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Official Committee Hansard

**HOUSE OF
REPRESENTATIVES**

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL
AFFAIRS

Reference: Crime in the community

FRIDAY, 18 JUNE 2004

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HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Friday, 18 June 2004

Members: Mrs Bronwyn Bishop (*Chair*), Mr Murphy (*Deputy Chair*), Mr Cadman, Mr Kerr, Mr McClelland (from 11/8/03), Ms Panopoulos, Mr Sciacca, Mr Secker, Mr Somlyay and Dr Washer

Members in attendance: Mrs Bronwyn Bishop, 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

McMULLEN, Mrs Kay Barbara, (Private capacity) 1799
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Committee met at 10.47 a.m.

CHAIR—I declare open this public hearing of the House of Representatives Standing Committee on Legal and Constitutional Affairs inquiry into crime in the community: victims, offenders and fear of crime. Today the committee will hear further evidence on the Heiner affair. We have already had a number of hearings—last October, as well as in March and May this year—on this issue. The Heiner affair is about the Goss cabinet authorising the shredding of documents allegedly containing evidence of child abuse taking place at the John Oxley Youth Detention Centre—an act we now know was illegal—despite advice which the Goss cabinet relied upon and which the Beattie government is still relying upon today, it would seem.

Two things have happened that are quite relevant. First, in the case of the Queen v. Douglas Roy Ensbey, who was convicted by the court of committing an offence similar to the one of the Goss cabinet, the Attorney-General is appealing against the leniency of the sentence in that matter. At the same time, this week the High Court has handed down its decision in Ostrowski v. Palmer, which finds that ignorance of the law is no excuse and that the defendant in that particular case was convicted of an offence, despite a government agency giving him advice to the contrary.

According to Premier Beattie, the Heiner affair has been investigated to the nth degree. Interestingly, none of these inquiries have ever called Mr Heiner to give evidence in the affair that bears his name, even though he is the person who conducted the inquiry into the John Oxley Youth Detention Centre. This committee is the first to have taken evidence from Mr Heiner. Today the committee will hear from the Hon. Beryce Nelson, who was the Minister for Family Services until the Goss government came to power. It was Beryce Nelson who actually set up the inquiry into the centre because of her concerns and appointed Mr Heiner to conduct it. While the abuse that allegedly took place at the John Oxley Youth Detention Centre happened a long time ago, it appears that there are other facilities in Queensland where others who are disabled are at risk of abuse. The committee will also hear evidence today about the possible mistreatment of residents at a home for the intellectually disabled on Bribie Island. The witnesses are Mr and Mrs Rowe, whose son Peter is a resident of that facility. Mrs Gail Torrens and Mrs Kay McMullen will also provide further evidence of alleged abuse and neglect by carers and state government departments.

[10.50 a.m.]

NELSON, Mrs Beryce Ann, (Private capacity)

CHAIR—I ask at the outset, Mrs Nelson, whether or not you have ever been asked to give evidence before any of the inquiries that Mr Beattie has referred to.

Mrs Nelson—No. None of the inquiries that have been held to date have ever asked me to come forward, which I have always found interesting.

CHAIR—We have received as an exhibit a document which was witnessed and signed by you on 15 May 1998 concerning the appointment of Mr Heiner. I understand that that document was tabled in parliament.

Mrs Nelson—That is a publicly available document. It was laid on the table of the parliament in that year. It was a statutory declaration I made that year.

CHAIR—We will publish that exhibit.

Mr SOMLYAY—It is so moved.

CHAIR—Would you like to make an opening statement?

Mrs Nelson—Firstly, I would like to thank you for inviting me to come and making the opportunity available for me to set the record straight on the matter of the Heiner inquiry. I believe that there was an abuse of trust that took place in early 1990 against the children who were in the care and protection of the state at the time in that particular facility. I would like to set the record straight in terms of dispelling the myth that was perpetuated at that time that the inquiry had not been fully and properly established and therefore had to be wound up and that the evidence had to be destroyed. That was simply not correct. I think that there have been enough inquiries now that have established that that is not correct but, permanently and finally, I want to put that myth to bed.

The inquiry was set up at a time when an election was about to be called. It was not an appropriate act at that stage for a minister in any cabinet to establish a full commission of inquiry because it was too close to a state election. I also discussed the matter with my director-general and the deputy director-general. We determined that it would be appropriate to initiate a shorter term inquiry to give us preliminary findings so that there was room for an incoming government and an incoming minister—whether that was me, and I obviously optimistically hoped that it would be me—to establish a full commission of inquiry. Legal advice was taken by the then director-general, a very fine man I might say, Alan Pettigrew. It is very sad that he died of cancer not very long after. He did an outstanding job as a public servant. But he and the senior officers in the department, George Nix, Myolene Carrick and others, were very conscious of my concerns that are outlined in my statutory declaration about the operation of the John Oxley Youth Detention Centre.

My concerns were primarily from the point of view of the children who were in the care and protection of the state. Some of those children were there for criminal offences; apparently, others were not. The facility itself had been the subject of constant criticism over the previous 12 months. I had staff from the centre come to see me in their capacity as constituents of mine whilst I was a backbencher. They made sure that I did not identify them in my diary so that they would not jeopardise their positions. They were very intimidated. They felt very threatened.

I was most concerned following a particular account of an incident where obviously a staff member had, over a number of months, not been properly managing the children in his care. He allowed activities to take place that I felt were inappropriate for children under 15; they were of a sexual nature. There appeared to be evidence of public service misbehaviour. The attempt to provide just a disciplinary notice on his employment record was not satisfactory to me. In fact, I think I remember writing on the ministerial brief, 'A flock of bears just flew over my office,' because I was so unimpressed with the advice that he was offering in his defence.

There was a culture of concealment and collusion that occurred in the early part of 1990. Some very fine people from a number of the state service unions had also approached me about the matter and had agreed with me that there was a need for an inquiry. I think they were rather surprised that I was happy to pursue an inquiry. Some of those people's lives have been very badly damaged by that culture of concealment and collusion, and that culture exists and continues to exist today. I believe the inquiry was not shut down to protect the innocent; the inquiry was shut down to protect the guilty behaviour of some members of the AWU who were operating at the John Oxley centre at the time.

That particular union was the leading faction in the election of the Goss government and certainly was the powerful force within that government. It remains the powerful force within the current government, and I think it exercises the same powers of collusion and concealment in cases that are before the public at the moment—and I particularly refer this committee to the Volkens case, which, if you have not had a chance to investigate, I believe you should. I believe there was intervention of the highest order by the Queensland government to abandon that case. I was the member at the time when those alleged offences took place. They are an example of this bullying tactic—the collusion and concealment, the power of adults over children and the denial in Australian culture, particularly in Queensland. I am very pleased to see this committee is looking into the other allegations that may have occurred against young people with intellectual disabilities. I have my own reasons for being very pleased to see that you are doing that.

But what took place in 1990 was illegal; it has now been proven to have been illegal. There was no need to destroy the evidence. The cabinet minute was attended to to provide immunity and indemnity if that were absolutely necessary. Our intention was, anyway, for Mr Heiner to report around the middle of January and to establish a formal commission of inquiry based on his findings. We had every expectation that the eight points would be investigated by Mr Heiner. At no stage was he told simply to do the first point. The director-general and the deputy director-general were quite clear on that point in their briefings to him and to me.

CHAIR—So you are saying that the terms of reference were re-interpreted by the incoming government.

