australia? This is Queensland, mate.

So this issue, Madam Chair, presents a problem for you on that side of the table. How do you live in a federation such as we have in this country when one of the components of that federation operates one set of laws for the average Joe and another for its politicians and their mates and their public service heavies? If we are here to talk about crime in the community, how will you, I wonder, and your colleagues in the federal parliament of this federation, deal with a member of that federation that operates outside the boundaries of what we all know as, and what has been described by our most eminent jurists as, the basis of dealing with crime in the community—the rule of law? The rule of law demands that there be only one set of laws, not two, and that we all be treated equally under the law. That is not what has happened in Queensland. Until the law is applied equally to all, this place is the wild west. When the police come knocking in future, people should ask under which set of laws the cops are operating—the ones they use for their political masters and mates, or the ones they use to deal with nasty little citizens.

I and a handful of others have been writing and talking about this for 10 years and still the legal fraternity in this state, the lawyers and the barristers and the civil liberty advocates we see on television every other night, and even the International Commission of Jurists in this country, say nothing about this matter. I say they are tar babies, victims of contagious lockjaw. But I do not believe you and your parliament in Canberra can go on saying nothing. Of course, there are such things as states rights, but does the rule of law operate in Australia, or doesn't it? What will the Commonwealth do—join the tar baby club? I think the citizens of this state deserve a response from the federal parliament. If what happens here is okay, then Australia is nothing but some two-bit banana republic.

They covered up crime. It is all very well to talk about the Baptist pastor destroying evidence about a girl having been molested. What about destroying evidence of a girl having been pack-raped? That is what they did. I now refer to that matter. In support of the claims I made last October, I have provided you with some documentary material to support some of the matters I raised and which I believe you wanted me to substantiate. I guess I am unsure how much of what I said then, and what else I could say, you would regard as a crime within your terms of reference, so I can provide more material should you want it.

In relation to what I have provided I simply say this: the material relating to the John Oxley Youth Detention Centre incident at the Lower Portals reveals that a most serious crime was covered up at the time it occurred and it has been covered up every day since. I also say that the Criminal Justice Commission, given its part in excusing the shredding of evidence given to an inquiry into the John Oxley Youth Detention Centre, has been a central player in that cover-up. I do not believe that any citizen of this state or nation reading those documents that I have given you would have anything else to say other than what occurred on that occasion was an appalling abuse of a child by the state, in whose care and custody she was, and that what occurred in relation to that girl was then the subject of a cover-up, and it is still the subject of a cover-up, which is now cemented in place by the Criminal Justice Commission. To suggest, as the CJC has done, that no-one could have or should have been disciplined or dismissed over that matter, and thus to provide the opportunity for Mr Peach of the families department to say he was pleased his department had been cleared by the CJC in this disgraceful matter, is a travesty of justice and a denial of justice to that unfortunate girl. But, as we have already seen this morning, there is nothing new in coming upon travesties of justice in Queensland. There are other serious matters.

The Portals incident, the first occasion on which this girl suffered such appalling treatment, occurred in May 1988. According to a member of staff, who has agreed to appear before you today—and I thank him for that—he was questioned by the Heiner inquiry in late 1989 about the matter of a girl being raped on an outing. It is on the record that a former member of staff at John Oxley told the Forde inquiry nine years later that Mr Heiner had subpoenaed a large number of documents. I have a reference to that man's evidence in one of my briefcases. Do you think the documents you have before you could have been among the material that went to Mr Heiner and then down the chute of the shredder? I do, because there is another document in existence—a copy of which I have—in which a senior officer of the Department of Family and Community Services, who is one of those mentioned in the documents you have in front of you as being informed of what happened at the Portals, raised with his superiors the possibility that Mr Heiner could recommend a police investigation into the John Oxley Youth Detention Centre.

Why would he say such a thing? Of course, they all knew about the rape and they had a couple of people assisting Mr Heiner, so they would have known what Mr Heiner was being told and what he was asking questions about. Remember that the former minister, Beryce Nelson, says that one of her reasons for setting up the inquiry was the stories she had heard about sexual abuse going on in that place. I have that document, too, if you should wish it. Therefore, my view is that had Mr Heiner's inquiry not been aborted and had a report been presented, further outrageous abuse of that girl, and of others, which occurred at John Oxley, may have been prevented. But that did not happen. Continued abuse, however, did happen.

While I suggest it appears that Mr Heiner may have had the material you now have before you—and I think the evidence supports that contention—that is not the end of the matter. There

have been two other inquiries that have touched the John Oxley Youth Detention Centre directly, and what happened with them raises serious questions as well. The first was the Morris-Howard examination of the shredded paper trail. In case there is anyone from the Queensland media here today, for your benefit I again point out that Messrs Morris and Howard recommended a full and open public inquiry into the matter of the shredding because they saw prima facie evidence of numerous breaches of the law, including the criminal law.

Was the material you have before you about the Portals incident made available to Mr Morris QC and Mr Howard? I wonder, but I doubt it. If you have read the rest of the documents I have provided, you will see that the department did not have those documents when the police came calling a couple of years ago and then—oh goodness me—they really did have them when my first story broke and a firm of lawyers became involved in the girl's case.

Then there was the Forde inquiry which strenuously avoided going anywhere near the shredding issue. Was this material provided to or made available to Mrs Forde? If we are talking about an inquiry into the abuse of children in care, which is what the Forde inquiry was supposed to be, how can this case not have rated some kind of mention had she been aware of it? Those documents existed at that time. Surely if Mrs Forde had seen the material you have, she could not have ignored it. But I see no reference to it in her report on John Oxley Youth Detention Centre, and so my assumption is that she did not know about it and they kept it away from her.

My point is this: at various times, public officials, including the police—as the documents you have in front of you reveal—and the CJC covered up or were party to the cover-up of a most outrageous crime. I also say that the girl suffered a great deal more than what happened at the Portals that day. The files, which I have with me, contain several references to her being punched and involved in fights in the days after the Portals incident. It is outrageous that she was given no serious protection. One of the girls who was there at the time has told me it was not just the boys who were involved; it was the girls as well. It did not matter what the circumstances might have been on that outing, but boyfriends had had sex with that girl and those boys' girlfriends were very unhappy about it, hence the fights.

No wonder she changed her mind about wanting action taken against the boys. She was living in fear. And the people at John Oxley and in the department did nothing for her and left her among them to get by as best as she could—and the Criminal Justice Commission says that there is nothing wrong with that. It is normal, apparently. It is what you would expect if you get put in jail. What an outrage! As I said in the written material I sent you, it was not her call anyway. She had a guardian. She was 14 years old, and the guardian let her down. The girl was not placed in a safe and secure place, and that she was not is yet one more manifestation of the disgraceful treatment she received.

That is only one of the incidents in which she was abused. As we know, that girl continues to be dealt with by the authorities for her transgressions, but no-one is ever punished for what they did to her. For example, some time ago she sought through an Aboriginal legal service to clear up her slate in Queensland and, in light of her good record for the past several years, to have a parole breach matter dropped. The parole authorities refused and, when she returned to Queensland to attend an appointment with a psychiatrist at the behest of her lawyers, she was apprehended by the local police over an incident about which I have serious concern and

returned to jail for nine months. That warrant for her arrest had been signed by magistrate Nunan, who had said earlier that it was okay to shred the Heiner inquiry documents within days of a claim for compensation for her landing on the desk of the Office of Crown Law. It is just another marvellous coincidence.

Just like it was a coincidence that a youth with the same name as one who was never investigated for his part in the Portals rape was never investigated not long after over a matter of a shotgun discharging in the streets of Brisbane and his cousin dying from a blast to the chest. And it is just another coincidence that a man died in the streets from a shotgun blast and there was no inquest. Spare me the coincidences, for this is quite a remarkable case—the case of a thousand coincidences. I cannot say very much more about the matter of the girl's arrest I referred to a moment ago than I have already written in the Justice Project. I would like to, but the matter is still before the courts. I will probably talk about it and other things when it is over. In fact, you can bet on it.

And so it goes on. Cover-up and retribution are the hallmarks of the matter relating to that unfortunate girl. Of course, as we all know, Queensland is the wellspring of honesty and integrity and accountability in government. We are told it every day. It is claptrap and hypocrisy. We shred the Heiner inquiry evidence to protect people from defamation, we give the Anglican Church child abuse inquiry report the absolute privilege of parliament to protect people from defamation, and so on. I suspect I should stop, lest I go on all day. There is much more I could say. But there are some citizens of this country who are looking to you, Madam Chair, and to your committee members to do something—whatever it could be—about the injustices they have suffered, to have the cover-up revealed and to have those who put it in place and perpetrated it outed. They will never get any justice from the authorities in Queensland, because the authorities in Queensland are on the wrong side of the force.

CHAIR—Mr Grundy, you paint a very grim picture of what has happened in this case and the continuing practice of covering this matter up with lies. I must ask you this question: the young 14-year-old girl was an Aboriginal girl—were any of the perpetrators Aboriginal people?

Mr Grundy—There were two sets of perpetrators: those who took her there and did not look after her and those who committed the offence. The answer in the second case is yes; in the first, not that I am aware of.

Mr SECKER—Were they all Aboriginals?

Mr Grundy—I am not absolutely sure, but a number of them were. I suspect, from the title of that outing—Socialisation Within A Natural Environment—and where they went, that they all were, but I am not absolutely sure of that. At the end of the day, one needs to have more evidence than observation. People who may not appear to be Aboriginal are indeed Aboriginal because of their heritage and because they are acknowledged to be Aboriginal by their community, so I am not in a position to advance that totally.

CHAIR—But the people in authority were not?

Mr Grundy—No, not that I am aware.

Mr SECKER—Can I take it one step further. With respect to that particular pack rape, you mentioned that there were other cases of rape of the same woman.

Mr Grundy—Yes.

Mr SECKER—Not that this is that important, I suppose, but were they the same people or different people?

Mr Grundy—Different.

CHAIR—I want to go to the information that you sent to us that we have not seen before—that is, the FOI material that I understand you obtained through FOI in 2002.

Mr Grundy—The girl obtained it through FOI and she provided it to me. I have a written instruction and agreement from her that I should use this material for whatever I think is to her best advantage. I have done that. I checked with her that she agreed that it should be placed before you, and she said yes.

CHAIR—The thing that absolutely appals me in reading this documentation is that the people who were in authority at the John Oxley Youth Detention Centre have all laid the blame—for not taking this matter to the police immediately and prosecuting the matter—on a 14-year-old girl who said, 'I don't want to lay charges.'

Mr Grundy—Yes, but—

CHAIR—She has no right to determine that issue. Once an adult knows of those circumstances, they are obliged under the law to do something about it. This whole thing falls apart—it does not matter about defamation, charges or whatever; this was covering up a criminal act. From day one, they all knew.

Mr Grundy—From the very minute it happened. Not all of them, but enough of them knew.

CHAIR—They came back that afternoon and said, 'We think there's been sexual harassment—there's been a sexual incident'—that is, they believed that there had been a rape. They did not have her examined for three days, and yet the evidence in these documents showed that one of those people in office telephoned a local doctor to give her a morning-after dose so she would not fall pregnant.

Mr Grundy—Yes, that is true.

CHAIR—And then they have the hide to put into official documentation that three days after the event there was no evidence of the rape.

Mr Grundy—Yes.

CHAIR—It is just mind blowing.

Mr Grundy—I agree, and it is worse than that, because—if you read one or two paragraphs further—when the girl was interviewed the day afterwards she wanted action taken.

CHAIR—Yes.

Mr Grundy—And they did not. They said, 'She wanted action taken tentatively.' What a load of nonsense. She wanted action taken and they did nothing.

CHAIR—But it is not up to them to ask her.

Mr Grundy—Of course it is not.

CHAIR—It is their responsibility to act.

Mr Grundy—It is.

CHAIR—They are her guardian.

Mr Grundy—Indeed.

CHAIR—It is just breathtaking to read reams and reams of cover-up.

Mr Grundy—I agree.

CHAIR—The other thing that absolutely astounds me is that it is shown in these documents that in fact Heiner knew and was told that the rape had occurred.

Mr Grundy—That is the information that has come to me—and you will be able to question someone about that this morning—and I believe it, because the person who told me is a highly credible person. I have no doubt that what he says is true. He told me about this matter. I did not go and prompt him about any of this. All of the material that he told me, he told me when I found him and talked to him. He simply told me what happened. I did not say to him: 'Did this happen? Did that happen?' or, 'Did anything else happen?' He told me what happened.

CHAIR—I want to go over a couple of other points that you made in your submission. First of all, in all of this the old CJC does not seem to come out in a very pretty light.

Mr Grundy—You have their press statement, I think. I included that.

CHAIR—I do have a copy of their press statement that says nobody was guilty of anything. The question is: did they see this documentation?

Mr Grundy—How do I really know, Madam Chair? But it was there. At the end of the day, they are investigators; I am not. They have enormous powers. Indeed, they have coercive powers which I do not have.

CHAIR—You have managed to elicit all this information, but the CJC who have coercive powers were unable to do so.

Mr Grundy—I think they had it, because they talk about the fact that the police were called and the police took no action. I think they had it—that is my view. I cannot believe that, having handed it over to me, the department would then have kept it secret from the CJC. I accept that they might have kept it from the Morris and Howard inquiry and the Forde inquiry. They may not have, but if that is the case then I think that those two inquiries have some interesting questions to answer.

CHAIR—But there is also evidence in these documents that shows that, when the girl went to the police and said she wanted action taken, they went to the department to ask if there was any evidence relating to this incident, and the department said they had done a search and there was nothing. That was an absolute and deliberate lie. And here is all the documentation they said did not exist.

Mr Grundy—It is an outrage. When a government department responds in such a way to the police service in the state, where are we headed? When a government department says to a police organisation, 'We have no such documentation,' and, 'We have searched high and low for it and it doesn't exist,' where are we headed? Where are we headed when a government department can do that to the state's police service? And suddenly it appeared. Again, the coincidence is extraordinary, because it appeared not long after my story appeared and the girl started to chatter to some lawyers.

CHAIR—It is also quite extraordinary that Mr Nunan, who was one of the mainstays of this façade of saying that it was okay to destroy the evidence because there was no legal action that was on foot, even though they knew it was pending—but of course the intent of the law has now been established in the judgment concerning the pastor—

Mr Grundy—And by the High Court.

CHAIR—and by the High Court in the Rogerson case—was promoted and became a magistrate and subsequently sat again in judgment on the girl about whom he wrote the original denial.

Mr Grundy—All one can say in that case is that he may not have recognised the name. But, again, it is one of those wonderful coincidences that abound in this matter.

CHAIR—A very unfortunate conclusion you have to come to through this is that the CJC was used as the whitewash agent.

Mr Grundy—I said there is a cover-up and I have said that they are involved in it. I have made that clear this morning, and I believe it strongly.

