



WESTERN AUSTRALIA

Royal Commission into the City of Wanneroo

INTERIM REPORT
AUGUST 1996

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NAMES AND POSITIONS HELD BY PERSONS MENTIONED IN THIS REPORT

The following is a list of persons mentioned in this report and their positions at the relevant time:

<u>Name</u>	<u>Relevant Position</u>
ANDERSON Michelle	Girlfriend of Robert Baddock
AYTON Leslie Donald	Superintendent in Charge of Internal Affairs Unit and later Deputy Commissioner of Police of Western Australian Police Department
BADDOCK Marion Joy	Spouse of Robert Baddock
BADDOCK Robert John (Deceased)	Former Councillor of City of Wanneroo
BATES Kenneth Paul	Crown Prosecutor with Office of the Director of Public Prosecutions
BORSERIO Diana	Business Associate of Wayne Bradshaw and wife of Wayde Smith
BRADSHAW Jack	Father of Wayne Bradshaw
BRADSHAW Nola Margaret	Spouse and Ex Spouse of Wayne Bradshaw
BRADSHAW Dr Wayne William	Councillor and Mayor of City of Wanneroo
BRANDIS Ian	Detective Inspector with Bureau of Criminal Intelligence in Western Australian Police Department
CARSTAIRS Alan	Councillor of City of Wanneroo
CLARKE Marcus Thomas	Investigator with Royal Commission into Commercial Activities of Government and other matters
COFFEY Ronald Frank	Town Clerk of City of Wanneroo
COOPER Brian Anthony	Councillor and Mayor of City of Wanneroo
CORSE Barry	Consultant in Ministry of Justice
COURT Richard Fairfax	Premier of Western Australia

DAMMERS Arnold Victor Samuel	Councillor of City of Wanneroo
DAVIES Kathryn Helen	Journalist for "The News"
DAWSON Maxine Lindsay	De Facto of Robert Baddock
DEAL Kay Innes	Secretary to Ronald Coffey
DUFFY William David	Councillor of City of Wanneroo
EASON Allen Fenton	Investigator with Royal Commission into Commercial Activities of Government and other matters
EDWARDES Colin Geoffrey	Executive Officer of Ministry of Justice and Councillor of City of Wanneroo
EDWARDES Cheryl Lynn	Attorney General and Member of Legislative Assembly of The Parliament of Western Australia
ELLIOTT Richard Alden	Management Consultant to Ministry of Premier and Cabinet
FALCONER Robert	Police Commissioner of Western Australian Police Department
FISCHER Raymond	City Building Surveyor of City of Wanneroo
FREAME Fleur Dianne	Councillor of City of Wanneroo
GAGE Kim Edward	Detective Senior Constable and later Detective Sergeant with Fraud Squad in Western Australian Police Department
GARDINER Russell Keith	Police Officer with Internal Affairs Unit in Western Australian Police Department
GILOVITZ Moshe	Manager of Building Services in Department of Local Government
GRANT David John	Director General of Ministry of Justice
GREGSON Wayne	Investigator with Royal Commission into Commercial Activities of Government and other matters

GRIFFITHS Brian	Detective Senior Constable and later Detective Senior Sergeant with Criminal Investigations Bureau in Western Australian Police Department
HARMAN Ronald Henry	Real Estate Agent with Hepburn Real Estate Agency
HAY Melvyn Craig	Assistant Commissioner of Crime Operations in Western Australian Police Department
HILL Dean Leighton	Consultant in Ministry of Justice
HILTON Prof John Miller Napier	Chief Forensic Pathologist of Forensic Pathology Section in Western Australian State Health Laboratories.
HOAR Bruce	Project Leader of Building Management Authority
JOHNSON Gregory Michael	Assistant Superintendent of Metropolitan Security Unit in Ministry of Justice
KING Clive David	Prison Officer with Metropolitan Security Unit in Ministry of Justice
KING David Anthony	Councillor of City of Wanneroo
KYLE Peter Arthur	Investigator of Inquiry into the City of Wanneroo
LAMPERD Debbie Lorraine	Senior Constable seconded to the Fraud Squad in Western Australian Police Department
LAWRENCE Brian	Manager of Intelligence Unit in Ministry of Justice
LYTTON Dorothy Sheila	Administrative staff member with Internal Affairs Unit in Western Australian Police Department
MacCOLL John Duncan Ronald	Assistant Director of Prisons Operations in Ministry of Justice
MacNAUGHTON Alexander Dick	Acting Detective Inspector of Ministry of Justice Task Force in Western Australian Police Department