Mrs Nelson—I think they were. I do not even know that they were reinterpreted; I think there was fear and panic. I think the findings were so damaging against some key players at the John Oxley centre that it became a union catfight—it was the fors and the againsts, and anyone that wanted to keep the inquiry going was just destroyed and pushed aside. I think nothing has changed in terms of that behaviour. I have very little information available because most of it was destroyed, including departmental files. I find Mr Nix's statement that he was asked to hand over the file and that it disappeared really intriguing. That was the file that would have recorded the setting up of the inquiry and the nature of the inquiry. Those documents formed part of cabinet documentation. Given that there was a cabinet minute created after the event in January—and we have Mr Heiner's own evidence to support that, apart from the anecdotal evidence of the time—to protect witnesses, once that cabinet minute was passed all the documentation then belonged to cabinet and should have been kept for the 30 years. I know the state archivist asked cabinet to keep the documents. I know the state archivist was also lent upon and basically was told to forcibly destroy the documents. The state archivist insisted that the cabinet secretary at the time come to the state archive's office to do the destroying.

CHAIR—Who was the cabinet secretary?

Mrs Nelson—I do not know. His first name was Tom. I am not sure of his last name. I think he subsequently died. I am not 100 per cent sure, but you could easily find that out. I think he had a heart attack some years later. But I know that the advice that he went back to cabinet with from the archivist was that the archivist did not want to destroy the documents. They were sent over from the minister's office to be destroyed, and the state archives office did not want to destroy them. There was a lot of public comment about that at the time in the media. A lot of pressure was also applied to the archivist.

It is intriguing to me that an incoming government would be interested in concealing the behaviour of a previous government that they had worked so hard to remove from office. At first I thought it might be the naivety and the panic-stricken behaviour of a new government, but once the documents were destroyed and the people from the various unions who were involved started to approach me personally it was very clear that there had been such significant criminal activity taking place and such serious public service misbehaviour that people had acted quite ruthlessly to protect the adults in the situation.

To come back to my point, I think that what has existed since that time in Queensland, what exists there now and quite possibly—if news from Victoria can be believed; it is a bit surreal—what exists in other states as well is a culture of violence, bullying and threatening. It is very clear from the brief that Ian Peers wrote, which I assume you have seen in previous evidence, to the acting director-general of the time that the only process he was taking into account was to interview various adults and to interview Mr Heiner. It was really a face-saving and concealment type exercise. The whole thing was to avoid having a court case, to avoid people being charged with criminal offences and to hide their deeds, just as I believe is happening in Queensland now with the Volk's case. I think the same sort of intimidation has taken place against very senior officers. In fact, that affair is even more serious, if that is possible, than this one, in the sense that it does involve a case that was a committal hearing before the courts and was abandoned despite significant evidence to the contrary. That is not the matter we are here to discuss, but I do think that it is an indication of the process that takes place in Queensland when there is a risk of any members of that particular power clique in any way having to account for their actions.

There was a long period of cover-up surrounding both D'Arcy and Wright. One is serving and one has served a sentence for sexual behaviour against children. I believe that that culture is what needs to be dealt with. What I am really saying to you today is that you should be calling on the Queensland Premier not just to say: 'We're sorry. Yes, it happened. We were wrong,' which nobody has ever said to any of the victims, but also to get rid of the dinosaurs in that political entity, in that political structure, to weed them out, remove them and break the ties with them. There have been attempts made by the Labor Party in this state in the last year to weed those forces out. There has been significant conflict within the party in the past year in an attempt to weed out that factional power structure. But it is time. They are dinosaurs. They also exert far too much inappropriate pressure on the lives of the parliament and the lives of the government. Most importantly, they have had a very destructive effect on the lives of children who have been in the care and protection of the state.

We are judged by our deeds, not by our words. To this day, despite money being available now for child safety and child protection, if you actually look at the way that is all structured and administered, it is all about the rights of adults. The whole thing is about the rights of adults, not about the needs of children and the protection of children. I still think that when you have got that underlying culture that controls the entity you are never going to get to the right solutions and you are never going to get an acknowledgment of the three R's: accepting responsibility, making restitution and expressing remorse. There is no remorse. There has never been any remorse, and that is the thing that I find the most difficult to deal with.

CHAIR—Could we go back to what you had to say about the cabinet minute which would have put the documents into the ownership of the cabinet and—

Mrs Nelson—They were really anyway. It was an inquiry that I established through the department and, because it required my signature, it had ministerial power. That was just a furphy. I am sure that Mr Heiner was appalled and quite frightened when he started to get the evidence that he did. These people who had the power would have started to act in a very threatening and aggressive way. I am sure he wanted to take the step that he had been told would be taken to take the inquiry to the next level. His contact with the department would have been purely a natural part of the process to take the inquiry from a preliminary investigation to a formal commission of inquiry. The fact is that they then took it to the cabinet—and he has indicated he had a telephone call validating that, and I certainly was advised by my sources in the public service that that had been done. At that stage, I was hopeful that we could still overturn the decision to shut down the inquiry. It was 12 years before anything was done about the John Oxley Youth Detention Centre and 14 or 15 people died. Children committed suicide in that centre in that period before anything happened.

Mr SOMLYAY—Do you mean after 1990?

Mrs Nelson—After 1990, yes. Children were hanging themselves out there because of what was happening to them. It was a very poorly designed facility. You need to understand this whole discussion and debate arose as a consequence of the Kennedy commission of inquiry into prisons that Russell Cooper had instituted. He knew that there had to be new facilities built, and he approved a replacement facility for the John Oxley centre. Land was selected and plans were drawn up in 1989, but it was 2002 before anything was actually completed under Anna Bligh.

Mr SOMLYAY—This was not looked at by Fitzgerald?

Mrs Nelson—No, that was wrapped up fairly quickly. As far as I know, this was never looked at by Fitzgerald. The fact is there were bad things happening to the children and the place was poorly managed. They were understaffed and underresourced. The whole department was underresourced, and I have said that in my statutory declaration. I agreed with the people from the Indigenous communities and from the unions and my own staff who came to see me to talk about the need for restructuring the department. I had hoped and believed that the commission of inquiry would lead to those outcomes, somewhat similarly to what happened in 2003 with the Department of Families and the new child safety department being created—but not on the right premise. Unfortunately, it is still dealing with the issue of the power and the rights of adults and not the needs of children.

CHAIR—You said in your statement of 15 May that the merit or otherwise of Peter Coyne was never a principal issue for you and the inquiry was not set up and aimed at him.

Mrs Nelson—No, and yet he became the focus of protection and was paid quite a substantial amount of money as a severance payment to him. The objective of the inquiry was never to ‘get’ anybody. It was to obtain facts on which to build a full commission of inquiry which would allow a restructuring and refinancing of the department. We had also intended to bring in a team of management consultants in the new year to look at a complete restructure and review, with the Premier’s approval, in the beginning of 1990. But that did not happen either, of course.

CHAIR—Perhaps we could just through the time line. You established it in November.

Mrs Nelson—We started discussing it in October, because that was when a number of children absconded and went to Fortitude Valley and played the poker machines and the game machines. They were eventually rounded up and taken back. I do not think the place even had a lock on the gate, to be honest. It was pretty much a revolving door. So there was not proper management to start with of people who needed care and protection. The discussions started then. Because we were coming close to an election, it was agreed that it would be better to hold a preliminary investigation authorised by me, carried out by the department and funded by the department so that a full commission of inquiry could be instituted in the new year. We made it three months quite specifically, because we did not want the whole thing to turn into a catfight; we wanted to get facts on which we could build a case for rebuilding the department. Also, very importantly, if there had been actions that were improper or illegal, people would have been dismissed from the department and charged with any offences they needed to be charged with.

CHAIR—So you discussed that in October—

Mrs Nelson—It was early November when I signed a document authorising it, and it took until about the middle of November for it to kick off. The Chief Magistrate advised them to ask Mr Heiner. They came back and asked me. I accepted his CV; I thought it was appropriate. They briefed him, he accepted and then they obviously negotiated the terms. He started his work and obviously had an office and so on established. He conducted his work, as far as I know, through until about the middle of January. From my sources, I understood that he met with the new minister on 10 January. I do not know that he claims he did that, but my advice was that he met with Anne Warner and Ruth Matchett on 10 January 1990. He had been in contact with the

director-general, the acting director-general and some of the people outlined in this document to discuss concerns about what he had found and the need to extend the inquiry.