CHAIR—I have heard Mr Beattie laugh and say, when this matter is brought up, that there have been umpteen inquiries into this and it has all been cleared. But when we start to look behind it there has been subterfuge at every point. The Forde inquiry was denied, under the terms of reference, the ability to look at this case.

Mr Grundy—I hold that is a moot point, too.

CHAIR—She could fairly have asked to extend the terms of reference but did not do so. You have the CJC who made a finding which, in light of the FOI information, is incomprehensible.

Mr Grundy—A nonsense.

CHAIR—You have people who created the facade being rewarded. You have the curious case of Mr Coyne, who was paid $27,000 in return for signing a deed which forbade him to talk about this incident at all, which again would seem to be in breach of a different part of the Criminal Code. And yet Mr Beattie still has one of those cabinet ministers in his cabinet. Originally I think four of them went into ministerial positions in his first office. So how in Queensland—

Mr Grundy—I do not know the answers; I just raise the questions. We deserve some answers. That is why I think this matter is so important, because we will not get the answers in Queensland. It is a matter of whether the federal parliament thinks this matter is serious enough to get some answers for us. I do not know whether you have the authority within the constraints of the Federation to do that. But I am saying to you that we ought to get to the bottom of this matter once and for all. Maybe there is something the federal parliament can do, because the state parliament does not or will not do anything. Citizens have been denied justice and there has been an awful cover-up. We have never got to the bottom of it and it is time we did. It is long overdue that we did.

CHAIR—The reality is that we seem to need a police investigation to make a brief. They can go to the DPP—

Mr Grundy—But we cannot go to the police here; they have a vested interest in this matter. You cannot go to the police here and say, 'Clean this up,' because they have problems in this matter. You cannot clean this up with the existing agencies because they are all tainted with it. The police service is tainted with it, the CJC is tainted with it—you can go right throughout the whole of the public sector in this state. It is like the wine bottle case, but a million times worse, because all kinds of people have done all sorts of obnoxious and outrageous things to cover up for people.

Mr SECKER—What is the wine bottle case?

Mr Grundy—This is the case where a woman said that she would take the fall for a minister because there was a wine bottle found on an aeroplane.

CHAIR—I saw Mr Beattie thinking that was a joke last night on the television when he said, 'What do you want, the cork?'

Mr Grundy—What we want to know is who was told what and who has told the truth. That is what the wine bottle case gets down to: who was told what and who was told the truth, not the matter of a bottle of wine on an aeroplane. It is the same here. Somehow or other people in public office feel that they have no other alternative but to protect their political masters. While we have that situation, with great respect to you folk on the other side of the table being

politicians, we have an untenable environment for good governance and public administration. I suggest we have to break out of that.

CHAIR—I think what you are alluding to with the wine bottle case is that the press secretary said at first that she brought the bottle on and then said: 'I lied. It was the minister.' She then got fired by the Premier and has since been rehired to go on the Premier's staff.

Mr Grundy—She said that she had taken the rap for her minister. Whether she did or not is another matter, but that is what she said.

CHAIR—So for that she is rewarded by being re-employed on his personal staff.

Mr Grundy—Yes, but if it is the truth that people are prepared to tell lies in such circumstances, then it is a pretty pass. We really ought to get around this situation and go beyond it. That is what has happened here, and it has spread right throughout the entire bureaucracy. That is what is wrong with this case. It is so bad and it has gone so far that it has tainted the entire system in this state.

CHAIR—Does the Premier have a big say in the appointment—whose contracts are renewed?

Mr Grundy—I am not really competent to answer that question.

CHAIR—I will cede to my colleague in a moment, but I just want to say that, whereas the question of the lies in the wine bottle case are important in indicating the culture, in this other matter we are dealing with the life of a 14-old girl—

Mr Grundy—Which has been ruined.

CHAIR—Which has been destroyed.

Mr Grundy—I spoke to her the other day and I will be going to see her tomorrow because of the state she is in.

CHAIR—She could have been removed from that whole environment, and they left here there.

Mr Grundy—She should have been removed. She did not have to make up her mind about pursuing the matter, but she should have been given protection so that a case could be brought against those people without her being intimidated, and that is what she was—she was in a position of being intimidated and physically assaulted.

CHAIR—We come right back to the question of the shredding of the documents and the excuse that was given that they were looking after the people who had given evidence to Mr Heiner because they could be sued for defamation. All of that is a total irrelevancy.

Mr Grundy—Of course.

CHAIR—The fact of the matter is that it was all about a young girl who had been raped, and no action was taken by the people who were in the position of loco parentis to her.

Mr Grundy—One of the wonderful things is that, when that story of mine appeared and the CJC was investigating—and it is only hearsay and rumour—it was fed back to me that it was the girl's fault. And it always is, of course, isn't it, in the case of rape? I think it is always the girl's fault! This is what was said at the time. Look at those circumstances spelled out there—one girl, all that wretched trek into that place, six boys, being left in that environment where you cannot even see someone 10 feet away. And it is her fault! That is what they claimed, apparently, according to my informants.

CHAIR—But the CJC issued a press release on 16 November 2001 which said, 'CJC completes investigation of alleged rape cover-up'. It said:

CJC investigators have since examined—

that is, after the matter was referred by the then minister, Ms Spence—

Department of Family Services records from 1988 which show that the allegations were referred to the police at that time.

Mr Grundy—They were not referred to the police at that time at all. They were not referred to the police for three days. Once you allow that passage of time and not commit an offence punishable by at least disciplinary action, what sort of public administration do you have?

CHAIR—The whole thing is that they are using a very cute phrase, 'at that time'. It appears right through the press release. It appears that they want you to think it occurred at the time the incident allegedly occurred, but in fact it was days later.

Mr Grundy—Three.

CHAIR—Then he says:

The CJC has now written to both the Police Commissioner Mr Atkinson and the Director-General of the Families Department Mr Frank Peach, advising that there is no reasonable basis to suspect any official misconduct by any departmental staff in respect of their duty to report the alleged rape of the girl.

Except that they should have taken action to make sure that a prosecution occurred. And all of this documentation shows it.

Mr Grundy—I agree. What I think is further seriously bad about that documentation is a particular two pages in there where it was all blanked out from this girl. One of the members of staff talked about the danger she was in, and they blanked out the two pages. My understanding of the FOI laws is that you can blank out certain things because you have to protect the privacy of individuals and others, but to blank out those two pages—because that contains, almost assuredly, incriminating information—was an outrage. But there it is. You have seen it, I am sure; it is blanked out.

CHAIR—Yes, I have.

Mr Grundy—As far as I am concerned, that is one more illustration of the cover-up.

CHAIR—And Mr Heiner's investigating it would have had to have led to a proper police investigation.

Mr Grundy—One would have thought so, if this information had come before a magistrate. He is a magistrate.

CHAIR—So by destroying the evidence and by sacking Mr Heiner the whole thing is averted.

Mr Grundy—These are conclusions that one can draw, but one cannot say so. I am not Mr Heiner and I do not know exactly what happened. These are conclusions that I draw—but who am I?

CHAIR—Mr Grundy, can I ask you about an interview tape that I understand you have, or Mr Lindeberg has, of a conversation between Mr Lindeberg and Mr Nunan in August 1992.

Mr Grundy—I do not have it.

CHAIR—We might leave that question for Mr Lindeberg.

Mr Grundy—Yes.

Mr SECKER—Following on from that CJC media release of 16 November 2001, can you tell me whether the alleged rape was reported to the police?**Mr Grundy**—Could you frame your question again, Mr Secker; I want to be sure of it.

Mr SECKER—Was the alleged rape reported to the police and when was the report?

Mr Grundy—Yes, but not for three days.

Mr SECKER—Do you find it quite strange that it says there would be:

... no reasonable basis to suspect any official misconduct by any departmental staff in respect of their duty to report the alleged rape of the girl.

Mr Grundy—I have accused them this morning of a cover-up.

Mr SECKER—So three days is clearly not acceptable in anyone's terms.

Mr Grundy—Absolutely not.

Mr SECKER—Even 10 or 15 years ago.

Mr Grundy—Even 10 or 15 years ago. I have a copy of what the police handbook said at that time, and that would also apply to people in charge of the welfare of children in custody, and it makes it quite clear. It says that speed is of the essence; that you must act immediately because

evidence has to be obtained and this involves forensic examination of clothing and so on as well as medical examinations.

Mr SECKER—Then how could the CJC say there is no reasonable—

Mr Grundy—I cannot answer that question.

Mr SECKER—I find it amazing that they can actually say that in a media release when procedures were not followed.

Mr Grundy—Perhaps when they have heard this outrageous nonsense of mine they will come in and tell you.

Mr SECKER—It is often interesting to look at some of the names from those periods and where they are now. Mr Grundy, you may not be able to answer all of the questions I am going to ask. Where is Noel Heiner now?

Mr Grundy—He is retired. He was retired at the time and he is clearly still retired.

Mr SECKER—Do you know who actually recommended that the inquiry be aborted?

Mr Grundy—That sort of chronology might be better put to Kevin Lindeberg, because he was operating at that time. I have documentary material, but he was representing his union member at that time and he would know the chronology of that much better than I would. I think I know it accurately, but that seems more appropriate, if that is okay with you.

Mr SECKER—Yes. Are you aware of any other inquiries that have been aborted this way?

Mr Grundy—No. I have always found it odd that an inquiry into what was going on in a youth detention centre was aborted and everything shredded. That is where I come from. When you have an inquiry into a youth detention centre that is shut down and everything is shredded, for the journalists, or for me anyway—not for a lot of others, I understand—that is the point where you kick in.

Mr SECKER—When you said ‘shut down’ you were referring to the inquiry not the centre itself?

Mr Grundy—Yes. The centre is now shut down; but it went on for many years.

Mr SECKER—Ms Anne Warner, who was the minister for family services at the time—where is she now?

Mr Grundy—I do not know.

CHAIR—She was due to appear before this committee at our last hearing and at the last minute did not turn up.

Mr SECKER—Is Ms Ruth Matchett still around? She was Acting Director-General of the Department of Family Services and Aboriginal and Islander Affairs.

Mr Grundy—I think so, but I am not sure that I should give answers if I am not sure of those answers. I am here under oath.

Mr SECKER—The Crown Solicitor at the time, Ken O'Shea?

Mr Grundy—He is no longer with us.

Mr SECKER—He died?

Mr Grundy—Yes.

Mr SECKER—Peter Coyne, the manager of the Oxley youth centre?

Mr Grundy—As far as I know he is with us. Again, I am sorry, but I cannot provide an accurate answer to that.

Mr SECKER—Stuart Tait, acting cabinet secretary?

Mr Grundy—Mr Lindeberg might be able to help you, but I cannot.

Mr SECKER—State Archivist Ms Lee McGregor?

Mr Grundy—She is retired, but that is as much as I know.

Mr SECKER—Don Martindale, general secretary of the union?

Mr Grundy—He is in Queensland, I suspect, but please do not hold me to oath on that.

Mr SECKER—We have heard that Mr Nunan has now risen to magistrate.

Mr Grundy—Yes.

Mr SECKER—In your evidence you mentioned that this poor girl was jailed for nine months. You said you had serious concerns—I think those were your words—about her arrest. What were those concerns?

Mr Grundy—I do not think I can go into that, Mr Secker. That is a matter that is before the courts.

Mr SECKER—I will take advice on that. Madam Chair, does that mean it is sub judice? It is before the courts?

CHAIR—Yes.

Mr SECKER—I am not one for calling for royal commissions at the drop of a hat. I think things have to be very serious before you call for a royal commission. But would you suggest that that would be the only way to resolve this?

Mr Grundy—Something of that nature, yes—either a royal commission or a special prosecutor. I am not sure of the operations of a committee such as yours, but maybe you can appoint counsel to investigate things for you. I would be only too happy to be interrogated by such an investigator. I do not know if that is possible or appropriate.

Mr SECKER—We have already had a biased Senate committee that has looked into this, which showed that they had serious misgivings about this case. We need to go further, don't we?

Mr Grundy—You do because, with respect, questioning me over the table is really not enough. Somebody has to have the authority to get to where I cannot get or have not been able to get, because I do not have any special powers or authority or any coercive influence over anybody. But there is a lot of stuff out there and there are a lot of people who should be talked to.

Mr SECKER—Madam Chair, does the federal government have the power to hold a royal commission on a state government legal matter?

CHAIR—That is a very complex question, Patrick, which I do not think we can entertain at this point. I think what we are best able to do at this point is to elicit the information and the evidence so that they are truly exposed, and to expose what has been done. There is no statute of limitations. Quite clearly, there should be a case brought against those people who shredded the evidence, on exactly the same basis that the case was brought against the pastor.

Mr SECKER—In that other case that happened five years before.

CHAIR—Yes. This is 10 or 12 years before; that was five years before. The time is irrelevant. The fact is that the DPP brought that case, and there has been a facade built to stop a prosecution being brought in this case.

Mr SECKER—Mr Grundy, you said in your evidence that you thought it was not an isolated incident. Could you elaborate on that?

Mr Grundy—The rape of the girl?

Mr SECKER—Yes.

Mr Grundy—Yes, I could. Some of this is information that I cannot support with documentation, but a lot of it I can support in other ways. A number of people have spoken to me and told me things and given me things. In a number of cases they did not realise, quite frankly, what they were telling me or giving me. It was only because I was the repository for a lot of information that I could put information together and see the jigsaw. People have told me things without realising the significance of them.

On the other hand, I have information from the girl that I cannot support because of the passage of time and because there were no other witnesses. She tells me that her first attack occurred in the Sir Leslie Wilson centre. It is an interesting circumstance. I once interviewed a woman from interstate on ABC radio who had complained to the Forde inquiry—but who I do not believe was ever interrogated—about being chloroformed in the Sir Leslie Wilson centre repeatedly and raped and sexually dealt with in that place. Then all of a sudden one day, out of the blue, this girl told me how she had had a pad or handkerchief with foul, terrible-smelling stuff put over her nose and mouth. She does not remember anything after that, but she had suspicions. She was quite young then. Because of her condition after that, she believes that she was sexually dealt with. It was quite remarkable to me to find that suddenly out of the blue two quite independent stories emerged. That was the first occasion.

Then there was the Portals occasion, then there was the next occasion, which was shortly after, according to the way I reconstruct the events. That is why we need our investigator. As I reconstruct the events, shortly after Heiner was closed down and the documents were shredded, they took the girl once again to an absolutely outrageous place and left her alone with a number of boys. The same thing happened again. I have given you pictures of that place, where I have been. You can understand the problems that she has. She is dealing with a 64-year-old white man, telling him the most terrible things. She has not told me everything, but she has now told me that, having left John Oxley after that matter, she was pack-raped again. I believe her.

Mr SECKER—Where did this occur?

Mr Grundy—I will not name the place.