MAJOR Graham Alexander	Councillor and Deputy Mayor of City of Wanneroo
MANSAS William Edwin	Detective Senior Constable with Criminal Investigation Branch in Western Australian Police Department
MARCHAL Paul	Technical Officer with Internal Affairs Unit in Western Australian Police Department
MARLBOROUGH Norman Richard	Member of Legislative Assembly of The Parliament of Western Australia
MARWICK William Harold Edison	Councillor of City of Wanneroo
MAWSON John Verne	Administration Sergeant with Internal Affairs Unit in Western Australian Police Department
MCCANN David Arnold	Coroner of Western Australia
McCOTTER Denzil Anne	Executive Director of Corrective Services Division in Ministry of Justice
MCGINTY James Andrew	Member of Legislative Assembly of The Parliament of Western Australia
McKECHNIE QC John Roderick	Director of Public Prosecutions
MACKINNON Barry	Leader of the Opposition of The Parliament of Western Australia
McLEOD Donald James	Inspector with Internal Affairs Unit in Western Australian Police Department
MICHAEL Kenneth Comninos	Public Service Commissioner
MITCHELL Samuel John	Executive Director of Corporate Services in Ministry of Justice
MOLONEY Beverley Joy	Councillor of City of Wanneroo
MOORE Peter Ronald	Superintendent of Wooroloo Prison Farm
NICHOLAS Darren Shane	Surveillance Officer with Internal Affairs Unit in Western Australian Police Department
OFFICER 11	Surveillance Officer and Technical Assistant with Internal Affairs Unit in Western Australian Police Department

PAVLINOVICH Matthew	Property Developer
PAYNE Kevin	Director of Public Sector Employment in Public Service Commission
PHILLIPS Edwin Russell	Tactical Surveillance Officer with Internal Affairs Unit in Western Australian Police Department
POWELL Joe	Surveillance Operative with Internal Affairs Unit in Western Australian Police Department
ROBBINS Stephen John	Investigator with Internal Affairs Unit in Western Australian Police Department
ROBSON Anthony	Deputy Town Clerk of City of Wanneroo
ROSS Jean	Secretary to David Grant
ROWE Diane Melody	Associate of Barry Corse and former Industrial Officer with Miscellaneous Workers Union
RUNDLE Norma	Councillor of City of Wanneroo
SAWYER Kimley John	Analyst and Assistant Investigator and later Senior Investigator and later Acting Superintendent in Charge of Internal Affairs Unit in Western Australian Police Department
SAXON Martin Roy	Journalist with "Sunday Times"
SCHILO James	Superintendent of Metropolitan Security Unit in Ministry of Justice
SCHRANZ Laura Ann	Surveillance and Administrative staff member with Internal Affairs Unit in Western Australian Police Department
SCHRANZ Stuart	Technical Officer with Internal Affairs Unit in Western Australian Police Department
SMITH Brian Arthur	Councillor of City of Wanneroo
SMITH Hon David Lawrence	Member of Legislative Assembly of The Parliament of Western Australia

SMITH Wayde Shannon	Detective Sergeant in Western Australian Police Department and later Councillor of City of Wanneroo
STRICKLAND Pat	Personal Assistant to Ian Hill
SYME Stuart Gordon	Investigator with Internal Affairs Unit in Western Australian Police Department
TAYLOR Hon Ian Frederick	Member of Legislative Assembly of The Parliament of Western Australia
TOLLEY George Edward	Acting Director of Human Resources in Ministry of Justice
TOMLINSON Hon Derrick Gordon	Member of Legislative Council of The Parliament of Western Australia
TURKINGTON John Brooksy	City Treasurer of City of Wanneroo
UYEN Hendrikus	Builder for Colin and Cheryl Edwardes
VAN BOHEEMAN Keith	Acting Inspector with Internal Investigations Bureau in Western Australian Police Department
VILLANOVA Antonio	Resident of City of Wanneroo
WASHER Dr Malcolm James	General Practitioner of Robert Baddock
WATERS Henrietta Margaret	Councillor of City of Wanneroo
WATSON Alan Keith	Inspector and Senior Investigator of Internal Affairs Unit in Western Australian Police Department
WATTS Mark	Surveillance Supervisor with Internal Affairs Unit in Western Australian Police Department
WAUCHOPE Malcolm Charles	Chief Executive of Office of State Administration in Ministry of Premier and Cabinet
WEBB Peter David	Town Planning Consultant to Matthew Pavlinovich
WIESE Robert Laurence	Member of Legislative Assembly of The Parliament of Western Australia