CHAIR—Presumably that is when he was told that he was not properly set up.

Mrs Nelson—I do not know that he was ever told that. That seems to have originated in the department when it turned into a catfight between the factions. Some of that was on union lines and some of it was on personality lines. I think that was an absolute red herring.

CHAIR—You think it was designed to find a way to get rid of it?

Mrs Nelson—It was a diversionary tactic. I suppose you could call it a piece of ‘Sir Humphrey’. It was a diversionary tactic to get the whole thing shut down and hidden away.

CHAIR—It certainly worried Mr Heiner. He wrote and he produced the letter that he had written. But then he got the phone call about cabinet having taken care of it.

Mrs Nelson—That is right. I think he became concerned because of the conflict that came out of the department. He was not getting reassurance from the department. What he should have got was a quite specific statement of reassurance that his inquiry was properly established—which it was. That is the myth we need to put to bed.

CHAIR—I find the next bit of great concern. Ms Anne Warner became the minister. There was a report in the *Sunday Sun* newspaper on 1 October 1999 which quotes Anne Warner, who was then in opposition, saying that staff in the centre—that is, the John Oxley Centre—had told her that a 15-year-old girl had been sedated with drugs usually reserved for psychotics and that a youth had been handcuffed and left overnight in an enclosed yard. Ms Warner went on to become the minister, which of course closed down the Heiner inquiry. So she knew at that time that things were not right, yet she closed down.

Mrs Nelson—That is what shocked me. I had other cabinet responsibilities earlier in that year, so I was not attending to the portfolio, but I certainly knew about that particular story. There were a number of incidents like that. There was an allegation that drugs were being brought in by young people who were absconding and bringing them back. There were allegations of staff being part of easing the way for the absconding, being part of that whole process.

CHAIR—All of that was around, but we actually know that she knew that there was something terribly wrong.

Mrs Nelson—She ran quite a strong campaign on it.

CHAIR—Interestingly enough, Ms Warner came here to these premises, to one of our hearings, but before we could call her she left. We invited her again to come and give evidence to us but she declined to be here today. We are a bit disappointed about that.

Mrs Nelson—My initial view was that there was a very new and reasonably junior director-general, someone who had come from a line director position straight into the role of director-general—an appointment of the new minister. My initial view was that there was some sort of

panic, but I did not have access to these papers. When you read these reports by Ian Peers to Ruth Matchett, it is very clear that they were not panicking about the abuse that was happening at the centre.

CHAIR—They were panicking about the union.

Mrs Nelson—They were panicking about their mates getting into trouble and the trouble that that was going to cause. It is very clear that pressure was brought to bear on the director-general and the minister to shut down the inquiry and that some of the key players in that pressure are outlined in this paper, which I am sure you have on the record. I certainly will provide it for you if you do not have it. I am sure you already have that.

CHAIR—I do not think we do have that—no, this is a new document. If we could have that, it would be excellent. It has been moved as being accepted and published as evidence.

Mrs Nelson—It is the briefing document that Ian Peers wrote for the acting director-general at the time in terms of how to deal with the matter of the inquiry. It was obtained under freedom of information some years ago. Because it was a new document, it was able to be accessed. That indicates quite clearly that there was no concern—there is not one mention in there about what was happening to the children. The whole thing is about protecting the people who were on the staff or in the department.

CHAIR—We also asked Ruth Matchett if she would appear today and she declined.

Mr SOMLYAY—The three of us have been ministers, so we know how the bureaucracy works. I find it incredible that, if the documents which belonged to Heiner were shredded, the documents in the department were also shredded.

Mrs Nelson—All the files.

Mr SOMLYAY—I find it very hard to believe that there are now no documents somewhere in the department.

Mrs Nelson—Apparently there are not, except for the file that obviously was created afterwards. But the file to establish the inquiry was handed by George Nix to Ruth Matchett's personal assistants, and it has never been sighted since. The indication is that it was destroyed.

Mr SOMLYAY—There would have to be descriptions on other files of the evidence that Heiner had been given at his inquiry, which would have been brought to the attention of the department.

Mrs Nelson—That file was the one held by George Nix, and that was the file that was seized. That was also part of the destruction process. That is what is really so sad, so wrong. My view is that the issue is one about the rights of children at law, in the legal process. They have gone from being, I suppose, chattels to some low level of recognition, and we need to have a completely different approach.

Coming back to the Volkens case, for instance, the advice given by the public prosecutor's office in New South Wales was tantamount to being offensive to every woman in the country in terms of its lack of understanding of the issues relating to the protection of children. This case is just another example of a group of powerful adults colluding and intimidating to protect their own misdeeds and the misdeeds of their buddies, their mates, rather than looking to protect the rights of the child and the children involved. You would know that, if you have ministerial authority for the care and protection of children, which the Minister for Family Services had, you are legally obliged; you have a duty of care to those children, and that was not exercised by the incoming government. I believe that the precedent that was confirmed at law last year and again recently about matters that might be needed for criminal cases and the destruction of evidence shows that it definitely was a criminal matter then and it remains a criminal matter.

Mr SOMLYAY—When you said you had evidence of what was happening there—

Mrs Nelson—I said 'allegations'.

Mr SOMLYAY—Sorry, allegations from constituents. Were you the minister then?

Mrs Nelson—No, I was a backbencher.

Mr SOMLYAY—So was it quite well known that this was happening?

Mrs Nelson—It was beginning to emerge. From about, I would say, February-March that year, it began to emerge that there were major problems in the John Oxley Youth Detention Centre. But there were also problems in the operation of the department. It was underfunded and significantly underresourced to manage the issues of child protection that were before it at that stage, let alone what happened in the following decade. So my view was not just about John Oxley. John Oxley was the focus of immediate attention because I had concerns about what was happening there and we needed to address those concerns.

Mr SOMLYAY—I do not remember that being a top-of-the-mind issue back in the eighties.

Mrs Nelson—It was a revolving door. They were in and out of the place. But it was the public service misdemeanour reports that I received as minister that made me realise that something really dodgy was going on there, quite apart from the people who had come to see me. I fed back into the system information about the concerns that people had, but their concerns were those that I think were emerging in the eighties about the needs of children and it really was into the mid-nineties and late-nineties before we saw any substantial change throughout the country in that matter.

I think you probably know that I spent all of the nineties and up until last year as a member of the board of the Abused Child Trust in Queensland. I helped to establish the Kids First Foundation in Australia to try, as a volunteer, to tackle some of these legal issues head on and to establish a national process of guardianship and to have uniform national laws on child protection. These were all agendas that we wanted to run with.

But the simple fact is that things were happening at John Oxley that were wrong, and they needed to be addressed. We set up a process, quite properly, with very senior people, with a very

respected person in Mr Heiner. We expected to get a preliminary inquiry by the middle of January, and Mr Heiner certainly came back very quickly to say that he was concerned about what he was finding. Instead of receiving the support and reassurance of the department, he was just shunted off and shut down and asked to hand in all his documents. I believe he was also asked to swear an oath of secrecy, to sign a confidentiality document, which was only able to be overruled by federal legislation, which has greater power.

CHAIR—In the report in the *Courier-Mail* on 21 May this year, which I read from before, there is a comment from the anti-child abuse campaigner Ms Hetty Johnston, who became very well known over how the Anglican church, particularly under a former Governor-General, had dealt with questions of child abuse. Of course, Mr Beattie took that up in a great way. Ms Johnston is saying that the fact that Ms Warner knew about it means that it was entrenched in the department. What worries me is that, while people like Ms Johnston and the Premier were prepared to really get upset and take action with regard to forcing the Governor-General from office, the Premier's Treasurer today was then part of the cabinet that destroyed all the evidence about what was happening to children in a government-run detention centre. Do you think they think that, because those children might have got into trouble with the law, they are somehow lesser children and they do not matter?