Mr SECKER—Was she in care?

Mr Grundy—She was in foster care. The medical evidence that we have from her files supports that situation. I do want to go down that track. I would be happy to talk to you in camera about that. I think the poor girl is entitled to a little bit of privacy in some matters. She has not provided you with that material. She has given you some, but I have not asked her to give you that material. I could do that, but it is very worrying. I am saying that there were three rapes on two separate occasions that I have no doubt about whatsoever. Then there is the one that occurred afterwards, which she told me about through the bitter tears, which I also believe. It happened in care and, again, it should be investigated.

Mr SECKER—The thing I find strange is that one of the alleged perpetrators of the rape 10 years later came in and admitted to shooting someone and there was no coroner's report, no arrest and no questioning.

Mr Grundy—He was never investigated.

Mr SECKER—Would that not be abnormal, in your experience?

Mr Grundy—I have put that matter to the police commissioner who was in charge of the farm at that time, Mr Noel Newnham. He of course is outraged that this should have happened on his watch. He wanted something done about it. We have been assured by the current—

Mr SCIACCA—Did you say police commissioner? Isn't Noel Nunan a magistrate?

Mr Grundy—No. There is Noel Nunan, who is a magistrate, and Noel Newnham who was the police commissioner after the Fitzgerald inquiry for a while. He wanted something done about that, and asked and appealed for it to be done. But the message we got back was that the police service is happy about the circumstances.

I have been to the Coroners Court. There was a recommendation three years after the incident that there be no inquest, and that was signed off by the D-G and then by the minister. So there was no investigation of a man, who was lying next door to a man who was dying, with a shotgun in between them and both barrels with empty cartridges. There was no investigation of that individual, who spent two months in hospital, so he was not hard to find. And then there was no inquest into the death of a man from a shotgun blast in the streets.

Mr SCIACCA—Highly abnormal.

Mr Grundy—But, anyway, it is just a matter of coincidence.

Mr SOMLYAY—The FOI information in here: was that information to your knowledge given to Mr Heiner? If it was, did it have the same deletions as we have?

Mr Grundy—No, I would not think so, but I cannot be sure. As I said in my opening statement today, my view is that it probably did go to Mr Heiner, because we know that Mr Heiner asked a member of staff out there about the rape of a girl—and you will hear evidence about that shortly. But we also know that Mr Heiner, according to a witness before the Forde inquiry, subpoenaed—to use the words of the witness—a lot of documents. I do not know what he subpoenaed, but my assumption is that, if he is questioning a member of staff about a rape, perhaps he saw some documentary evidence on this matter because of what he had subpoenaed. This is all assumption on my part; but, if one is allowed the luxury of assumption, I do not think it is an outrageous assumption to make, because at the very least we know that he knew about the rape. Whether he saw it in the documents I do not know but, if he did get the documents, they would not have had those deletions I am sure.

Mr SOMLYAY—Madam Chair, as you know, I am fairly new to this inquiry, so I do not have the knowledge that others members have, but I ask: is it the practice in Queensland for a department to provide information to an inquiry such as the Heiner inquiry and not keep a record of what that information was? If it was original documents going from a department which were eventually shredded, it is almost incredible to believe that those documents do not still exist in some form within the department or the agency.

Mr Grundy—I agree with you.

Mr SOMLYAY—Have you attempted to find those documents? If you cannot find copies of them, there must be a list of documents which were submitted to the Heiner inquiry. Was that destroyed as well?

Mr Grundy—Maybe that indicates my failure as a journalist but, as I understand the FOI act, going on fishing expeditions is one thing, but you have to know what you are looking for. Just to

say, 'Give us all of the documents that you gave Mr Heiner' is not likely to be sufficient. It is probably a good idea, but I have not done it. I took the view, and have taken the view, that you have to be somewhat more specific. In the way that they have dealt with me over the years I know that, if they have an opportunity to not deliver up something, they will. I have had to put in appeals et cetera. I accept what you say; I think what you say is probably quite accurate. The documents exist. If they were ever given to Mr Heiner, there would be copies of them.

CHAIR—I turn to one particular piece of evidence. Page 42 of our papers is a file note signed by Terry McDermott. It says:

During the afternoon of 7 November 2001, I advised Mr Ross McSwain, Acting Senior Advisor, Minister's office, that a file had been located containing information concerning the alleged rape of—

The words are blanked out—

in 1998. I was asked by Mr McSwain to prepare a Ministerial Brief which I proceed to do. At approximately 4:00 pm, on 7 November 2001, Mr McSwain came to my office and briefly perused a number of the memos relating to the incident in my presence.

No documentation was given to Mr McSwain.

It then goes on to say that a copy of this file was hand delivered by Michael Napier to a staff member, Ms Jody Drummond, from the office of the police commissioner at approximately 11 a.m. on 8 November 2001. It goes on:

Location of copies taken:

Frank Peach, Director-General

Ken Ezzey, Manager, MPU

Terry Macdermott, Acting Executive Director, Youth Justice Directorate

Could you tell me what would be significant about the date of 7 November 2001?

Mr Grundy—I would have to check my records but I think it just follows the publication of my first story.

CHAIR—So it could have been that someone saw the story and said, 'We'd better prepare a brief for the minister.'

Mr Grundy—Perhaps I could look at my files and get back to you.

Mr SOMLYAY—That was three days before the federal election.

Mr Grundy—I would need to check but my recollection is that my story appeared on 3 November.

CHAIR—The file note seems to say that it was thought that the minister should be advised and then he took one look at the documentation and said, 'No, I don't think the minister had better be advised.' That is what the file note seems to say to me. Does it have an imputation like that?

Mr Grundy—I do know what it means really.

CHAIR—That was written by somebody who was very much wanting to cover their back, saying, 'We prepared the stuff to forward.' It is just a stand-alone statement: 'No documentation was given to Mr McSwain.' It does not say what transpired between his reading it and his not taking it.

Mr Grundy—That is why it would be good to have the matter further investigated.

CHAIR—Who would have been the minister at that point in time?

Mr Grundy—In 2001 it was Ms Spence. I would stand to be corrected.

CHAIR—Thank you, Mr Grundy. If you remain here there might be something we would want to ask you later.

[9.43 a.m.]

ROCH, Mr Michael Joseph Ormond, (Private capacity)

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Mr Roch—I am a private citizen. I have been here 45 years and I am proud of this country. I apologise that I am not wearing a tie. I was told I did not have to. It is not out of discourtesy to any of you.

CHAIR—We do not feel any discourtesy.

Mr SECKER—I thought about not putting one on myself.

CHAIR—Mr Roch, the committee has invited you to appear before us today because you worked at the John Oxley Youth Detention Centre at the time that the alleged abuses took place. I wonder if you would be so kind as to tell us in your own words, just as an opening statement, about that period as you recall it.

Mr Roch—I would be pleased to do so. May I have two minutes of your time to fill you in a little bit?

CHAIR—Yes, please.

Mr Roch—As I said, I have been here 45 years. My motherland is Wales and this is my homeland. This is a wonderful country and I think, unfortunately, the truth sometimes gets pushed under the carpet. That is why I am here, in my own time, to help all I possibly can. By profession I am actually a commercial pilot, but, because I was paying a mortgage off at the time of the 'recession we had to have', I was very grateful to take any job I could. But it was a different world. When you are flying, if you have got a problem with an aircraft, you help each other. This world was full of self-interest and backstabbing, which I could not understand. I was very naive and I really did not know what was going on. I am not au fait with political correctness, so please correct me if I am saying something I should not, because I do not understand it really. I will tell you the truth, as I said. I have got another note here. We were thoroughly intimidated and, as a pilot going in there, I just could not understand what was going on. We had a manager who used to creep around at two or three o'clock in the morning in rubber shoes to check up to see if we were dozing or anything—that sort of thing. It was a very strange world. The teachers in question here, in case you are going to ask me about them, thought they were better than we training officers. The last thing I have got down here is: this little girl; it was not her fault. I am all yours.

CHAIR—I want to talk about the incident concerning the visit to the Lower Portals. Were you aware of what took place when they returned from that visit? You were not part of the party that went to the Lower Portals?

Mr Roch—Negative. I was not. From recollection, I was not on duty, but in a community like that the word goes round like wildfire and as soon as I came on duty I was informed—so I knew straightaway.

CHAIR—When did you come on duty?

Mr Roch—I cannot remember. It was 1998 and I cannot remember which shift I was on then, but I do know that I was on within a very short time and I was made well aware of what had been going on. Something like that is not very nice.

Mr SECKER—Was it hours rather than days?

Mr Roch—Correct.

Mr SCIACCA—Apart from the fact that you were told these things, you do not have any personal knowledge? People told you that something had happened—

Mr Roch—Affirmative.

Mr SCIACCA—and you obviously believed them?

Mr Roch—I did, yes. I knew some of them very well and one of my dearest friends—he is back in Holland now—was on duty with me and—

Mr SCIACCA—And he told you that someone had told him?

Mr Roch—That is correct.

Mr SCIACCA—So your evidence today is not of any personal knowledge but of what you were told by other people there at the time, and you are going to give evidence about the fact that it was supposedly hushed up?

Mr Roch—Correct.

Mr SOMLYAY—What were you told?

Mr Roch—I was told that this little girl had been taken on a party out into the bush and she had been raped. To me, rape is a disgusting act on a female and I was absolutely disgusted.

Mr SOMLYAY—Was that a common feeling among people when they heard about it?

Mr Roch—Definitely. They were decent people working there. Rape is a disgusting thing. Everybody was thoroughly horrified by it.

CHAIR—Did anyone explain to you why action was not taken?

Mr Roch—No; we were not told things like that. The administration would not. I was summonsed down there, I think, as soon as I was on duty and told not to discuss it. I was under an act that I was not allowed to talk about anything along these lines. It was admitted that it did happen, but it was not to be discussed—inside, outside or anywhere else.

CHAIR—So somebody admitted to you that it did happen?

Mr Roch—Yes, Mr Coyne did.

CHAIR—Mr Coyne admitted to you—

Mr Roch—Yes, he did.

CHAIR—So we are not talking about hearsay evidence here. Mr Coyne told you directly?

Mr Roch—He did, in his office.

CHAIR—And told you not to talk about it?

Mr Roch—Correct.

Mr SCIACCA—Let me get this clear. You are saying that Mr Coyne, who was the manager at the time, told you personally that this rape did happen?

Mr Roch—He did.

Mr SCIACCA—He actually said that the rape happened. Okay—your evidence is that he told you that it happened.

Mr Roch—He did.

CHAIR—And you were not to talk about it?

Mr Roch—Correct.

CHAIR—Did he then say what he was going to do about it?

Mr Roch—No. He just said, 'You do not discuss it inside or out. We will handle it internally.'

CHAIR—So you got no impression at that time that he intended to call in police?

Mr Roch—I would not have known; I am sorry. As I said, I was not experienced in these sorts of things. It was a very welcome job for a short time, and I was very grateful for it but I did not know internal bureaucracy, politics. All I found out, as I said, was that they very much protected their own backs.

Mr SOMLYAY—And they would have given that same instruction to the others?

Mr Roch—Oh, they did.

Mr SOMLYAY—And everybody felt threatened if they spoke up?

Mr Roch—I think they did, yes. We all have to survive. The manager, Peter Coyne, was totally immature and inexperienced. I do not know if I should say this, but he should not have been in the job. He used to threaten us—'If you don't do this et cetera.' One day he stayed up until seven o'clock the next morning waiting for a friend of mine to sign a statement which was not true. He stayed there all night to make him sign that document. He waited for me until two o'clock one morning until I signed the document.

CHAIR—Was the document he wanted you to sign true?

Mr Roch—No, it was not. An Aboriginal spat on me, which I found extremely humiliating. Peter Coyne charged me with using excess force to restrain him afterwards, which I was extremely upset about, and refused to sign—I never did. But he waited until two o'clock the next morning.

CHAIR—Mr Roch, were you interviewed by Mr Heiner?

Mr Roch—I think I was. He was rather a pleasant gentleman, an assistant, I think it was, in the building down towards the river. I think it was him, yes. I was interviewed by a gentleman. He was very pleasant and very helpful.

CHAIR—If you ever saw a photograph of Mr Heiner, would you recognise him?

Mr Roch—I doubt it.

CHAIR—So when you were interviewed by the pleasant gentleman, did he tell you why he was interviewing you?

Mr Roch—I am sorry; I do not understand.

CHAIR—When you went to be interviewed by the pleasant gentleman—

Mr Roch—Yes, he told me why.

CHAIR—Why was he interviewing you?

Mr Roch—Concerning the incident with this little girl, and I believe it was to do with some documents that had been disposed of.

CHAIR—So this was a gentleman interviewing you about the disposal of documents. Did anyone interview you prior to that about what had happened, who was nothing to do with the—

Mr Roch—No.

CHAIR—Do you remember when that was?

Mr Roch—As I said, I am under oath, and I cannot tell you exactly. It would have been the late eighties, early nineties. I am sorry.

Mr SOMLYAY—If you have been questioned about documents being destroyed, they must have referred to specific documents. Do you recall what documents?

Mr Roch—Yes, they referred to the incident of the rape.

Mr SOMLYAY—Who had ownership of the documents?

Mr Roch—I do not know. I presume the government.

Mr SOMLYAY—Was it part of the documentation of where you worked?

Mr Roch—Yes, that is what I presumed. I was not told, but, yes, I presumed it would have been in relation to that, and held by either the department of child welfare or the—

Mr SOMLYAY—I do not quite understand why Heiner would have interviewed you about the documentation unless you had direct access to it. Was this a general interview of everybody at John Oxley?

Mr Roch—I think they called for volunteers. As I said, this sort of thing disgusts me. It is not my way of life and it appals me. From recollection, I volunteered, as I have done today. I did not have to come today but I came because I believe the truth should come out.

Mr SCIACCA—You say that you were interviewed by somebody with respect to the possible disposal of the documents. That obviously could not have been Mr Heiner, who would have been doing the investigation before, supposedly, they were disposed. The disposal of the documents referred to the alleged disposal by the cabinet after the findings had come in. So you are not sure. It could have been just somebody who spoke to you later on, talking about the disposal of the documents by the cabinet. You obviously, from what you are saying, were not interviewed by Mr Heiner.

Mr Roch—Fair enough.

Mr SCIACCA—I am just asking: would it be fair to say that you do not remember anybody actually asking you in an inquiry situation about what you knew of this alleged rape?

Mr Roch—I cannot say it was Mr Heiner. All I know is that there was a gentleman and he had a female assistant and it was in a building down by the river. I am sorry, that is all—

Mr SCIACCA—That is fine. I was also going to ask you—

Mr SOMLYAY—Was the person who interviewed you part of the chain of command with regard to the Oxley centre?

Mr Roch—No.

Mr SOMLYAY—So it was someone totally different.

Mr Roch—Yes, totally independent.

Mr SECKER—Was it part of the Heiner inquiry?

Mr SCIACCA—That is what we are trying to find out.

Mr Roch—That is what I do not know. Mr Grundy would be able to answer that, I would say, without any problem.

Mr SCIACCA—Madam Chair, with your permission, I have a couple more questions.

CHAIR—Before you go on to those, I would like to go through that question. Mr Heiner was the man who took evidence about what happened and it was the Goss cabinet that authorised the destruction of those documents. So, if the person who was talking to you was asking questions about the destruction of documents, it could not have been Mr Heiner because his documents were destroyed.

Mr Roch—Right. As I said, Mr Grundy would be able to answer that. I cannot answer better than I have. I cannot give you another name—I really can't.

CHAIR—You do not have any documentation at home that would indicate who you saw?

Mr Roch—No. Since then, I have been all over the world and lots of things have got lost, I am afraid. I recently came back.

Mr SECKER—But it was not Heiner.

Mr Roch—I am sorry, but Mr Grundy—

CHAIR—When you said it was about the destruction of documents, what made you think that?

Mr Roch—That is a very good question. I really do not know. It was just to do with this case and it might have been mentioned in passing. But, as I said, I am going back 15 years and I cannot recollect. I am not getting senile dementia; I just cannot remember.

CHAIR—On 7 November 2001, there was a phone interview on the ABC with a person named Michael. Was that you?

Mr Roch—Yes.

CHAIR—A copy of this interview is part of the exhibit, so it is a transcript. It says:

The current government's attitude seems to be that this matter has all been dealt with by the Forde Inquiry, and that's essentially the end of the story ...

And you answered:

It's not ... because I was interviewed by ... oh what's his name ... then ... very nice man and his assistant ...

Q. This is way back in '89 you are talking about ... Noel Heiner ...

In answer, you said:

That's it ... and he was very nice ... put it all on tape and everything. I spent oh ... a lot of us spent time in there ... I can't give you the other names because I can't remember, but I was there and I know other people went and then I think Anne Warner had it all shredded.

That is what you said in 2001.

Mr Roch—That is what I said, yes.

CHAIR—The question was:

Well the government's attitude seems to be that the Forde Inquiry has dealt with all these matters so there is no further investigation ...

And you answered:

No, I don't agree with that. I don't. I think it has all been pushed under the carpet.

Mr Roch—That is what I said, yes.

CHAIR—So your recollection in 2004 seems to be a little less than it was in 2001.

Mr Roch—As I said, yes, I have had an awful lot going on in the last three or four years. I was very surprised when Bruce Gundy contacted me again. I have got on with my life. I tend to live each day now as it comes and hope that tomorrow will arrive, but the past is the past. And this was—

CHAIR—A terrible incident.

Mr Roch—a terrible incident, and it was not the highlight of my life.

Mr SOMLYAY—How long did you work there?

Mr Roch—I was at the Sir Leslie Wilson for a short time and then Janice Doyle—who is a lovely lady—moved some of us out when this new facility, the John Oxley, was created. So I would have been there about 18 months, two years or something like that.

Mr SCIACCA—Can I take you back to this interview that you did with Steve Austin on 7 November, Mr Roch.

Mr Roch—Yes.

Mr SCIACCA—The first question asked of you was:

What do you know of the alleged rape of this young girl?

You then say:

I cannot remember ... as I say ... this is going back about 1988—87-88 ... I cannot remember if I was on duty or not ... everybody knew ... I wasn't told directly ... but we all knew ... we were summonsed down a couple of days later to Peter Coyne's office and we were told it would be handled internally, we were under the Secrecy Act and we were not to discuss it outside ... and they would handle it internally.

In the answer to this question that you gave at that time, you talk about having been told about it. You did not mention anywhere there, for instance, that you were certain of it because Mr Coyne had told you.

Mr Roch—No, I did not mention that then.

Mr SCIACCA—But you do assert that Mr Coyne in fact at that meeting did say to you: 'There has been a girl raped'—or words to this effect—'and we're going to handle it internally'?

Mr Roch—Affirmative. He did.

Mr SCIACCA—Obviously you did not like this Mr Coyne very much. I do not know him, but you obviously did not like him. Was he well liked, this fellow?

Mr Roch—I hate nobody; I detest very few. I detested that man and he was detested by 98 per cent.

Mr SCIACCA—And Mr Grundy asked you to come and give evidence today—or at least to put something in.

Mr Roch—He did.

CHAIR—Go back a little bit further to the interview you gave then. The question after the part that Con just read out was:

What was the Secrecy Act that they cited as the reason you couldn't speak?

You answered:

That everybody who was a government employee in that sort of job, basically, you didn't discuss what went on outside of duty ... concerning the children.

Q. Did it surprise you when you were told that you could say nothing?

And you said:

It did. It did ... because, quite frankly, I thought it would be taken to the highest level. I mean, rape is rape, isn't it ... and especially those children were in the care of ... us ... Peter Coyne being the manager ... and all the other staff there ... they were in their protection ... OK, they weren't little angels, there were often nasty little children there, but the point is ... or, that is beside the point, that they were under the protection of the Family Services and they weren't getting it.

That is what you said then. Is that still your view?

Mr Roch—That is still my view.

CHAIR—Then we still have the problem of whether you remembered it being Mr Heiner then and not remembering it now.

Mr Roch—Yes, I am very sorry; I do apologise, but I am not going to give you names and say something that obviously I cannot give 100 per cent. I cannot do that. I do apologise.

CHAIR—But back in 2001 you thought it was him.

Mr Roch—I did. Yes, I did.

Mr SOMLYAY—This is not something directly related to you, but on the very next page in our notes it talks about the CJC completing investigations of the alleged rape cover-up. The CJC found that there was not a cover-up, but your evidence says that the riot act was read to every employee that they were not to talk about it. Isn't that a cover-up?

Mr Roch—Yes, it is.

Mr SOMLYAY—How many people working there had knowledge?

Mr Roch—Everybody had knowledge of this.

Mr SOMLYAY—Does it surprise you that there was not a whistleblower who felt strongly enough about it among those people?

Mr Roch—There might have been a whistleblower; I would not have known. If I had been a whistleblower I would not have told anybody; I would have just done it. Just one thing about this secrecy act that I mentioned: in that employee, I never took any oath as I just have here. I asked Mr Coyne at the time, 'What is this secrecy act I have not taken?' He said, 'You are automatically under a secrecy act if you are employed in one of these institutions.' I just accepted it. As I said, I had a mortgage to pay, I was on my own and I needed the job. So I said, 'Okay, fine.' But I did not like it at all.

CHAIR—The documentation that we have been supplied with includes a number of written reports from a number of people who were present, such as the teacher in charge. There are all

sorts of stories about the boys having run into the bush and how the police were called to help find them. It says:

A policeman arrived and Karen and I gave him the details of the missing young people. The police officer then left to look for them. Jeff returned and we waited for the policeman or the young people in the hope they would return because of the cold temperature. An hour and a half later the policeman arrived with the four young people. We put them in our vehicle and returned to John Oxley Youth Centre.

Mr Coyne, Manager was contacted and a meeting was held shortly after he arrived at the Centre.

It does not say what happened at the meeting—rather, we do have one blacked-out version. Were you aware of the police bringing the children back from that outing? Do you recall that?

Mr Roch—No, I do not because I was not on duty, as I said. But, again, I was told. When people work like that, on shiftwork and in the wee small hours and things, you do confide an awful lot. The staff are a family, so you do know most of the details and, yes, I was aware. Can I just say, and I do not know if this is right or wrong, that these teachers' lack of supervision was appalling—just to sit down and smoke in the park. As I said, they were not bad little children; they needed guidance. But they were in there for crimes. You do not just let them run around without supervision. That is appalling.

CHAIR—Reading this, I am amazed at the fact that the police were not told for three days about the rape, and yet the police were at the site of the incident on the day of the incident to help find the boys, to bring them back.

Mr Roch—Perhaps it was not made official—I do not know how these things are.

CHAIR—I find that absolutely astounding.

Mr Roch—It is. The whole thing is astounding.

CHAIR—Thank you, Mr Roch. Mr Grundy would like to be recalled to clear up something, so we might hear from you together.

[10.10 a.m.]

GRUNDY, Mr Grahame Bruce, (Private capacity)

ROCH, Mr Michael Joseph Ormond, (Private capacity)

Mr Grundy—I just wanted to clear up something. Mr Sciacca asked Mr Roch whether I had contacted him to come here today. That is true but there is nothing unusual in that. I think the record will show that when I appeared before you in October you asked me whether this man would come.

CHAIR—Yes, I did.

Mr Grundy—In response to that I contacted him and he said that he would come. That is why I contacted him, not because I wanted him to come along here to verify my story or anything like that; I did it because you asked me whether he would come.

CHAIR—I am grateful.

Mr SCIACCA—I was not trying to impute anything from that. The only reason I asked the question was that Mr Roch actually said that—that he had come after he had been contacted. I was not implying any ulterior motive.

Mr Grundy—Okay. I just wanted to clear that up, thank you.

CHAIR—I am delighted that he did come and I am delighted about another thing. In the interim between Mr Roch agreeing to come and give evidence, he became a little nervous about doing so and thought that he might like to give it in camera. But then he decided that, no, the matter was of such a serious nature that he wanted to give it in a public hearing.

Mr Roch—May I ask a question, Madam Chairman? Could he please tell me who interviewed me?

CHAIR—Yes. It was Mr Steve Austin, the record says.

Mr SCIACCA—No, he means originally who talked to him—the nice gentleman with the assistant.

Mr Grundy—I do not know whether it would really help because it was a conversation between Michael and me. What he told me, the circumstances in which he told me, and the circumstances in which other people have told me, they were interviewed, they match with what happened when Mr Heiner talked to people, because at various times he had two people from the department with him, and the circumstances of where the interview took place and so on match. That is as much as I can say. Michael was always not sure of the name. From my conversations with him, the time when that took place was at the time, as I have said in my evidence today,

when Mr Heiner was conducting his inquiry. In the light of what he and others have told me, I think it reasonable to assume that it was Mr Heiner.

Mr SECKER—Like 1989 or thereabouts?

Mr Grundy—Yes. I have never heard of anyone else going out there with someone else and asking questions about them. There may have been, but it seems odd that there would have been two people at that time asking those questions.

CHAIR—If there were a second person, we would very much like to know who it was.

Mr Grundy—Yes, indeed.

Mr SCIACCA—Except that, of course, if there was, Mr Roch's recollection cannot be too good because he said that at that meeting they talked about disposal of documents.

Mr Grundy—I cannot say any more.

Mr SCIACCA—But you see the point, don't you?

Mr SECKER—It could have been the disposal of documents from the youth centre rather than—

Mr Grundy—There is another option: that there was document destruction before they went down the big gurgler. I have questioned Michael about what happened afterwards and, without intending to put anything in his mind, I may well have done so, because I would have said to him that documents were shredded and so on. He was aware that the documents were shredded because he said so in the interview with Steve Austin.

Mr SOMLYAY—But they were not shredded before 1989. This interview was before—

Mr Grundy—No, they were shredded in 1990. But what I am saying is that I may have put something about shredding in his mind, inadvertently—I do not know. But there may have been another destruction of which I am not aware. But when Michael and I talked, he did not mention to me anything about Mr Heiner questioning him or anyone else questioning him about shredding at that time. But he told me about the girl and the pack rape and we had quite a long conversation about that the first time we met, and he volunteered that.

I eventually found him and went to see him. We sat down together and I said, 'I want you to tell me, if you wouldn't mind, about that place that you worked in.' He said okay and he started to talk and I just let him talk—I never prompted him and I never gave him any idea of what it was I was really interested in—and quite of his own volition and quite voluntarily he said, 'And then, of course, there was the matter of the pack rape.' I have written all this down—it is in my documents and in my notes—and I said, 'Tell me about that.' Of course, what he told me was similar to what I had been told by another person who had told me to try to find Michael. That is what happened. At that time he did not talk about any material being shredded but he was quite clear about what happened to that girl.

Mr SOMLYAY—Can I go back to what Mr Roch told us. He said he was questioned by a nice gentleman he thought was Mr Heiner about shredding of documents.

CHAIR—No, that came at the end, when he said that. He talked about the rape and then said it involved some shredding of documents. You can check the *Hansard*.

Mr SOMLYAY—That is why I am wondering whether you have a recollection that there were documents shredded in John Oxley.

Mr Roch—Not those ones. The relevant ones that we are referring to now could be in other documents. The Warner documents.

Mr SCIACCA—You say the ones you think Warner had got rid of, don't you?

Mr Grundy—In the interview with Steve Austin, I think.

CHAIR—In the interview, and I will just read it again, it said—

Mr SCIACCA—I think Anne Warner had it all shredded, so you must have been speaking about that. Can I say, Madam Chair, that the only piece of evidence that Mr Roch has given to us which is at all relevant to what we are discussing here is that Mr Coyne said to him and to the people there that he wanted to discuss rape. Apart from that, I think that Mr Roch's evidence—with respect, Mr Roch—is pretty hazy.

Mr Roch—Fair enough. That is the best I can give you.

Mr SCIACCA—I understand. I cannot remember what happened yesterday, let alone 10 or 15 years ago.

CHAIR—I think the evidence is very useful, particularly that you were informed that the rape had taken place. It is probable that you had the interview with Mr Heiner and that what you told Mr Austin in your interview back in 2001 was about the rape. Whether or not there were any other documents that were shredded, or whether or not that is something that came into your mind, I do not know. But I agree to that point that Mr Coyne's discussion with you is important. I think the fact that you were probably interviewed by Mr Heiner—although that remains to be determined—is also quite important. Thank you very much for coming and giving evidence today.

Mr Roch—My pleasure.

CHAIR—We do appreciate your willingness in wanting to clear up something that is really pretty horrendous.

Mr Roch—I would not do anything else.

Proceedings suspended from 10.15 a.m. to 10.50 a.m.

LINDEBERG, Mr Kevin, (Private capacity)

CHAIR—Welcome, Mr Lindeberg. I will just mention that I have been approached by Mr Grundy, who has something else he would like to say to us, and we may hear a bit more from Mr Roch. But we will hear from you first, Mr Lindeberg. The committee has received your latest supplementary submission and authorised it for publication. Would you like to make an opening statement.

Mr Lindeberg—Thank you. We claim to live in a civilised, democratic society. Our constitutional monarchy provides us with freedom and the right to pursue happiness and to expect that all governments, irrespective of their political complexion, will be held accountable to the Queensland Crown for their actions, just as ordinary citizens are. Our society relies on public confidence in its public institutions, otherwise good government can disintegrate into chaos. Maintaining that public confidence, in my view, is the highest duty of public officials. Perception and reality should not divide on this duty; moreover, it cannot afford to. While we may all have different political and philosophical views about the role of government and life in general, the heritage given to us by those who have gone before has decreed that we can all play the political game without hindrance, so long as we stay within the framework of the rule of law under our constitutional monarchy.