Mrs Nelson—I do not think there is a perception of the value of children in the current culture that runs Queensland. If there were, we would not have the repetition of these events from the early nineties through to now. I do not think they are alone in that. I think that is an issue across the country. But it is very strongly evident here. That is why I said it is part of that old entrenched AWU power structure that runs the state. If you look at some of the activities of some of those people, you see that there is no respect for the rights of women and children. There has been very bad behaviour towards children in particular. There is a lot of window dressing and there is a lot of talk, but again it comes back to adults.

I have a particular view about bringing people down. What was the point of bringing down a Governor-General? It did not make the life of one child safer. It was again an attack on an adult. It was all a scapegoating type solution rather than looking at how we address the issue of law as it relates to children in the country.

CHAIR—And the destruction of the documents was to protect the adult members of the AWU who were employed in that detention centre.

Mrs Nelson—Who were part of that illegal activity.

CHAIR—And therefore part of the power structure.

Mrs Nelson—They had to be protected at all costs. The children were of less relevance, of less value. That is the consistent theme right through. You will find that a few public servants will be scapegoated out, just like unionists and public servants were scapegoated out in the nineties.

CHAIR—From your point of view, what is happening when finally an action is brought against Pastor Douglas Ensbey, who destroyed evidence relating to a young girl's diary? That case is brought. How does this fit the scenario? Here they are, actually appealing against the

leniency of service, whilst if you are a cabinet minister you are absolutely protected and immune. How does it work?

Mrs Nelson—We are not protected at law. I think the precedent set by that case confirms the illegal actions that were taken.

CHAIR—We know it is illegal.

Mrs Nelson—The other thing you mentioned was the Ostrowski case, about lack of knowledge of the law. The people who were destroying those documents knew what they were doing was wrong because the archivist told them. There was not even ignorance of the law. They knew what they were doing was wrong because the state archivist was quite adamant in telling them that it was the wrong thing to do.

CHAIR—They were hiding behind a piece of legal advice that they had sought.

Mrs Nelson—That they had sought from one of their own.

CHAIR—From one of their own.

Mrs Nelson—Yes. If you do not ask the question you do not get the answer that you do not want, and if you do want an answer you write the question anyway. That is another piece of ‘Sir Humphrey’—maybe I have been watching it too much!

CHAIR—In one of the Senate inquiry transcripts that I have read, they were relying on this fiction—I suppose that is all you can call it—this piece of legal advice that, if there had not been an action started, you could go ahead and destroy it. The logical conclusion of that is to make the law a nonsense.

Mrs Nelson—Ian Callinan addresses that in his reply.

CHAIR—That is what I was going to refer to. I have read what Mr Callinan said. Of course, he is now on the High Court. I have read what he said. He laid it out very simply, relying on High Court precedent to establish that that was not the case, but nothing happened.

Mrs Nelson—I think that the Labor Party probably believe that, because they have in a sense taken action to remove the minister and her director-general—and they are no longer part of the power scene—that goes some way towards solving the problem. But, again, that is taking the perspective of the adult and not of the child. In all these matters, the law needs to begin to examine the effect on the victim. It is partly also what happens when there is bullying: you find that the power structure will protect the bully rather than the victim, and quite often the victim will be blamed for what happens to them. This is very similar. It is a bullying culture. It is a leftover from early 20th century unionism, which was based on violence and strong-arm tactics.

But those days are gone, and any of those dinosaurs that are left should be weeded out of the system. Those people that purport to represent the people should look in the mirror—look at their behaviour, at their own personal values—and ask, ‘How have my actions affected the lives of the children in this situation over the last 15 years?’ The answer is: very badly. The more you

try to conceal and deceive, the more it eventually comes out. This is why we are sitting here having this discussion. If they had not destroyed the documents, if they had not tried to secretly conceal the deeds, we would not be sitting here having this discussion. I imagine that we will sit here and have this discussion until somebody is held accountable, takes responsibility and shows the remorse that society demands of bad behaviour. We hope that that is what happens.

CHAIR—You said that it was 12 years before anything was done about John Oxley.

Mrs Nelson—Yes; it was 2002 before it was rebuilt and opened.

CHAIR—In the meantime, kids have gone through that establishment. What was the age of the oldest child in that establishment?

Mrs Nelson—As far as I know, 17. There were more than one facility; there was a new John Oxley.

CHAIR—And what was the age of the youngest child?

Mrs Nelson—The youngest, as far as I know, would have been around 13 or 14. They were all children, and they are children at law. What really concerned me about that facility and the reason we were building two new ones is that there were people in that facility who had been convicted of very serious offences—manslaughter, murder, rape—and there were people in there who were there for minor misdemeanours or under care and protection orders who might have been uncontrollable children. You just had this terrible hothouse mix of vulnerable young children. To me, the staff were ill-equipped as well. The training process and performance management issues were not dealt with, and that was another subject for discussion.

CHAIR—Just to recap, you said at the beginning that the eight terms of reference set out meant him to inquire into what was happening to children.

Mrs Nelson—I think he must have because he would not have got the evidence that he was getting. His evidence seemed very contradictory to me. From just reading through it, it was quite obvious that he did meet with people outside this No. 1—the validity of complaints received in writing. He said in his own evidence that people were welcome to come and see him and they obviously did. So people who had not complained in writing obviously came to see him. So items 2 to 8 were obviously also superficially examined.

CHAIR—But you at no time told him that he could not look at what was happening to the children.

Mrs Nelson—No. I did not speak directly to him. The director-general and the deputy director-general did and they made it very clear to him. We would not have had eight terms of reference; we would have had one. There were eight and they were all to be addressed. If you actually look at those eight you will see that that gave us the opportunity to look specifically at the John Oxley youth centre but it also gave us the opportunity to look at the overall issue of the management of staff and the funding of the department and what policy and program changes there might need to be.

CHAIR—Particularly No. 8.

Mrs Nelson—Yes, particularly.

CHAIR—So Mr Heiner did manage to recall the fact that he certainly had heard of the children being handcuffed, or the child being handcuffed, and he had heard of the use of drugs with regard to one of the children. He also said that he wished he had been asked to give evidence a lot sooner because he might have remembered better.

Mrs Nelson—Yes.

CHAIR—He has no files because they have all been destroyed.

Mrs Nelson—None of us do, and I think that is the sad thing. I wish I had been called earlier for the same reason. Fifteen years has passed and, for instance, I cannot remember the name of the cabinet secretary at the time and the names of other people, which I would have been able to do in the early nineties. I really think this is a classic example of the more you try to hide something away, the more it eventually bobs up to the surface and cracks through the surface. I would be urging the Queensland government to take stock of what is happening in their ranks today with some matters, for they are allowing similar behaviour to occur today, which means the culture has not changed. And the culture must change. That would be the message that I would leave. I think that applies across the country. There needs to be a different approach in the way children are dealt with at law.

Mr SOMLYAY—The rebuilding of John Oxley has not changed that culture?

Mrs Nelson—It may have changed the culture within that entity. I believe Anna Bligh did her best at that time, but she left that portfolio and went to another one. She very determinedly tried to get more money for the portfolio, as did the following minister, Judy Spence. To their credit, they both worked very hard to try and change the culture. But it is a very macho, patriarchal, blokey culture and it just did not stack up against Mines and Energy and Trade and Development, did it? Families are the rhetoric that politicians use but when it comes to the money it does not always deliver. They certainly did not deliver until they were forced to through the foster care inquiry last year. I am just very grateful that the windfall in state revenue from the property boom has allowed that money to be made available now.