The privilege of being a minister of the Crown and sitting in the cabinet room to decide the fate and welfare of fellow Australians is a high one, but it also comes with a high price tag. You must not abuse the privilege. When the cabinet door closes with its deliberations never to become public until some 30 years later, every citizen's constitutional right is still in the room. It is there through the swearing of the oath of office before either the Governor-General or state governors that ministers of the Crown will obey the law and not conspire to break it. The people who give power to ministers of the Crown act confident in that oath that equality before the law will be respected in all matters at all times, because the Crown acts in perpetuity and sets standards. This oath of office demands that all arms of government respect the doctrine of the separation of powers. It expects honesty of the executive and respect for the truth in its dealings with the public and other arms of government. It is a contract of trust.

This is not an ultraconservative or naive view of the world but one that is fundamental to a decent, civilised society. Unless public confidence is maintained in our democratic processes, law enforcement authorities, judicial processes, public services, learning institutions and organs which control and dispense information, then intimidation, fear, cynicism, denigration of public service and a world where nothing matters except self-interest will reign supreme instead of the rule of law. Therefore, when a fundamental attack occurs on those values—that is, government by the rule of law—it must be faced with courage and determination and be overcome, no matter the duration or cost. Blind loyalty to any political party in such a circumstance serves no-one but protects the wrongdoer or encourages criminal conduct without consequences. Blind loyalty does not serve democracy. Blind tribal loyalty does not serve democracy. Put bluntly, the resignation or jailing of a minister, and perhaps even the jailing of an entire cabinet and the senior public officials involved in a serious cover-up, although painful to see, will better secure our democratic future and stability in the long run than turning a blind eye to high-level corruption in the short run. It sends the message to all that no-one is above the law.

Our unicameral system of government in Queensland has failed us. It has generated a mentality which accepts and even expects abuse of power. In so doing it has now produced the greatest scandal this nation has seen in the last 100 years. By dint of circumstances and a myriad of extraordinary events too numerous to mention here, Heiner has emerged from the pack as the scandal that had to happen in a system of government where sycophancy and intimidation live hand in glove both in and outside government and, sadly, into our mainstream media.

When I spoke to this committee on 27 October 2003 I set down Heiner's foundations, its importance to the administration of justice in Queensland specifically and to the nation generally. I said this in my opening statement:

> To deliberately destroy evidence known to be required in a pending or anticipated judicial proceeding, or known to contain proof of a crime which has been perpetrated in the past, to prevent its use by police or by court is clearly a criminal act.

The Ensbey verdict now confirms my assertion. It confirms that my foundation in Heiner, laid down some 14 years ago, was always built on solid rock while that of the Queensland government and the Criminal Justice Commission, now known as the Crime and Misconduct Commission, was built on sand. We now see Heiner reaching its endgame. It was never open on the part of government to claim that known evidence could be wilfully destroyed up to the moment of a plaint being filed and/or served. It was always a corrupted foundation.

The only reason this white-ant riddled edifice built by successive Labor Queensland governments, the CJC and others has stood for so long is because it has been corruptly propped up by a coterie of corrupt mates in high places, some of whom, like magistrates Noel Nunan and Michael Barnes, are now on the Queensland bench. It has relied on a terrorised and sycophantic public service too frightened of or too deferential to executive government to issue a condemn notice on its construction and soundness. Sadly, it touches on state governors also. Two governors have been fully apprised of the facts and were and are either unable or undesirous of seeing obvious serious abuse of office and corrupt conduct. They remained and remain supine while having a constitutional duty to encourage, warn and advise the executive to redress this wrong in order to maintain or restore peace, order and good government for all Queensland citizens.

Our system of government has collapsed. Ensbey confirms that two serving Queensland members of parliament, the Hon. Terry Mackenroth and the Hon. Dean Wells, should be immediately charged. And that is just the tip of the iceberg. Our government is now acting at its most tyrannical by applying the criminal law to a citizen and finding him guilty of the serious criminal conduct of destroying evidence, but not applying the law unto itself for the same conduct. It cocks its nose at the suggestion.

Surely Australians care about equal justice and governments being accountable for their actions. Surely good men and women care enough not to remain indifferent to criminal law being applied by double standards, as has been laid bare before us in Heiner and Ensbey. In Heiner we are facing a high-water litmus test of morality, ethics and governance about whether ministers of the Crown and government bureaucracies are above the law and whether the separation of powers is a joke or something to be respected by all. Our public record keeping has reached a crossroads in Queensland. We are on the brink of a world without evidence when it

comes to government or evidence being properly protected for pending and anticipated judicial proceedings. Faith in impartial record keeping in Queensland is in doubt. The disbursement of taxpayers' money is also in doubt. Can it be used as hush money to cover up crime or can't it? When a minister of the Crown makes a public statement concerning an allegation of pack rape of a person in care of the state touching on her age or the facts of the case, can he be trusted or can't he? Can he rely on information provided by his bureaucracy? That is in grave doubt.

And what of the future of parliamentary committees when they hear evidence of suspected and/or serious prima facie crime involving politicians? Where does truth stand in all this? Members of this committee have already placed on the public record that the shredding should not have occurred. With respect, while that was good it was not good enough. In light of the facts provided and the Ensbey verdict you must take the next unavoidable step in your report and unanimously declare it to be a prima facie criminal offence requiring impartial investigation, rather than suggest that it was an exercise in poor judgment with no legal consequences. The Senate must also correct its view on Heiner in due course.

I conclude with a plea. As Lord Denning famously declared in Lazarus Estate Ltd v. Beasley: 'Fraud unravels everything.' Heiner is unravelling before your very eyes. I say to those Queensland public officials who are watching this case like some spectator sport and who may be actively aiding the Queensland government in defending the indefensible: the game is well and truly up. Do the right thing. Obey the law. I recognise that this committee's task is a heavy one, but if you have the courage to stand for what is right I remind you of another wise comment: 'The truth shall set you free.' After 14 years of struggle, I want to be free of Heiner, but I will not go away until the truth is revealed to all.

CHAIR—Thank you, Mr Lindeberg. I must say that it has been put to me on a number of occasions that people should not listen to you, simply because you have pursued this matter without slacking—because you believed it had to be pursued. I have certainly not paid attention to those people. I think you are probably doing us all a great service. I will begin by asking you about two documents that you provided just before you started to give your statement. We might receive these documents into evidence. One is released under FOI. It is a document from the Department of Family Services and Aboriginal and Islander Affairs, dated 18 January 1991. It is an inter-office memo signed by G.W. Clarke, Director, Finance and Organisational Services, and it is to Ms Matchett, Director-General of the department. The second is a document which is marked 'highly protected'. It is to the director of the OMD from Michael Barnes and it is dated 11 November 1996. Michael Barnes is the chief officer of the complaints section with the CJC. It is concerning the report by Messrs Morris and Howard into the allegations by Mr Kevin Lindeberg.

Mr SOMLYAY—I move that the documents be received.

CHAIR—There being no objection, that is so ordered. They can be received as evidence and authorised for publication. I want to refer to the first document and also to that part of your supplementary submission relating to the deed of settlement with Mr Coyne dated 12 February 1991. Clauses 2, 3 and 5 of the deed of settlement, set out in your submission, say:

2. The Claimant will not canvass the issues surrounding his relocation from John Oxley Youth Centre, Wacol to Brisbane or events leading up to or surrounding his relocation with any officer of the Department of Family Services and

Aboriginal and Islander Affairs or in the press or otherwise in public and will forbear to take any action in any forum whatsoever which may have jurisdiction in respect of any such issues or events.

3. The terms of this Agreement will not be disclosed by either party without the written consent of the other first being obtained.

5. Without limiting the generality of the foregoing provisions the Claimant shall not permit or allow the events leading up to and surrounding his relocation to Brisbane to be the subject of any autobiography, biography or any published article.

The document dated 18 January, three weeks before the signing of the deed, reads as follows:

On Thursday, 10 January, 1991, a meeting was held between Mr L. Carpenter and myself, Mr Coyne and Messrs Tierney and Hamilton of the Professional Officers Association.

The meeting was arranged following a phone conversation between Mr Coyne and myself (earlier in the week) during which Mr Coyne indicated that whilst he would be seeking retrenchment he would also be seeking additional sums of money.

At the subsequent meeting Mr Coyne stated that he would be seeking an additional $29,000 on top of his redundancy package. Mr Coyne and the union officials argued this money would be some form of compensation for the career damage caused to Mr Coyne.

The union officials stated that Mr Coyne had been the innocent victim of the whole saga in relation to the John Oxley Youth Centre.

Never mind that the girl had been raped. The document goes on:

Mr Coyne indicated that the sum of $29,000 could be arrived at by totalling all of the additional costs incurred by his having to relocate his headquarters from Wacol to Chief Office.

The union officials indicated that if the Department was not prepared to pay Mr Coyne, the Union would proceed down the following paths:

1. Put the entire matter in the hands of the Criminal Justice Commission.

2. Sue the Department for damages on behalf of Mr Coyne.

3. Put the entire matter into the hands of the Public Sector Management Commission.

Mr Carpenter and I indicated that we would discuss their claim with you on your return from leave.

Mr Coyne indicated that he still wished to proceed with the involuntary retrenchment.

Mr Coyne has subsequently phoned me and provided details of his claim. These are set out below.

The claims total $23,435.08. It then goes on:

On Monday, 14th January, 1991, and following our discussion earlier in the day, I informed Mr Coyne that you would need at least a week to consider this request. I also informed Mr Coyne that the Department would begin to process his involuntary retrenchment.

It is signed: 'G.W. Clarke, Director, Finance and Organisational Services'. I read that in total because, as I understand it, there are provisions in the Criminal Code that would seem to make that sort of arrangement illegal. Would you like to comment on that?

Mr Lindeberg—That is exactly right. The issue it now seems to turn on is the Crown putting into such a deed of settlement that Mr Coyne would not talk about the events leading up to and surrounding his relocation—and, for that matter, neither would the Crown. It is quite clear now that those events were about the maltreatment going to the abuse of children, which both Mr Coyne and department knew about. As to how far that information went into the union, I am not sure. I do not necessarily believe that Mr Tierney did, but I cannot say that for others. It was like a Mexican stand-off. They knew about the cover-up. Mr Coyne saw himself as being scapegoated, and they used that as a bargaining chip: 'Unless you pay this money we will take it to the CJC.'

As a former union official, I know that you do not make threats against the Crown to extract money to which you know you have no entitlement. Moreover, the only thing that the CJC is interested in is official misconduct, not industrial relations matters, and there was an obligation cast on the then Director-General, Ms Ruth Matchett, to report all suspected misconduct to the CJC. In other words, she should have said: 'What are you talking about? We must take this to the CJC.' Instead of that, they went into the back room and they concocted this document because, I was told by Mr Tierney, Mr Coyne needed an extra $30,000 to buy a delicatessen, and the payment was a fraudulent concoction.

There are provisions under the Criminal Code that make threatening to take extra emoluments from the Crown a serious criminal offence. It is covered under collusion et cetera within the Criminal Code. That is why I have raised the issue. I also put before the committee—I believe it is part of the tabled document—that I lodged a fresh complaint with the Queensland Audit Office on 9 February pointing out to the Auditor-General that this money is hush money. It is being paid to cover up a crime. I have not yet heard from the Auditor-General, but I have informed the Auditor-General of this meeting today. It is immensely serious because the ex gratia special payments provision in the Financial Administration and Audit Act under which they paid this money now allows a minister to pay up to $1 million and a chief executive $500,000.

When I complained to the Auditor-General in 1993 and again in 1997, they said it fulfilled the prescriptions of the deed of settlement—what was wanted by the director-general. They were concerned that it stayed within the spending provisions. The prescription laid down here was that Mr Coyne would never talk about the events at the John Oxley Youth Centre for the rest of his life. If that is the case, public moneys can be used as slush money to cover up crime. It is totally unacceptable.

Mr SECKER—It's appalling!

CHAIR—Has the Auditor-General looked at this matter before?

Mr Lindeberg—He has. May I say, Madam Chair, that I have also informed the Auditor-General of the Ensbey case. As you may recall, last time I gave evidence the question was put to me as to whether I knew about the child abuse. I would like to address that, if I may, by handing up two documents.

Mr SOMLYAY—May I interrupt you for a second. When you said a minister can approve an ex gratia payment, does that mean any minister?

Mr Lindeberg—Any minister.

Mr SOMLYAY—In the federal system, only the Minister for Finance and Administration can approve ex gratia payments.

Mr Lindeberg—With great respect—I may stand corrected—it is my understanding that it is any minister under that particular act in Queensland. At the time, the issue in relation to this payment was that when Minister Warner paid the money she paid above the limit. She was only allowed to pay—and I may stand corrected on this—about $5,000. But they paid $27,000. There had been some change, but it had not gone through Governor in Council. When she paid the money, she paid above what she was allowed to pay, and they said that it was therefore technically unauthorised. They could get it back, but if the director-general decided to write it off as a loss she could do so—which she did. I would suggest she had a vested interest in doing so.

I want to get this out of the way, if I may. This document is proof of the allegation that I was under the apprehension that Mr Coyne was concerned about housebreaking, and this is another letter which goes to it.

CHAIR—We will have to move that these document be accepted as evidence.

Mr SOMLYAY—I so move.

CHAIR—There being no objection, that is so ordered.

Mr Lindeberg—My issue when I went to the Auditor-General in 1993 and then again after the Morris-Howard report was that the shredding of the documents had been a criminal act and they were covering up the shredding of documents required for judicial proceedings, because I did not know about the additional layer of child abuse. They took no cognisance of that. All they were interested in, in Auditor-General's, was whether the minister stayed within her spending limits. They did not pay attention to the facts of the events. As far as I know, they did not ask: 'Why are you paying up money to cover up these events? What does that have to do with unpaid overtime et cetera? Why did you put that in there?' They put it in there to make sure nobody ever knew about this.

In light of the Ensbey case, my proposition back then was sound. The law had been broken. It was already broken once they shredded the documents—just in that respect alone. But now we have the situation that they were shredding evidence knowing it contained evidence of crime. The payment of the money and those words—'You will not talk about the events leading up to and surrounding your relocation'—were the key, because it was in their mind all the way along. You do not have to enter into a deed of settlement to get your award entitlements.

Mr SOMLYAY—Is that the deed of settlement you are quoting from?

Mr Lindeberg—Yes, it is. This has been tabled before the Senate. This is critically important. As a trade union official you know if you have an award entitlement you do not have to sign a deed of settlement.