CHAIR—Not to mention the GST.

Mrs Nelson—No, not to mention the GST. Fortunately, Queensland benefited significantly to the tune of about \$2 billion. It is a one-off windfall but it has enabled money to be allocated now for a whole new departmental structure. But if that department is not based on the premise of the rights of the child, if it is still based on the premise of the rights of the adults who are working within it as the prime concern and the outcome for healthy children is not the focus, there will not be much progress. I saw it with the work I did for the Abused Child Trust over the last 12 or 13 years. Our prisons are full of abused people; our psychiatric facilities are full of them. Fifty per cent of youth suicides are directly linked back to child abuse. You could talk about the economic consequences of the historical transfer of violence from one generation to the next. When I think about the children who have come out of John Oxley who are damaged people

they are 80 per cent likely to go on and damage someone else in the next generation. So the long-term cost to our society is very great.

The other thing that is very great is the damage to someone who does not have recognition of what has happened to them. I know that with a number of young victims from John Oxley—and also I believe with the other case that I referred to earlier—there is still awful suffering; they are left with a breach of trust. It is an abuse of trust, as I said at the beginning, where a person does not have recognition of their value as a person and does not have what happened to them recognised in law. I hope that your inquiry is able to finally put some legs under some changes that can, if nothing else, be driven in this state and perhaps in other states as well.

CHAIR—Would it be too harsh to say that, if Heiner's documents had not been destroyed and somebody had been forced to act on them, kids' lives could have been saved?

Mrs Nelson—Absolutely. A number of lives would have been saved.

CHAIR—So instead of the great litany of Mr Beattie's nth degree of inquiries, which did not call you and did not call Mr Heiner, and the Forde inquiry, which said, 'You may not discuss this matter,' which all seemed to be part of that pattern of cover-up, and if they had actually done something the kids could have been a lot better off.

Mr SOMLYAY—Did Ruth Matchett give evidence in any of those inquiries?

CHAIR—Did Ruth Matchett give evidence to any of the inquiries? I would have to go back and check.

Mrs Nelson—I do not know. I think that is the fundamental issue here. With the euphoria of the time the hubris was so great with the election of the Goss government that they could easily have afforded it. They would have had capital to throw at the previous government for years in terms of what they could have said about what was happening to those children. But it was the denial of the value of children that was so clear in that newly elected process, and nothing has changed. I think some of those inquiries that were held in that period also felt a need to protect ministers. I think there was the need to protect. They knew they had made a wrong decision in destroying the documents and that meant they were collectively legally responsible, and I think that view was also taken.

CHAIR—It is a bit like Nixon and the tapes in the Oval Office, isn't it, really?

Mrs Nelson—Absolutely. At least he resigned. At least he had the integrity to eventually say, 'I lied; I'm sorry; I'm going.' But there is no remorse. That is the thing that I find difficult. It is the cavalier approach, the ruthlessness. It is the ongoing culture of concealment that allows a mate to ring another mate and get off a case and get off a charge. That sort of culture still exists and needs to be changed.

CHAIR—I have been given a document called 'A record of a meeting between Ms Ruth Matchett, Mr Peter Coyne and Mr Leigh Carpenter' held on 1 November 1990.

Mrs Nelson—That was probably where he was finished up.

CHAIR—It concerned his future and his remuneration questions. We might make that an exhibit.

Mrs Nelson—I do not have any brief for or against Mr Coyne. Mr Coyne was never a focus of attack. I think he became part of the interunion struggle.

CHAIR—I do, however, have another document from the Department of Families and Aboriginal and Torres Strait Islander Affairs. It concerns Mr Coyne saying:

It is my intention to exercise my political liberty and make public comment about the following: the policies of the Australian Labor Party regarding public service and public sector reform; the relationship between these policies and previous media coverage regarding the Heiner inquiry, myself and the management of the John Oxley Youth Centre; the destruction of public documents and the proposed freedom of information legislation; the contents of the Public Service reform policy document and the contents of the article in the *Queensland Times* on 19 April 1990; the privacy of public servants and their right—

and a phrase is deleted—

without inquiry from government. To make public comment, I intend to act in accordance with the code of conduct of officers of the Queensland Public Service.

This is signed by Mr Coyne and sent to the director-general, with a copy to the executive director. Then there is some correspondence between Ms Matchett and Mr Coyne. I think we will make that an exhibit as well. We might also add as exhibits the notice of the Attorney-General's appeal against sentence in the case of the Queen v. Ensbey and a copy of the—

Mrs Nelson—It is really a sort of selective justice, isn't it?

CHAIR—Yes.

Mrs Nelson—You choose which cases you are going to pursue. I found that particular action quite ironic.

CHAIR—There is also a letter here from Ms Matchett to Mr Bill Yarrow, President of the Queensland Professional Officers, which we will make an exhibit. Thank you very much, Mrs Nelson, for coming to appear before us today. In the course of the inquiry we have heard quite a lot of comments about the competition between unions, the power struggle, but I think today actually put it in a context that, for me, made a bit of sense as I am not from this state. When you said it was to protect the adults and to hell with the children, it seemed to make more sense. Nonetheless, we are still in the situation where there is one man who did exactly the same as the cabinet ministers of Mr Goss and one who is a very important minister today committed a crime, and the Attorney-General is appealing to get one a bigger sentence whereas the other one can go on enjoying the fruits of office.

Mrs Nelson—He might regret that action in the future—for a number of reasons.

CHAIR—It is a very worrying situation, I think.

Mrs Nelson—If we want to be regarded just like some backwards state from the southern part of the USA where justice is bought and sold depending on who knows the Attorney-General or the governor—not the governor in our context but in their context, of course; in our case it would be the Premier and the ministers—I do not want to be part of that sort of society, and I am sure that most Australians do not. I fear that we are very close to that in the current circumstances, and it is very important that the Queensland cabinet weeds out that culture and disassociates from those connections or it will lose the confidence of the people. In the end, the will of the people is stronger than that and the bringing down of the Berlin Wall shows that. In fact, I think it has been the voice of the people that has grown over the past decade that has meant that many of these victims of abuse and so on are more prepared to come forward now because they feel the climate is more reassuring for them.

CHAIR—I think that is true.

Mrs Nelson—But when they do come forward—and it is a courageous act for them to come forward—they must be able to expect the impartiality of the justice system and expect that they will be dealt with fairly.

CHAIR—We still have the evidence that we took concerning the Aboriginal girl who was subject to the rape at John Oxley. She has tried to come forward and found herself slapped into jail.

Mrs Nelson—Which is, again, part of that factional power structure if you look at the parties concerned.

CHAIR—Is there anything else you would like to add.

Mrs Nelson—No. I just want to thank you for the opportunity to give evidence to the committee. I hope this does bring some results.

CHAIR—Thank you for appearing before us.

Mrs Nelson—I appreciate the effort you have made in taking time out to be here on a Friday. I know Friday is the day you normally spend in your own areas and with your own families.

[11.50 a.m.]

NIKOLICH, Mr Joe, (Private capacity)

McMULLEN, Mrs Kay Barbara, (Private capacity)

ROWE, Mrs Betty Joan, (Private capacity)

ROWE, Mr Justin John, (Private capacity)

TORRENS, Mrs Gail, (Private capacity)

CHAIR—Welcome. I ask that each of you state the capacity in which you appear before the committee.

Mrs McMullen—I am here to talk about Care Independent Living. I was an RN there.

Mrs Torrens—I was an independent advocate at the time for Commonwealth carer respite.

Mr Rowe—I am Peter Rowe's father. He was one of the abused at Care.

Mrs Rowe—I am Peter Rowe's mother.

Mr Nikolich—I am the parent of three children and the grandparent of five. Unfortunately, for us, our twin daughter has suffered since a baby from epilepsy. The medical profession and science have been unable to help her. She sustained neglect and abuse. My reason for being here is to try to get to the bottom of it and to uncover the absolute truth.

CHAIR—We are going to take your evidence together, but I wonder who would like to begin and make a short opening statement.

Mrs Torrens—I have a background in human and community services and welfare, working with individuals with mental health and disabilities. It was through my numerous contacts with the department of families and Disability Services Queensland and the supporting documentation I have to offer later that I believe there needs to be created a culture of quality improvement for individuals through the provision of information and skills that are required to protect individuals' rights, welfare and safety from vulnerability.

With regard to the department's complaints function, this still requires considerable attention due to the long periods of not having complaints addressed. Later you will see that I have been advocating for some going back to 2002. A more efficient complaints process has the ability to highlight how we can make a significant difference to the lives of people with a disability and their families as it is strongly influenced by the quality and effectiveness of the service delivery. The department's lack a systemic valuation of the services using relevant and accepted methods based upon the guiding principles of the national standards, ensuring good service delivery and continued quality improvement with an aim to prevent abuse, neglect and exploitation, is also

highlighted. Improved communication and more accountability between departments and service providers can only highlight the importance of assisting and helping individuals to assess their own needs so as to support them to begin to make changes in their lives.

Towards the end of 2001, after consultation with the manager of Commonwealth carers for respite in my area and identifying the unmet needs of individuals who fell within the gaps of the community services, I resigned from my position with mental health to take on a role of independent advocate for Commonwealth respite services, which is funded by the Commonwealth Department of Health and Ageing. My role was to advocate, coordinate and improve the service of carers. This role was a voluntary role, although I did have my expenses paid. I actually advocated for 72 clients with disabilities.

Due to the growing need for carers to have support and assistance, Commonwealth respite services made many referrals to Care Independent Living for respite, as did the department of families and Disability Services Queensland. Care Independent first became known to me when I was successful in obtaining an adult lifestyle support package for a client of mental health in the late 1990s. There are very limited supportive accommodation places for individuals with mental health and disabilities offering 24-hour support, and for this reason Care Independent became a convenient dumping ground, often with inappropriate referrals. A positive outcome would be to ensure that there was a more accountable system where human rights for individuals with disabilities are protected, a system that also allows for a process to protect the whistleblower. I would like to speak to the committee later in camera. I have some documentation that I would like to table as well.

CHAIR—Thank you. Mrs McMullen, would you like to say something?

Mrs McMullen—Yes. I was employed at Care as an RN. I was only there for a year, from May 2002 to 8 June 2003. I had never worked in disabilities before, and when I first went there my impression of the structure of Care was this beautiful place on a canal with wonderful buildings, computer equipment and a swimming pool. Everything was just so impressive, but when I did commence work I found that there was no accountability. The residents' files were often missing or there was very little information. Medications were not in Webster packs; they were strewn everywhere. I found that there was no handover when I would go into work. To commence work, I would not even know how many residents were on site at the time. There was never a daily shift report written and there were no incident reports. There was also financial mismanagement. The management consisted of Dr Lewin, the chairman of Care, and Anne Butler, the manager. She was a 74-year-old so-called registered nurse, because in the adult guardian's notes apparently there is doubt as to whether she was ever registered. She was not registered in Queensland.

This lady controlled everyone. She worked very hard, but she was also a very bullying lady. She was capable of tearing strips off these people and then telling them that she loved them—and she was looking after disabled people. Bear in mind that the people with disabilities were often a very mixed group. We had varying degrees of disability. We had brain injuries, autism, schizophrenia and Down syndrome, and often they were punished for bad behaviour which was not really bad behaviour because of their disabilities.

The behavioural management was unreal. They were often denied food and had cold showers. They held someone down to cut their fingernails, using half-a-dozen people, until their fingers bled. Buckets of water were thrown over them. They had chillies put in their mouths. The Adult Guardian has also agreed with this. They were deprived of sleep. There was emotional and physical abuse. There was hitting residents with a broom handle and a fly swat. There was intimidation and harassment and there was extreme verbal abuse. Residents were often locked in their bedrooms and were often publicly humiliated in front of other people. The treatment for head lice was fly spray. The residents were often tied to chairs and toilet seats. One boy, who was an amputee who had been in a car accident and who was still going to school, often had his leg removed and he would have to crawl. The withholding of meals and food and water was a very common abuse. There was sexual abuse as well.

Under investigation at present by the CIB, they already have charged one man. His name is Roy Keen and he is the brother-in-law of the manager, Anne Butler. He often used to come up from down south to visit and he has now been charged. There are approximately 18 victims awaiting psychological reports. They are seeing a psychiatrist at present to get some statements prepared so that the police can proceed with these charges. Apparently there are still approximately eight to 10 people to be charged. For the whole time I worked at Care, there were never any meetings with the management and staff to improve any standard of medical intervention, care plan, behavioural management or treatment of residents. I did view and document many forms of punishment in my diary.

Mr SOMLYAY—What are the charges?

Mrs McMullen—The charges for Roy Keen are sexual abuse. But there are varying degrees of sexual, physical and mental abuse still to come. While I was there, I noted that they had improved their properties. They had gone from three properties when I first started to buying more properties. This meant that they were also bringing in more and more residents. It reached a stage where their permanent residents were so upset because there would be special needs residents in the office, the computer room and the TV room, and very few staff had any qualifications to care for these people. The special needs residents were the ones who—when they were coming from any government department—would probably need one-on-one care. Care would phone to say that these people were special needs and would need a one-on-one carer but that carer was never provided. So the government, disability services respite or the department of families were paying the money for these people to be in one-on-one care and—

CHAIR—There was a mixture of permanent residents and respite?

Mrs McMullen—Yes.

CHAIR—And they were paid a subsidy?

Mrs McMullen—Yes.

CHAIR—By the state government?

Mrs McMullen—Yes.

CHAIR—For what period were you there?

Mrs McMullen—One year.

CHAIR—When?

Mrs McMullen—I was there from 2002 to 2003, from June to June. I have given you a note to say that complaints seem to date way back to July 1999. I have given you a copy of the first complaint which was received by Care from a concern called Speak Up For You.

CHAIR—Is it an advocacy group?

Mrs McMullen—Yes.

CHAIR—Perhaps we could receive these documents as an exhibit. There is a document dated 27 July—handwritten notes—and a subsequent letter from the chairman of Care group dated 20 August 1999.

Mrs McMullen—I found that the complaints dated back from then. There were complaints in 2000 when a carer had phoned many government departments, and she has all her records. There was a video in 2000 from the neighbours who did a video of a cage, and that was at Care as well. You will hear about all the disability complaints in 2001. In 2003 I sent incident reports to the Adult Guardian. Finally on 25 May, on a weekend, Mr Nikolich's daughter had a seizure while I was actually at the hospital with another resident and she had become hypoxic. From what the ambulance officers had told me and in talking with some of the staff, I felt that the treatment was a worry. I was so distraught that I rang the Adult Guardian on the Sunday and asked them if they would please go in on the Monday and ask for incident reports and find out and inquire as to what had happened to Helen.

CHAIR—Is the Adult Guardian a sort of supervisory body?

Mrs McMullen—Yes.

CHAIR—What is the age of the people who were in there?

Mrs McMullen—There were children—we even had respite of two-year-olds—and we even had some elderly there.

Mr Nikolich—My daughter was 40 or 41.

Mrs McMullen—I am concerned about background checks of the staff. You will see in that letter that one of the main people being investigated now is mentioned in that letter from SUFY in 1999 and he was still there when I left.

CHAIR—The same carer?