CHAIR—On that point, I want to refer to this second document, the one written by Michael Barnes. This is a document that the CJC has written, dealing with the report of Messrs Morris and Howard into the allegations that you made concerning the Heiner affair. On page 6 of that document, under the heading 'The payment of $27,190 to Peter Coyne approved by the Minister on 7 February 1991', it says:

The authors conclude (as did the Commission)—

and the authors in this document are always Morris QC and Howard—

that this payment was unlawful as despite the Cabinet resolving in December 1990 to increase the delegation of Ministers to allow them to make special payments of up to $50,000, this amendment was not ratified by the Governor in Council ...

We have just gone through that. It goes on:

The authors also accept that as a result of Treasury circulating client departments with what they thought were to be consolidated amendments to financial regulations, it is likely that departmental officers wrongly believed that the amendment had been affected.

The authors conclude that the unauthorised payment involves an offence against section 204 of the Code, "*Disobedience to statute law*".

That is what that inquiry is holding. The document continues:

They reject the possibility of an offence under section 408(c)—'*Misappropriation of property*"—on the basis that an element of dishonesty cannot be proven.

The authors also conclude that the payment amounts to official misconduct because in their view it can be proven that those who approved the payment, namely Matchett and Warner—

that is, Matchett, the director-general, and Warner, the then minister—

had an interest or personal motive "*for seeking to buy Mr Coyne silence*". They say at paragraph 17 on page 130:

> *"The more obvious motivation for the agreed 'special payment' to Mr Coyne was it might be thought to buy his silence in respect of the department's conduct and particularly the department's conduct relating to this destruction of the Heiner documents.'*

Support for this assumption is found by the authors in the instructions Ms Matchett provided to the Crown Solicitors for the preparation of the deed of settlement. Those instructions sought inclusion within the deed of provisions binding Coyne to refrain from raising the issue of his removal from John Oxley with the media, industrial unions, Industrial Commission, contacting any members of the staff of the department to discuss the matter and addressing the matter as a subject of any authorised biography or any published article. According to the authors, these instructions demonstrate:

"An acute desire on the part of the department to avoid adverse publicity in relation to the circumstances surrounding Mr Coyne's removal from John Oxley including the circumstances pertaining to Mr Heiner's investigation and in particular the destruction of the Heiner documents".

Then there is a comment by Mr Barnes, who is the state coroner presently, as we speak. Mr Barnes went from being the complaints officer of the CJC to being the state coroner.

Mr Lindeberg—No, he moved to being the head of criminal justice studies at QUT and then he moved to being state coroner.

CHAIR—So he has been regularly promoted?

Mr Lindeberg—He is a very talented man.

CHAIR—To return to his comments in this document on those comments of the Morris-Howard report, they are these:

As Matchett and Warner continually sought Crown Law advice and acted in accordance with it, it is difficult to understand how Messrs Morris and Howard conclude that Mrs Matchett and Mrs Warner were motivated by fear of being found to have acted improperly.

… … …

The authors contended that on each of the occasions that present and former officers of the Department of Family Services engage in conduct which the authors have concluded is capable of constituting a criminal offence, they would also be guilty of official misconduct. This conclusion was reached despite the authors acknowledging in paragraph 68.4 on page 110 that, "*we do not suggest, and in our view it would not be open to conclude, that Ms Matchett or any other officer of the Department sought to obtain a personal benefit. Indeed, there is no reason to doubt that they were motivated solely by a desire to achieve what they perceived as being in the best interests of the Department*".

The document then goes on, under the heading 'Matters of reassessment by the Commission', to say:

The question arises whether in the light of the Report's findings we should re-open those investigations.

Then he says:

It is my recommendation that we should not because:

- I do not accept that the Report accurately states the law in relation to sections 129, 132 and 140 of the Criminal Code—

I am sure that he would be very interested to know that in the Ensbey case the judge agreed with the opinions of Messrs Morris and Howard on the meaning of section 129.

Mr Lindeberg—Indeed.

CHAIR—The document continues:

I consider the Crown Solicitor, Mr Nunan and the DPP have provided an analysis that more coherently identifies the facts needed to be proven to establish an offence against those sections.

That has now been held not to be the case. Mr Nunan has been made a magistrate, and the former DPP, Mr Miller—he is now?

Mr Lindeberg—He is retired.

CHAIR—Who was the Crown Solicitor?

Mr Lindeberg—Mr Ken O'Shea, who has passed away, unfortunately.

CHAIR—The document continues:

Even if Messrs Morris and Howard are right in their view of the law—

which they have now proven to be—

as Cabinet approved the shredding relying on the Crown Solicitor's advice that they were entitled to do so neither criminal prosecutions or disciplinary action is warranted.

Not so. You may not hide behind legal opinion and commit a crime and be let off. If you have committed a crime, you have committed a crime and should be punished for it and no legal advice in the world can shield you from that. It continues:

In relation to the payment of Coyne, I remain of the view that as it was based on a genuine error which could not be attributed to those who proposed and approved the payment, it would be iniquitous to take any actions against them. I do not accept that those involved acted with mala fides.

Mr Lindeberg—Madam Chair, I do not wish to interrupt but there are comments that I would like to make with respect to those things.

CHAIR—Please do. Those are the points I wished to make.

Mr Lindeberg—I point you to the bottom of page 4 in respect of section 129—which, I have held from the beginning, applies in this case—where Mr Barnes talks about something that he viewed himself, which we did not know until we got our hands on this and found out later, through an FOI. I got this document lawfully at the Ryan-Connolly inquiry. That is how I came across it. I wish to read these words into *Hansard*. This is where Mr Barnes talks about 119 and 129, which have now been well and truly settled in the District Court, and, quite frankly, according to Justice Thomas were never, ever open to such a suggestion that you can destroy documents up to the moment of a writ being served. On page 4 it says:

While the authors refrain from making any findings of guilt in relation to Cabinet on the basis that they are unaware of the state of knowledge of these ministers concerned, memoranda from Matchett to Warner strongly suggest that the knowledge which Messrs Morris and Howard deem sufficient to inculpate the departmental officers involved was shared by the politicians who gave the order to shred the ... documents.

We have the cabinet documents, which unequivocally show that they knew that the documents were being sought by solicitors for a court action at the time, but they got in quick and shredded the documents.

Once again, there is the conduct of the CJC in this matter, and indeed Mr Barnes, who I have said before this committee is corrupt. I sought access to these memoranda between Matchett and Warner because I wanted to know how he knew this. I sought access to them under FOI and it turned out—perhaps I should not use that term, but we did not know—that Mr Barnes paid a visit to the Department of Family Services in late 1994 or early 1995, just before the Senate investigated this matter under the Senate Select Committee on Unresolved Whistleblower Cases, and he read the documents himself.

I asked for copies of these documents, the memoranda, from the department and from the CJC. They have disappeared. Mr Barnes, who was an investigating officer on the CJC on the central point that I was on about, did not take copies of them. Yet he says this in a confidential document. He has seen documents that strongly inculpate all the members of cabinet, which is sufficient to charge them under 129, which is set out in this book here. We have now had confirmed in the court that this is the proper reading of the law, yet he does not take copies of them and they just happen to have disappeared.

CHAIR—Just so we know, are you saying that the memoranda between the minister and the head of her department have disappeared?

Mr Lindeberg—On this point. What they are saying plainly is that Ms Matchett was put on notice: 'Don't shred; we want the documents for court'—and quite rightly she was telling her minister. We now have the cabinet documents, because they were tabled by Mr Beattie when he wanted to win government back in July 1998. Plainly, that information was carried into the cabinet room. It is sufficient to charge the lot of them. But, as I have said, this corrupt edifice has been protected by a coterie of mates that has gone for the proposition that you can destroy documents up to the moment of a writ being served and, if you act on legal advice, you are okay. The Baptist minister, but for the grace of the judge, would be in jail. He should be in jail. That is the fundamental question which ordinary Australians want the answer to. Are ministers of the Crown above the law? That is why I will not let this go.

CHAIR—It is quite interesting that here in Queensland, where so much was made about Premier Bjelke-Petersen allegedly not knowing the distinction in the doctrine of the separation of powers, it does not seem to have been his problem alone.

Mr Lindeberg—I made that point, because I have looked at this very closely. The separation of powers means a lot to me. What Mr Beattie's defence has said in the evidence on this was that there were no judicial proceedings on foot at the time and no judicial proceedings commenced afterwards. What he is saying is, 'Yes, we knew the documents were required for court, but we got in quick and shredded them. To prove our point, there were never any judicial proceedings. None occurred.' At that time, leaving aside that these documents would be required for the girl who was pack raped, there was no point in us seeking access to documents which no longer existed. They had been destroyed. He is admitting sufficient evidence to charge his colleagues.

CHAIR—Are you saying that the document between the minister and the director-general was one of the documents authorised for destruction?

Mr Lindeberg—No, I am not saying that.

CHAIR—It has gone missing.

Mr Lindeberg—It has gone missing. Plainly, there was high activity in early 1990. I met with Ms Matchett, and the unions were also prepared to join that litigation. There was obviously concern. The bottom line is that the government never wanted the Heiner documents to see the light of day because they showed what was going on behind the walls of the John Oxley Youth Detention Centre. They thought everyone would be happy. Whether you like it or not, Coyne had a right of access to these documents—I could go on further about the role of Crown law in this matter—and they knew that. But as Morris has said they used a delaying tactic, 'We'll let you know; we'll let you know.'

CHAIR—Yes, but it is worse than that, because there was evidence in those documents that a 14-year-old girl in the care of the government had been raped.

Mr Lindeberg—Absolutely.

CHAIR—All those people were responsible for not having taken action about it. Therefore, they were destroying evidence of a criminal activity. That is far more important than what they ever did about Mr Coyne.

Mr Lindeberg—I do not dispute that.

CHAIR—Obviously, she had a right to sue subsequently in the civil courts and there ought to have been a criminal prosecution. They destroyed the evidence quite deliberately. That is the bit that is really—

Mr Lindeberg—I totally agree with you. What has happened with the Heiner documents is that the longer it has gone on, the worse it has become. As I said, there is another layer of criminality et cetera. There is the business of knowing that those documents contained evidence about the pack rape of a girl. They shredded the documents not only to prevent them from being used in a court case but so that the evidence could not be used against the careers of the public servants at the centre of the matter. That goes to a conspiracy to pervert the course of justice. Those people should have been held to account.

CHAIR—It is relevant at this stage to table documents that show just who the cabinet ministers were, sworn in on 7 December 1989. They remained there until 24 September 1992, with Wayne Goss as the Premier and Mr Mackenroth as a member of that cabinet who remained through the next cabinet and the current cabinet. I think it is a good idea that we know who they are. I table a list of the first Goss ministry and a list of the first Beattie ministry from 29 June 1998 to 16 December 1999. It shows that four of the ministers who had authorised the destruction of the Heiner documents remained on as cabinet ministers and then, in the current ministry, it shows that one of those people remains as a cabinet minister benefiting from the cover up.

Mr Lindeberg—May I say that in respect of what you just said it is appropriate to point out to the committee that at the time the Beattie government set up the Forde inquiry, which Mr Beattie claims to have investigated all this stuff—

CHAIR—And it did not.

Mr Lindeberg—And it did not. Five members of that cabinet help set the terms of reference, which either excluded it or on a wink and a nod said, 'Don't look at the cover-up, the shredding of the documents.' I did want to clear up the point that Mr Beattie has made that this matter has been investigated to the nth degree. I will do that if you want me to. When you last came to town a media release was put out by the Premier dismissing this committee as a stunt and a waste of time. It is not true that this issue has been investigated to the nth degree—far from it. It has suffered from political interference right from day one. It is not my fault that the people who ordered the shredding are the cabinet. It was political right from the beginning. Our system says that no-one is above the law. In the first instance the CJC never called for any witnesses. It just said, 'We got permission from the archivist. That's it. Off you go, Kevin.' I said, 'Did the archivist consider whether or not the documents were required for court?' When you read the document that the cabinet sent to the archivist seeking her approval, the key point says, 'These documents are no longer required or pertinent to the public record.' They failed to tell her that the documents were being sought by solicitors for a court case. She gave her approval on the same day. It is highly questionable that she should have given her view. Did she read the documents? Was she reading about children being abused? If so, the documents should have been preserved.

The next thing is that when I challenged this in the PCJC Mr Beattie was in charge of it. They decided to review the case. Mr Michael Barnes, a mate of Mr Noel Nunan, happened to be chosen to do the job—by pure coincidence, the Senate was told. He did not declare to me that he was an ALP member, an activist in the ALP and a former work colleague of Mr Wayne Goss. It is not a question necessarily—even though I would question it—of his legal competence. But as a decision maker he should not have allowed himself to take on that particular case, because of his connections with the people he was investigating. He never declared that to me. In his finding he misinterprets the law, 129 of the Criminal Code. He actually misquotes the key regulation and then misinterprets it. That was regulation 65. I protested again.

Then the Senate involved itself. Two Senate inquiries have investigated this matter. The first one was the Senate Select Committee on Public Interest Whistleblowing, chaired by the Hon. Jocelyn Newman. That committee as a whole was so concerned that it unanimously recommended that this matter be reinvestigated. Mr Goss said no, so the Senate set up the Unresolved Whistleblower Cases Committee. It was misled by the Queensland government and the CJC and not provided with complete evidence—not provided with the evidence about the pack rape of the girl—yet supplied a tampered document 13. It was told about 129 of the Criminal Code et cetera and yet my counsel at the time, Mr Ian Callinan, who is now Justice Callinan, argued that the entire cabinet should be charged on 129 of the Criminal Code. Then I went to the Senate Privileges Committee and they did not find a contempt in that. Then we have the Morris and Howard report. They recommended a public inquiry into this matter. They found criminal offences just on the paper trail, let alone talking to people. The Borbidge government then got advice from the DPP—and I have seen that advice, Madam Chair.

CHAIR—And?

Mr Lindeberg—It is nonsense. It runs along the line of 129 needing to be on foot to trigger it. It is sheer nonsense. So it is open to suggest that the advice given back by the DPP was—

CHAIR—Is that still Mr Miller?

Mr Lindeberg—Mr Miller. That advice was of such an amateur—in lieu of a better word—nature that it could only be contrived for a purpose, and that was to prevent the public inquiry being held.

CHAIR—Do you have a copy of that?

Mr Lindeberg—No, I do not. I respectfully suggest that if you write to the Leader of the Opposition you may see it. That document which Mr Beattie talks about—

CHAIR—Why would the Leader of the Opposition have it?

Mr Lindeberg—Because he owns the document, as it went to his government. You will see that it runs on 129 and on the interpretation of 119, which says it has got to be on foot. Plainly, it is wrong.

CHAIR—Which is the same facade they have been running since it originally began.