Mrs McMullen—The same person. There were so many reports about his behaviour and what he had done that I just cannot imagine that anyone could have stayed there. Also it says in the

letter from Dr Lewin that all the staff were exceptionally well screened. How can they be exceptionally well screened when you have this person doing these dreadful things? We were also supposed to have a community visitor who was to come monthly for three hours and also see the other sites. This person was to check on all files and medications and talk with the residents and talk with the staff. I did not even know this community visitor existed until a few months before I left. This person had been coming quite often and would talk to management but would never continue on with finding out exactly what was happening.

Also, all the providers of respite in the departments, whether it be the department of families or any of the others, when they were putting residents into these places and they were paying for these people, why didn't they check—why didn't anyone come and check and see if they were all right? It is great to find somewhere to put people with disabilities, but I cannot understand how they can never check and see if they are in a safe environment after all the money that is paid.

In summing up, Gail will probably tell you later that four managers were stood down on 4 June. Even after this happened, on 11 June, Dr Lewin made new positions for the four staff that were stood down. I have even got that memo.

CHAIR—There are two points here. First of all, presumably the adult guardian and the community visitor are supposed to be methods of coming to check what is happening. But my colleague Mr Somlyay has made a very good point that the Auditor-General in Queensland has no power to do performance audits, which means to come in and see that services are being delivered.

Mr SOMLYAY—And how programs are working.

Mrs McMullen—This is what we were asking for: to improve this so that those things will never happen again.

CHAIR—Perhaps Mr and Mrs Rowe would like to say something, and then Mr Nikolich.

Mrs Rowe—You already have our submission?

CHAIR—Yes, we do.

Mrs Rowe—So you have a lot of detail which I do not have to give you. I would like to say that, since finding out what happened to Peter at Care, our lives are just upside down. We have lost complete trust. We are frightened, along with Peter, to put him anywhere. We do not want to die because we do not know what is going to happen to him because we do not have any answers yet.

We lived out west—we were on a sheep property out west—and so, because Peter was isolated, we would send him into respite because he needed socialisation and he needed company. We always hoped and trusted, naively perhaps, that the people would have checked those people who were looking after Peter to make sure that he was safe. It did not happen.

Apart from seeing that the perpetrators of these crimes are brought to book—my son when he first came home said to me, ‘Mum, is this ever going to happen to me again?’ He speaks on a communication board; he has no speech. I said, ‘Well, I hope it’s not.’ But he was so traumatised that I could not say to him, ‘I can’t protect you yet, Peter; I can only hope I can protect you.’ So I said to him, ‘But I’m going to spend the rest of my life for as long as it takes to make sure that you are safe and other people like you.’ You have the rest of it. I have some paintings here that I would like you to take. They are paintings that he did and he has given the explanation of those paintings to a carer, not to me—there are two of them there. They all pertain to how he felt when it was all happening to him. When you see what I have attached at the back you will see how deeply it affected him.

CHAIR—We might make this an exhibit.

Mrs Rowe—I do not know if you know anything about facilitated communication, but that is a picture of Peter working with his facilitator.

CHAIR—We might make that an exhibit as well.

Mrs Rowe—These are two statements that were given to us by a man who is in the industry on the Sunshine Coast. He does not want to be named, but that is going on on the Sunshine Coast as we speak. That has not gone to the police. I would like to give you those.

CHAIR—We will make those further exhibits.

Mrs Rowe—These are two stories that Peter has written and illustrated.

Mr Rowe—This is what he has done since he has come out of there.

Mr SOMLYAY—Whereabouts on the Sunshine Coast is this person?

Mr Rowe—Around Maroochydore, Maleny, and those areas.

Mr SOMLYAY—Maroochydore is as far north as my electorate. There has been a slip-up; these people are in my electorate.

Mr Rowe—Which is where?

Mr SOMLYAY—My electorate is Fairfax, which is from Maroochydore to Noosa and includes Nambour. These people should come to see me as their local member.

Mr Rowe—We are saying that under Disability Services Queensland these things are still happening. There is a lack of oversight.

CHAIR—I presume none of these homes has to be accredited, subject to any inspections or anything like that?

Mrs Rowe—No.

Mr Rowe—No.

Mrs Rowe—That is covered in a place that started off with nine people and now has 25. And DSQ did not have a clue how many were in there.

Mr Nikolich—I could tell you a very long story, but I will try to confine myself. We have been living at the same address in Brisbane for the past 34 years. Before I go on, some fellow parents say that DSQ stands for ‘double standard Queensland’—very cynical but true. My wife’s knees were just about to give up and the doctor decided that she should get immediate reconstruction of both knees. So the DSQ official said to us, ‘Look, there is only one place available to fit your daughter in for respite.’ I asked, ‘Where is that?’ She said, ‘At Care Independent Living, Bribie Island.’ Then she asked me, ‘Are you happy with that?’ I said, ‘No.’ She said, ‘Are you willing to take it?’ I said, ‘Grudgingly, I have to accept your offer.’ Then I remarked that 100 kilometres away from our home was hardly the local community. I said, ‘That contradicts the dictum of the government bureaucrats; they kept telling us disabled people shall live in their local community.’ By my reckoning, 100 kilometres away from home is not the local community but we had to accept it.

At any rate, my wife had the operations in late November 2002. One knee was not successful and Helen kept staying at Bribie Island in Care. Then in March 2003 we received a call from the same relevant DSQ official: ‘Would you like to have your daughter living there permanently?’ I replied, ‘Definitely not.’ Anyway, my daughter kept staying there and the next thing, on 23 May—it was a Friday at about lunchtime—we received a call stating, ‘Look, your daughter has had a seizure followed by a cardiac arrest and she is now at the Caboolture Critical Care Unit.’ For the first six weeks, until 2 July, she was at Caboolture. We were travelling back and forth to Caboolture every day, doing a round trip of 160 kilometres. Eventually she was transferred to our local hospital at QE2, where she was discharged on 30 October.

We are providing the care for our daughter at home ourselves, apart from 16 hours out of 168 a week. I bath my daughter et cetera because my wife’s physical strength is not as good. I said to the DSQ officials, ‘Look, we won’t be able to provide the daily care for our daughter indefinitely; she will have to go and live somewhere.’ They said to me, ‘You will have to apply for priority housing on her behalf,’ which we did. Forms had to be filled out et cetera. Then they said, ‘We will send to your place to assess your daughter’s needs for an occupational therapist.’ Eventually the occupational therapist came in about late April. Then she said, ‘I will send you a report.’ I asked, ‘How long will it take?’ and she said, ‘A week.’ I said, ‘I will make it two.’ And it is now just about four weeks and I am still waiting. So the situation is desperate for families like us.

CHAIR—Where is your daughter now?

Mr Nikolich—She is with us at home; she is at home with mother. This morning the carer was there until 12 o’clock. It annoys me greatly when I see the good, solid accommodation that was the Basil Stafford centre, a much maligned place—good solid accommodation I saw with my own eyes—being demolished. One non-government service provider said to me not long ago, ‘We sought permission from DSQ to house some of our people there and the request was denied.’ It irritates me no end.

CHAIR—Is that a government-owned property that is being abolished?

Mr Nikolich—Yes, it is being demolished. It was formally known as Basil Stafford Training Centre. At the peak of its function there were about 130 residents living there. The people running the state of Queensland, in their wisdom or lack of it, decided they would close the place down. I have a newspaper cutting of that time and it is dated 1 December 1996, the then shadow minister declaring, ‘You wouldn’t put a dog in that place.’ If I was nearby when she said those words, I probably could not have contained myself. Probably I would have assaulted her—because my daughter is disabled but she does not look anything like a dog. Here is a photo of my daughter and me together; it appeared in the paper. This was on 1 May 1997. I did not expect it to make it to the front page, but that was at the discretion of the editor.

CHAIR—What is the Basil Stafford centre? I see, it is a home.