Mr Lindeberg—Yes, it is a facade because, plainly, the entire system is in the gun. Then the Connolly-Ryan inquiry came along and they took evidence, but it was shut down; they never made a finding. In recent times I have come before you and Mr Greenwood QC has put evidence before the Senate to suggest that the Senate has been deliberately misled on this matter. I am hoping that the Senate will clear its records and establish a Senate select committee to investigate my grievance, namely that it has been held in contempt, going to the offence of obstruction of justice.

CHAIR—We cannot answer for what the Senate may or may not do, but we can say that we are taking a good look at it here.

Mr Lindeberg—I appreciate that.

Mr SECKER—I may have misunderstood, but what was the relevance of the Department of Family Services letters about the allegations by Ms Pearce?

Mr Lindeberg—In the last meeting I was asked by the Labor Party whether I knew about the child abuse at the time. I did not know, and I said that on oath. Mr Coyne was talking to me about that allegation plus the other allegation that he and his deputy were having an affair. From my perspective, my main concern was that he was afforded natural justice—from a union perspective—and that is what he was telling me. I did not know about the abuse of the children at the time. I was happy enough for the Heiner inquiry to go on as long as natural justice was afforded my member.

Mr SECKER—Who was the deputy that he was allegedly having an affair with?

Mr Lindeberg—It was Anne Dutney.

Mr SOMLYAY—Looking at that Department of Family Services minute, I find it fairly unusual. It is from Peter Coyne to Ian Pearce about allegations regarding Ms Pearce, a youth worker at the John Oxley youth centre. It says 'P. Coyne' but he has not signed it himself.

Mr Lindeberg—I know that; I saw that.

Mr SOMLYAY—I find it incredible that a matter so serious as to go to a superior would be signed by someone else.

Mr Lindeberg—I understand that. I cannot answer that. That document was part of Mr Coyne's submission to the Senate. That is where that comes from. I cannot answer why that was the case.

Mr SOMLYAY—Did he appear before the Senate?

Mr Lindeberg—He did. Ms Dutney did not.

Mr SOMLYAY—Did not?

Mr Lindeberg—No, but they both appeared before the Forde inquiry. May I say this in respect of what went to Mrs Forde and Mr Heiner in terms of public record keeping. An interesting question arises about how Mr Grundy and the young lady who was raped got these documents under freedom of information. That is another story in itself in terms of what troubles I have had to put up with in relation to trying to get my hands on them. What becomes relevant is the sleeve of the document, where a document may leave and it is signed as to who saw it in proper record keeping. Even though the sleeve may have been renewed, it would be worth while trying to get access to that document to see whether or not it has a signature on it from November 1989 to find out whether or not Mr Heiner did in fact subpoena the document and it went back into that file again. Do you know what I mean?

Mr SOMLYAY—Yes.

Mr Lindeberg—One of the things that Heiner is about is proper record keeping and that is the reason why the archivists see this as one of the great shredding scandals of the world. I have done some research since we last spoke, Madam Chair, and I am now reliably told there are about 20 universities throughout Australia and the rest of the world that cite Heiner as an example of scandal and what not to do in journalism, record keeping, law and history. These are reputable universities such as the University of Michigan and the University of Toronto.

CHAIR—It put a stain on the rest of the nation, not just on Queensland.

Mr SOMLYAY—Do you know of any other instances where records have been shredded by cabinet?

Mr Lindeberg—No, I do not.

Mr SOMLYAY—I am on the Archives Council of the Commonwealth, and I have never heard of records not being put into archives.

Mr Lindeberg—There is another issue with respect to this. When I made the comment that we live with a terrorised public service, I believe it is absolutely true in Queensland. When Mr Beattie says that he believes that media officers and public servants should not lie to carry out their jobs, it sounds nice, but in reality it is just not true. We now have a situation here where the CJC has said that this shredding is perfectly lawful. If that is the case, why can't it happen again?

The rest of the world has gone into a tizzy over Heiner, about whether archivists are independent and so on. The state archivists out there could still, presumably, do the same thing. They most probably would not, but we need to know, because the CJC are finding no problem with it—and why shouldn't they do it again? I believe a submission has been put before you by Mr Greg McMahon, who is a whistleblower who talks about the 'Heiner impact'. What Heiner has done is corrupted the system. They dare not face the fact that you cannot shred documents before a matter gets to court because they know the ramifications of it. There are so many people involved in it. The information commissioner, the Ombudsman—he was the second in charge of the CJC when all this went on; when Mr Michael Barnes wrote that document, he was out there. This is the gentleman you are supposed to go to find some form of relief.

CHAIR—And he is part and parcel of the whole—

Mr Lindeberg—He is part and parcel of the problem. I went to the police in 1994. I had the police visit me three times. They sat around my table and they were literally trembling because they knew my complaint was against the entire cabinet and certain officials at the CJC. So they ended up referring the file back to the CJC—back to the very people against whom I was making complaints. When I complained about that—and at that time the Senate was going to look at it—they said: 'That's okay, we will let the Senate look at it. When they finish, we will let you know.' That is abrogating their responsibility. They had a duty to act immediately.

Then, when the Senate had finished its inquiry, Mr Callinan gave the advice that section 129 was applicable and, if not 129, section 132, a conspiracy to pervert the course of justice, citing Rogerson. I sent it to the police commissioner and asked, 'What are you going to do?' They said that the case was closed. The reason they closed the case was that there was another aspect of my sacking—namely, the rorting of my union superannuation fund by the people who sacked me—and they used the finding of that to shut down my complaint against the criminal conduct of the Queensland government and certain people at the CJC. This is post Fitzgerald Queensland; this is clean Queensland.

The system is totally corrupted because of Heiner. That is why the only solution to this is a special prosecutor who can stand outside the system to do it. Or, as an Australian, I would appeal to you, to the Senate, to get us out of this madness. Do something about it. I have spent 14 years of my life making a stand on this principle. When you go into a court room and witness a fellow citizen being charged on 129, and the DPP stands up and says that you do not need judicial proceedings to be on foot—and they said something different to me and something different to the Borbidge government in respect of the Morris-Howard report—you can say, 'Geez, I'm a bit unlucky.' I do not; I say it is corruption—high-level corruption—that must be rooted out.

CHAIR—I agree with you.

Mr SECKER—Who recommended that the inquiry be aborted in the first place?

Mr Lindeberg—There is evidence that Ms Matchett shut it down, but I suspect that there was more to it than that. I put in a late submission—which I think you said you would table—which has brought into being new evidence in respect of the pack rape of this girl. It goes to a newspaper article that was discovered in the *Courier-Mail* on 17 March 1989, in which somebody asked, 'Was there a whistleblower at the centre?' Indeed, there was. It was news to me. I remember the John Oxley Youth Detention Centre burning, but I do not remember all the details of it.

CHAIR—Burning?

Mr Lindeberg—There was a riot out there. Mr Coyne quelled the riot. It was pointed out to me that, in fact, when you read the paper there is a dot point where this anonymous youth worker is talking to the *Courier-Mail* and saying that a 15-year-old girl was raped on an art outing by three inmates. Then the next day the minister, Mr Craig Sherrin, addressed this issue and said that the girl was not 15 but 17. The parents were called in and the girl was contacted and encouraged to lay charges but did not. This raises very serious questions, assuming that it is the same incident. That brings into question: who was on the executive committee of that department at the time? I have listed those names in my submission. When you go down the names, you see some interesting names—one of which is Ruth Matchett, who later became the director-general. She may not have been party to this; I do not know. But it raises massively serious questions in relation to who is misleading who, if it is the same incident. It shows that there was a state of knowledge in the department about the pack rape, which ties it all up in the deed of settlement that they all had a vested interest in making sure that these events were never spoken about for the rest of their lives, because they were all in it up to their eyeballs.

Mr SECKER—Who recommended the shredding?

Mr Lindeberg—The Goss cabinet.

Mr SECKER—No-one in particular?

Mr Lindeberg—It was a cabinet decision.

Mr SECKER—If we could find out—

Mr SOMLYAY—Based on a departmental recommendation?

Mr Lindeberg—That is really unclear.

Mr SECKER—We are unlikely to get that because of cabinet secrecy.

Mr Lindeberg—We have the cabinet documents. We have the decisions et cetera. They shredded the documents to reduce the risk of legal action, when they knew the documents were required. They shredded the documents, so the evidence could not be used against the careers of the public servants at the centre, including Mr Coyne. Ms Warner has put that on the public record. When any barrister looks at that, they find that utterly unbelievable. I made the point that I think it is systematic of our unicameral system of government. When that government came in power after the Fitzgerald inquiry, it saw itself staying in power for the next 20 years—do what

you like. I have advice from Crown Law to Ms Matchett—I believe on 24 February—which said, 'This matter cannot be advanced'—that is, the litigation that we were involved in—'until cabinet has taken its decision.' The Crown Solicitor told cabinet and he knew that the documents, once the writ was served, would be discoverable pursuant to the rules of the Supreme Court. With that state of knowledge, the Crown Solicitor did nothing to preserve the documents and cabinet went ahead and ordered the shredding of the documents. So it crosses over the separation of powers—the right of the judiciary to have evidence so that it can do justice. Of course, underneath that is the worst thing, as you say, that we have now discovered the pack rape of a girl.

Mr SECKER—Mr Heiner has retired and, in fact, he was retired at the time. Has he ever made any public comment?

Mr Lindeberg—No, he has not. I qualify that: the only person to my knowledge who has managed to get in his front door is the former Queensland Police Commissioner Noel Newnham. He spoke to him, but I do not know whether he said too much at all. He has remained very quiet.

Mr SECKER—Do you think that is a proper action by him, or not?

Mr Lindeberg—Perhaps it is not for me to say. What is this about? Is it about truth? We have a situation now where, under FOI, they have placed an embargo on any document that goes to cabinet, and you cannot get it. It has gone so far that the Information Commissioner has said that there is a 'no public interest' test applicable to any document that goes to cabinet. I have argued that that is unconstitutional. I have said that, if there is evidence of a fraud or a crime going to cabinet, it surely has to be in the public interest to see it, to access it.

I have seen the DPP's advice and in the wake of the Ensbey case it is unlawful advice to cover up a crime. He suggested you need 129 of the Criminal Code and there were other things he said in there. That document needs to be made a public document. There are also other documents in relation to Mr Coyne's removal from the centre where there are indications that Mr Coyne was improperly terminated under the provisions of the Public Service Management and Employment Act. They even went so far as to potentially rort the Income Tax Assessment Act by giving him a more favourable taxation regime than he was entitled to. That may be a federal hook into this particular issue.

Mr SECKER—I would like to ask the same question I asked of a previous witness. I am trying to get an idea about where all these people have gone. Where is Ms Anne Warner, who was the Minister for Family Services and Aboriginal and Islander Affairs, now?

Mr Lindeberg—Ms Anne Warner has retired and to my knowledge she is the president of Sisters Inside, which is a body which was set up to look after women who have been imprisoned.

CHAIR—In Queensland prisons they need it.

Mr SECKER—Ms Ruth Matchett?

Mr Lindeberg—Ms Ruth Matchett is the director—I hope I get the term correct—of the QUT for, for want of a better word, social work at the Carseldine campus of the QUT. She was previously a member of the board for legal aid.

Mr SECKER—Mr Ken O'Shea?

Mr Lindeberg—Mr Ken O'Shea unfortunately passed away.

Mr SECKER—Mr Coyne?

Mr Lindeberg—I am not sure of the name of the company but he is a senior officer in, I believe, a French company called AIMS which runs prisons. It runs a prison in Western Australia.

Mr SECKER—He never got his deli?

Mr Lindeberg—He got his deli but then he gave it away and came back into the public service again.

Mr SECKER—Mr Stuart Tait?

Mr Lindeberg—Mr Stuart Tait is in private enterprise doing something.

Mr SECKER—He was acting cabinet secretary.

Mr Lindeberg—He became cabinet secretary and he later got discharged from the position by the Goss government over certain questionable conduct concerning rorting his expenses for luncheons.

Mr SECKER—Who took over from him?

Mr Lindeberg—I do not know.

Mr SECKER—The state archivist, Ms Lee McGregor?

Mr Lindeberg—Ms Lee McGregor has retired. In my view Ms McGregor has a lot to answer for. I have to say this. When you look at the letter that went to her, Ms McGregor may—may—have been misled on 23 February 1990. But there were phone conversations going on. She approved the shredding of the Heiner documents in one day. Unquestionably, she became aware in May of 1990, when Mr Coyne contacted her and wanted to know about the fate of the documents and indicated he required them for court. She then contacted Mr Trevor Walsh in the Department of Family Services, who was one of the conspirators, asking him what she should do and he told her to keep quiet: 'Refer it back to me or to Crown Law.' The point I make is that, if Ms McGregor was misled—and there is strong evidence that she was—she knew that she had been misled in respect of the legal status of those documents in May. Nothing prevented her from going to the CJC or to start asking questions. Stuart Tait was in the cabinet room watching all these deliberations going on. Remember, a former cabinet minister, Mr Pat Combin, has said on the *Sunday* program, 'We knew in general terms that it was about child abuse.' You suspect

they knew a bit more but nevertheless he has made that admission and has not retracted it. He should be put on oath and questioned. But the point is that the state archivist had the potential, if the CJC could ever have been trusted, to cause a major constitutional crisis, particularly in light of the Ensbey decision, which was sitting there waiting to happen. The law has not changed since 1990 when it was applied to Pastor Ensbey.

Mr SECKER—What happened to Don Martindale?

Mr Lindeberg—He went from the POA to being Assistant General Secretary of the Trades and Labour Council and then became a director in the health department under the Labor government. I do not believe he is a public servant anymore. He then went across and worked for the Western Australian government for a while. I do not know his whereabouts at the moment.

Mr SOMLYAY—Mr Royce Miller?

Mr Lindeberg—Mr Royce Miller has retired. I will say this on oath, given that I am here. When you look at the Heiner affair and you look at the role of various people in this whole process, given that I have seen the DPP's advice to the board of government—and I mean very passionately what I say about the business of contracts of trust that we have with public officials—one of the greatest contracts of trust is the authority that we give to DPPs.

CHAIR—Absolutely.

Mr Lindeberg—It is critically important that they carry out their role dispassionately et cetera.

CHAIR—And there is no oversight.

Mr Lindeberg—There is no oversight. Mr Royce Miller, in my view—when you read that—betrayed that trust in a gross manner. For instance, I know that he drew up charges against Ms Matchett in relation to getting rid of the original complaints pursuant to regulation 65—about which I might make one further comment in respect of the CJC, if I may. He drew up a charge under section 92, which was recommended in the Howard and Morris report, that she acted arbitrarily against a person's interest—one year in jail—but he said it would be unfair for him to lay that charge because she acted on advice from Crown Law. The point about it is this: Crown Law advised Ms Matchett on 18 April 1990 that Mr Coyne had a right of access to those documents pursuant to regulation 65, and then, one month later, Crown Law conspired with Ms Matchett to get rid of them. So in my view, not only should Ms Matchett have been charged; the Crown Solicitor should have been, because he was equally culpable in that act of denying Mr Coyne his legal rights—because he knew; he unquestionably knew. Therefore he said: 'I drop the charge. Unfair.'