Mr Nikolich—It is similar in set-up to a retirement village.

CHAIR—You are saying that you think it is a good place.

Mr Nikolich—It is, provided it is adequately funded.

CHAIR—And the government has decided it is not; is that right?

Mr Nikolich—Yes. I have the ALP policy that they issued: our people should be living in a bed of roses. That was ‘A new beginning for disability services.’ Disabled people, not only my daughter, should be living in heaven—or just about. But reality dictates differently. Here is an article that was published in the *Courier-Mail* on 14 March 2000.

CHAIR—So you say that the Queensland government refused to properly fund the Basil Stafford Training Centre; is that correct?

Mr Nikolich—It was deliberately starved of funds so that it became run-down.

CHAIR—Is the land valuable? Could it be sold off for something else?

Mr Nikolich—I think it is very valuable. They are continuing to demolish accommodation.

CHAIR—Are they closing the centre down?

Mr Nikolich—It is just about to be closed down. There are only five or six residents there.

Mr Rowe—The community visitor came from DSQ. Betty and I insisted that DSQ send somebody in there to look. But they should have sent somebody that had enough gumption to look properly; they did not. They sent a person who had tea with the manager, and she was convicted of embezzlement.

Mr SOMLYAY—Who was convicted?

Mr Rowe—Anne Butler.

Mrs Rowe—The manager.

Mr Rowe—She has been in jail in South Australia or New South Wales. She is in charge, incidentally, of the cash. I support everything that Kay said about the manipulation and everything else. It was the manipulation against Betty and me and Peter that really took our interest. From then on we never advised that we were coming; we always dropped in unheralded and unannounced—and that was when we found things. Peter had a condition called keratoconus. He would have been the person with the worst eyesight there. One time we found that they had sat him in a semicircular position in front of a TV, right at the end. Peter said to us when he came out, ‘I’ve got more to do with my life than sit and watch TV.’ That is how they made their money. You do not have big costs in providing a TV.

So I support that. What we need is quality of life for these children. What I am really going for is accreditation. I cannot see that there is anything else. My daughter works in a home at Symes Grove. She is in charge of that home in Symes Grove. She brought that home up from a place of concern to a place that they are very satisfied with. If they want any problems solved, it is Symes Grove they go to.

CHAIR—Is that an aged care home?

Mr Rowe—That is an aged care home.

CHAIR—I am very familiar with the accreditation system; I put it in place.

Mr Rowe—That is the only way. Betty and I have been voices in the wilderness trying to get this off the ground since 3 December 2001. If it were not for Kay and Gail and Barbara Oldfield, we would not—

Mr SOMLYAY—These people who are sexually abusing others in the home: where are they now—inside or outside?

Mr Rowe—No. Charges have only been made against—what is his name?

Mr Nikolich—John Walker?

Mr Rowe—No, they have not charged him.

Mrs Rowe—Roy Keen.

Mr Rowe—Roy Keen. He has been charged. I think he is up on six counts.

Mr SOMLYAY—Who is he?

Mrs McMullen—He is the brother-in-law of the manager.

Mr SOMLYAY—Is he from Sydney?

Mr Rowe—No, he is from Moree. I want to say that it is all in the family. That boy spoke about the complaints up the north coast—that is it; it is all in the family.

CHAIR—There is no checking.

Mr Rowe—One of the two men who sodomised Peter was the son of Anne Butler's best friend. They kept it in the family.

Mr SOMLYAY—No charges have been laid against him?

Mrs Rowe—No.

Mr Rowe—Not yet. Another point is that the detectives have told me openly, 'Justin, we're not going to get to the bottom of this; it's impossible.'

Mrs Rowe—They are doing a wonderful job.

Mr Rowe—I do not criticise them at all. They are the best we have got. But they are not going to get to the bottom of it because—

Mrs Rowe—The kids cannot talk.

Mr Rowe—the kids cannot talk. There is Peter—those paintings are free hand. Nobody told him to do that. It was done up at Cooroy and that was free hand. That is the way he felt, but that is not evidence in a court. There are no Tony Fitzgeralds in there to present a case, and that is what they are battling against. I am saying that they have to be protected. If they cannot protect themselves, they have to be protected. Before he went in there Peter was classed as a Down syndrome, like a child, and needed protection. That is what the doctor wrote. That is the way to go. I am sorry; I take too long.

CHAIR—Not at all.

Mr SOMLYAY—I am just sickened by the fact that somebody could do this and get away with it.

Mr Rowe—The hardest thing was for us to get somebody to listen. I do not want to be political, but we got a psychologist to write to Beattie; we got a psychologist to write to Judy Spence. We wasted our time.

CHAIR—Nothing has happened with regard to this home; it is still there, still functioning?

Mr Rowe—No. There is a lot happening. The police have to come—they are going to charge, I understand—

CHAIR—The police are there a lot and that has made the difference?

Mr Rowe—The police came in in June.

Mr SOMLYAY—You wrote to Beattie and Judy Spence.

Mr Rowe—Yes.

Mr SOMLYAY—What happened?

Mr Rowe—The usual. They said there was not enough evidence and so it was never followed up.

Mr SOMLYAY—Did they ever investigate it?

Mr Rowe—No.

Mr SOMLYAY—Did they say to you, ‘There’s not enough evidence in your letter’?

Mr Rowe—They did have an investigation, but there was not enough evidence. But what is happening—and this is the big fault—is that all of these agencies that are to protect people in care do not talk to one another. Disability had the control and the responsibility of four. Children’s services had four. The adult guardians had a number of clients—I do not know how many.

CHAIR—But, Mrs McMullen, you said there were no incident statements. Anybody running an institution—and I use that word in its most sensible way—who is running it without having an incident report sheet is just negligent in the extreme—if there are no proper medication records and so on. What you have described to me about what was happening to those children in terms of punishment sounded like a jail in Iraq, not a home on Bribie Island.

Mrs McMullen—Yes.

Mr SOMLYAY—And you are saying that these people get Commonwealth funding and state funding.

Mr Rowe—You talk about a jail in Iraq and the nudity and the intimidation. There was a boy there, Darryl, who was completely paralysed except for his thumb. He came out of a shower room completely naked on his bed and he was wheeled through the whole set-up.

Mrs McMullen—Through the living room.

Mr Rowe—Through the living room in front of four young DSQ carers—women, DSQ caseworkers. Nothing was done. We never heard anything about that. How is that for humiliation? That boy came off the trolley a couple of times to my knowledge—fell off, on the ground. They did not care about it.

Mr SOMLYAY—Where would they normally dress a person like that after he had had a shower?

Mrs McMullen—He had a shower room off the room that he was in.

CHAIR—You are saying that the facilities physically are excellent but it is the running of the place that is a problem.

Mrs McMullen—It is the running of the place and the staff, and there is no check on—

Mr Rowe—I think Kay was sacked because she documented things; at my daughter's place she sacks them if they do not document things. That is the difference.

CHAIR—Correct. The difference is that she is obliged to.

Mr Rowe—I know. She could not have done what she had to do if she did not have your backing.

Mr Nikolich—I have a promotional video that was given to me about Care. I would like to make a comment. I listen to talkback radio and sometimes the talkback hosts say, 'Get in touch with your local member of parliament.' We have three levels of government in this country. I wrote this letter to my local Queensland MLA and this is what I got in reply.

CHAIR—Perhaps we can have a look.

Mr SOMLYAY—I know what would happen to me if I wrote a letter like that: I would be looking for a job.

CHAIR—You would not survive. I can understand it would make you very frustrated.

Mr Nikolich—It makes me very frustrated. I experienced the brutal dictatorship of Tito, so I know what a dictatorship means. If I wrote a letter to Karen Struthers, who has been by profession a social worker, she would at least have the decency to call us to say, 'How can I help you?'

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 12.52 p.m.