Mr SOMLYAY—Who was the head of the Department of the Premier and Cabinet at that time?

CHAIR—Since when do you judge criminal activity by what is fair and unfair?

Mr Lindeberg—In my view, the role of the DPP in this is potentially one of the most despicable in this whole thing, apart from the abuse of power and a range of other things, because we put so much trust in the DPP. May I just make the point in relation to regulation 65, with the role that Mr Nunan and Mr Barnes have played in this: all they had to do was contact the department and find out what was the interpretation of regulation 65 given to them by Crown Law, and they would have found that our interpretation was the correct one and that Coyne had a right of access to them. Instead of that, Mr Nunan misquoted the regulation, misinterpreted it and said it did not apply and therefore there was no misconduct. The CJC now uses our interpretation—which is the proper one—to advise people how to blow the whistle. Everything that these people have touched in respect of Heiner has been aberrant. And then the question is: why? What is the benefit of that? The benefit is that the entire cabinet is not charged.

CHAIR—If Ms Matchett had been charged, she would have spilled the beans.

Mr Lindeberg—Absolutely. All roads lead to the cabinet.

Mr SOMLYAY—It is a house of cards.

Mr Lindeberg—It is a house of cards.

Mr SECKER—In your recommendations, Mr Lindeberg, you say that the Commonwealth should take appropriate action to address the suspected criminal conduct. What sort of action are you suggesting?

Mr Lindeberg—I am not a legal brain on this.

Mr SECKER—Nor am I.

Mr Lindeberg—Because it is on the public record here, it is my recommendation to the Queensland Auditor-General that everything is so tainted that the only way forward is for the Auditor-General, because he is an officer of the parliament, to write to the Speaker and the parliament pointing out the predicament of all this and for the parliament to appoint a special prosecutor.

CHAIR—Didn't he get left—

Mr SECKER—Or a royal commission?

Mr Lindeberg—Maybe. But the point is that he cannot refer it to the CJC. He is obliged to do that, except that the CJC is tainted.

CHAIR—And now it is the CMC.

Mr Lindeberg—Yes. And this is another point: when you read this document, Mr Barnes advises that 'we will not come to the Heiner affair again because its integrity has been impugned by the Queensland parliament.' But, like dogs returning to vomit, it has done it over and over again and found no misconduct, when it has agreed within its own walls not to come back to the

thing. The people do not know that. This is the body—the so-called honest broker—that is breaking its own rules in respect of this issue.

In relation to the Commonwealth, I am not sure, except to say—and, again, I am not sure whether it is set out in the Constitution—that I think the average punter in the street believes there should be equal justice across this great nation. We are a Commonwealth, a federation of independent states. But here we have a cabinet in Queensland which can break the law and get away with it. We are supposed to be equal within the nation. It may be that they are just breaking new ground; I do not know.

CHAIR—We hear those arguments, and that is something that will certainly exercise the minds of the committee subsequently, but there is nothing we can do about it.

Mr SECKER—Another of your recommendations is that the Attorney-General not be a member of the executive government. The only problem I have with that is: who is going to give legal advice to the executive if the Attorney-General is not there?

Mr Lindeberg—They can still give it. England's attorney-general is not in the cabinet.

Mr SECKER—Is that right?

Mr Lindeberg—This is another interesting point, as someone has advised me. Heiner should never have gone to cabinet. One of the reasons they sent it to cabinet was to 'warehouse' the documents, as happened in the McCabe case. Their arrogance, their foolishness—notwithstanding that I have put evidence that you need to find out who actually knew this. That is why I am suggesting that the transition into government team is very critical in this and I believe that people like Mr Kevin Rudd and Mr Wayne Swan would have known about this, because they had plans when they came into government. In relation to the Attorney-General, EARC—which was a Fitzgerald body—raised the issue of the role of the Auditor-General. There were arguments back and forth, and ultimately they said they should stay in there.

CHAIR—Hasn't Mr Beattie been criticising the Auditor-General in recent days for doing his duty?

Mr Lindeberg—Did I say 'Auditor-General'?

CHAIR—Yes.

Mr Lindeberg—Forgive me. I meant to say 'Attorney-General'. Mr Beattie has been criticising the Auditor-General but we are talking about the Attorney-General. The problem in this case is that the first law officer of the state was a member of the cabinet which was obstructing justice. Does he have to prosecute himself?

CHAIR—The DPP does the prosecution. At least when the Attorney-General used to do it he was answerable to the parliament; the DPP is not.

Mr Lindeberg—It is a very serious question.

CHAIR—It is a very difficult area.

Mr Lindeberg—I know that. But we now have the precedent of Pastor Ensbey—and they argued this point in courtroom 129 and the judge was emphatic. It was no surprise.

CHAIR—It is no surprise that logic prevailed.

Mr Lindeberg—Precisely. It gave me some degree of joy to see the judge stand up and say, 'No, I don't agree,' and then later putting forward the point. It gave me some confidence that there may be some separation of powers in Queensland at that level. But, even now, for example, the Chief Justice of the Supreme Court, notwithstanding the evidence here, has before him evidence in which Mr Beattie is saying, 'We will destroy documents up to the point of a writ being served.' That is what they are saying. The Crown, the other arm of government, is saying they will do that. You cannot get a fair trial if that occurs. And not only that; as we see with the deed of settlement, we will expend public money. I did not make this point: they said that Minister Warner spent above her spending limit—she had a limit of $5,000 but she went to $27,000. I was told by Mr Coyne that they said, 'We won't send it to the Governor-in-Council, because it will save time.'

Mrs Bishop, you have been a minister of the Crown. May I respectfully suggest that, if there was one thing put into your head when you were sworn in as a minister of the Crown, it was to know your spending limits. They should be aware of that in Queensland, where four National Party people went to jail. But they thought they could get away with it. To double that up, they made sure that Coyne never talked about it, by putting in the key phrase: 'You won't talk about these events for the rest of your life.' They knew what the spending limits were. It so happened that I had a union official who was not happy with my sacking and who told me that information.

CHAIR—Is there anything further you would like to say, Mr Lindeberg?

Mr Lindeberg—To conclude, I bring to your attention the fact that in October 1994 I tabled this 84-page petition in the Queensland parliament by my own hand. I know that this document went to Mr Beattie because I have letters from him. Events have moved on since then, but it certainly points out section 129 of the Criminal Code. Mr Beattie has alleged that all the issues have been exhaustively investigated and said he is not going to do anything.

CHAIR—He said that publicly in response to the other thing.

Mr Lindeberg—I want to let you know that he has stated that he has no knowledge of these things, but it is not true.

CHAIR—That has become apparent—and it certainly has not been investigated or dealt with properly. What is new about all of this is that the evidence that the cabinet had that there was sexual abuse of a minor in the care of government was destroyed at their instigation, knowingly—and that is just unforgivable. That young woman's life has been destroyed. I know from reading these FOI documents that for three days she was even left in the company of the people who perpetrated the act upon her, to further intimidate her. No proper action was taken

for three days after the event, and the cover-up and the destruction of evidence followed. It is beyond the pale, and it cannot be allowed to be quietly covered up.

Mr Lindeberg—I will make a final point, and I say this because of my family: there also should be a realisation in this of the role of whistleblowers.

CHAIR—I agree.

Mr Lindeberg—This has taken 14 years of my life, and I am denigrated by certain people around the place as being obsessed with this issue. I am not obsessed; I am just determined. My family have had to sacrifice a lot. I went to the CJC and basically put my life in their hands. They turned around and gave me lies, dissembling, untruths et cetera. They played the political game. Fourteen years of my life, the best earning years of my life, have been spent on this particular issue. I have utmost sympathy and support for the young girl. She has to get justice.

Our nation does need whistleblowers to keep the system honest. But why would you be a whistleblower if you end up like me, in one sense having to struggle for 14 years on what I suggest is a fundamental point of the law, which the ordinary punter in the street knows? I have had to put up with drivel being put forward by so-called learned people in the law who have told me nonsense and who have been elevated up through the system to sit on the bench—even in the Supreme Court—and to now be Information Commissioner and that sort of thing. Looking at this in terms of jobs or money earned, who is the mug? But I am not a mug, because this is not over yet. The truth has to come out. I want to see those people put in the witness box and asked, 'What did you do when it came before you?' and let the law take its course. Thank you very much for having me here.

Mr SOMLYAY—You mentioned Wayne Swan and Kevin Rudd. Can I just ask you very briefly what positions they had at that time?

Mr Lindeberg—Kevin Rudd unquestionably must have had knowledge of this issue, because he was Mr Goss's private secretary. I have no doubt about that. Mr Swan was the Queensland State Secretary of the ALP at the time. As I understand it, he was the campaign leader. He did not become a public servant. It turns on this transition into government. There must have been a nod. We have evidence that Anne Warner said, 'We knew there were troubles at the centre. The first thing we did was get rid of the manager.' What were the troubles? Was it his handling of the pack rape? If that was the case, they should have sent him to the police. Instead of that, they got rid of him. He jumped up and down and said, 'I'll go to the police' et cetera. They brought him in and paid him this money and then they slipped in, 'You won't talk about these events for the rest of your life,' on a deed of settlement.

The only person they did not count on was me. I had lost my job. In the documentation of this particular case you will see the charge written out. That came about when I happened to inadvertently learn about the secret plans to shred. I challenged it and was immediately removed from the case. Mr Martindale and the others took over. A number of weeks later I was sacked, and this was one of the charges used to sack me. I said 'That's nonsense,' and I fought back. Little did I know that it would take 14 years.

CHAIR—Thank you very much for coming back to give evidence today. Hopefully, by airing this and bringing new material forward the matter can be progressed. The attitude that you have taken is to be commended.

Mr Lindeberg—Thank you very much.

[12.10 p.m.]

GRUNDY, Mr Grahame Bruce, (Private capacity)

CHAIR—Welcome back. I remind you that you are still under oath.

Mr Grundy—Absolutely.

CHAIR—You wanted to make a couple of other points.

Mr Grundy—Yes. I have not spent as long as Kevin on this case but in the process I have talked to a lot of people and there is a lot locked up here in my head. Some of it does not just pop out at the time, but things were mentioned this morning which ultimately I have recalled. I want to place them before you, because there is no doubt that it was Mr Heiner who was talking to Mr Roch. I will tell you why. Mr Heiner, on occasions, had two assistants. One was a secretary and another was a woman providing assistance from the department. She was present during at least some of the interviews that Mr Heiner conducted with people. I found her many years ago and I interviewed her at some considerable length.

What she told me involved a man who had been at John Oxley who was an air pilot. He had had a problem with the manager out there. This woman was not totally impressed with the manager, but she told me about this airline pilot who had spent several hours on the phone one night with Mr Coyne. Mr Coyne wanted him to retract an allegation or a complaint he had about an inmate who had assaulted him. Mr Coyne wanted this changed. This person who they were interviewing would not change it and so he and Mr Coyne were on the phone for several hours until the time came for the shift to change and for this person being interviewed to go home. So he said goodbye to Mr Coyne and told him that it was time to change shifts, and then he went home.

Subsequently when I met Mr Roch, he told me that he had been an airline pilot and he also told me about an incident in which he had had telephone contact with Mr Coyne for several hours over a matter of whether or not he should withdraw a complaint which he had made against an inmate. Unless my house is blown up overnight or the rats have attacked my records, I can produce incontrovertible evidence of that woman talking to me and telling me those things.

CHAIR—Would that identify that woman for our purposes?

Mr Grundy—It would identify her, and I did ask Kevin before to try to remember her name—but it will come back to me. I would be happy to provide you with that material.

CHAIR—Thank you.

Mr Grundy—It will prove what I have just said: she was there when Mr Heiner talked to an airline pilot about a phone conversation with Mr Coyne. Mr Roch told me that—

Mr SECKER—I think Mr Lindeberg knows that name—he thinks it might be Finn.

Mr Grundy—Yes.

CHAIR—We will make a note of that and see what we can ascertain about Ms Finn.

Mr Grundy—It may be Finn or Flynn—I cannot remember which.

CHAIR—Will that be in your documentation?

Mr Grundy—Indeed it would—unless, as I said, since I left home this morning either the rats have attacked my home or it has been blown up. Sometimes I think that either or both of those are possible. Can I just say one last thing: there is a person who knows whether or not he spoke to Mr Roch—his name is Mr Heiner.

CHAIR—Correct.

Mr Grundy—Do you have the authority to subpoena people before this committee?

CHAIR—That is something which the committee will be considering.

Mr Grundy—I suggest that we could then find out once and for all, because I would like to know. Mr Roch can verify our conversation, or whatever, but that is what happened.

CHAIR—Thank you very much Mr Grundy.

[12.15 p.m.]

ROCH, Mr Michael Joseph Ormond, (Private capacity)

CHAIR—Welcome back to the table, Mr Roch. I remind you that you are still under oath. You and I had a conversation after you gave evidence earlier. I asked whether you had seen the young girl after the incident had occurred and how she was, and you explained some things to me.

Mr Roch—Yes. Before the incident, she was a dear little girl. She had done a couple of break and enters, but she was not a bad person. She was happy, full of fun and could have a joke. But after this incident—and this is quite normal—she could not look you in the eye. Before, she would come up to me, give me a hug and say, 'Hi, Rochie,' but after the incident she was withdrawn.

I can see a physical scar on a person, but I cannot see a mental scar. It was a horrific thing that happened to her. What is so sad is that we were there to protect these little children. Okay, they had done wrong, but that is beside the point. We were there to look after their wellbeing. Because of the administration, this was not done in the best way it could have been. In this case, the staff who were supposed to supervise her on this outing did not do their duty. Then, to compound the whole thing, it was hushed up, which I think is pretty disgusting. The manager—who, you have already established, I do not care for—was innocent of the act but he was not innocent of the consequences. He was very culpable of that.

Just changing the subject, I did, as Mr Grundy said, spend three hours on the phone to this Mr Coyne one night. In the end, after half an hour of silence, he said, 'Are you there?' I said, 'Yes, I'm here, Mr Coyne.' I got a book out and read it for three hours before I went on duty. He kept me on the phone for three hours that night to try to intimidate me into withdrawing a statement—I cannot remember exactly what for. But that was the sort of thing. Did I answer your question?

CHAIR—Yes, you did. I just wanted to hear about the little girl.

Mr Roch—She was a dear little girl, and it completely changed her. The trouble is that this has affected her whole life. She must be about 30 now. Can you see what effect this would have had for the rest of her life?

CHAIR—Yes, I can. Thank you very much. There are no further questions.

Resolved (on motion by **Mr Somlyay**):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

Evidence was then taken in camera—

Committee adjourned at 1.01 p.m.