WOODS Lisa Surveillance Officer with Internal Affairs Unit
in Western Australian Police Department

ZAKNICH James Anthony Assistant Director of Special Projects in
Ministry of Justice

ZANETTI Frank Deputy Commissioner of Police of Western
Australian Police Department

COUNCILLORS' TERMS OF OFFICE

COUNCILLOR	ELECTED	CEASED
BADDOCK Robert John (Deceased)	1984	1987
BRADSHAW Wayne William	1982	1991
CARSTAIRS Alan	1990	1993
COOPER Brian Anthony	1984	1990
DAMMERS Arnold Victor Samuel	1989	Current
DUFFY William David	1988	1991
	1996	Current
EDWARDES Colin Geoffrey	1987	1993
FREAME Fleur Dianne	1987	Current
KING David Anthony	1985	1991
MAJOR Graham Alexander	1986	Current
MARWICK William Harold Edison	1988	1994
MOLONEY Beverley Joy	1988	1991
	1993	1996
RUNDLE Norma	1990	1994
SMITH Brian Arthur	1985	1988
SMITH Wayde Shannon	1990	1993
WATERS Henrietta Margaret	1986	1996

CHAPTER 1

INTRODUCTION

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1.1. Introduction

1.1.1 I do not propose to include a full and formal introduction to this interim report. That will be done in due course for my final report. It is sufficient for present purposes to set out some very brief background, the Commission's terms of reference, some reference to the approach adopted, the matters dealt with in this sittings and one or two matters currently of concern.

1.2. The Kyle Inquiry

1.2.1 In January 1992 Mr Peter Kyle was appointed by the Minister for Local Government to undertake an inquiry pursuant to section 683 of the Local Government Act. The terms of reference of the inquiry were later extended to add an additional matter for investigation. In the result, with respect to the subject matter of the inquiry, the terms of reference were identical to those of this Commission. Mr Kyle reported to the Minister in December 1992.

1.2.2 By notice dated 4 October 1995 Mr Kyle was again appointed by the Minister for Local Government to inquire further into the same matters. In January 1996 solicitors acting for Dr Wayne Bradshaw wrote to Mr Kyle asking him to disqualify himself from continuing with the inquiry on the grounds that there was a reasonable apprehension he was biased against their client. Mr Kyle declined to do so and the matter was litigated in the Supreme Court. On 6 February 1996 the court handed down its decision. In the light of that decision Mr Kyle was unable to continue with the inquiry. His appointment was revoked by the Minister by letter dated 13 February 1996.

1.2.3 By letter from the Minister also dated 13 February 1996 I was appointed to replace Mr Kyle and continue to completion the inquiry he had been undertaking.

1.3. Terms of Reference

1.3.1 On 12 March 1996 the Premier, Hon Richard Court MLA, announced that the Inquiry Into the City of Wanneroo was to be reconstituted

as a Royal Commission. On the same day His Excellency the Governor signed a Commission in the following terms:

"To: Roger Kenneth Frederick Davis:

By this Commission under the Public Seal of the State issued with the advice and consent of the Executive Council, I, the Governor -

- (1) appoint you to be a Royal Commission to inquire into and report on the following matters in respect of the Council of the City of Wanneroo, its Committees and Members during the period from 1 May 1986 to 30 June 1992:**
 - (a) investigate whether any Councillor has failed to disclose any direct or indirect pecuniary interest in any matter before Council;**
 - (b) investigate whether any Councillor has failed to advise Council that he/she was engaged as an agent or representative in respect to any matter before Council;**
 - (c) whether any Councillor has received any direct or indirect reward as an inducement to vote for or against or to promote any matter before Council;**
 - (d) whether any Councillor has been offered any inducement or reward by any person so as to influence that Councillor on any matter before Council;**
 - (e) whether any Councillor has disclosed any information about any matter before Council to any outside person in a manner contrary to the Local Government Act or contrary to any direction or resolution of Council;**
 - (f) Whether any Councillor in the course of nominating for office has used an incorrect address;**

(g) Whether any expenditure by Council of Councillor personal expenses, travelling expenses, or entertainment expenses for Councillors or their guests was either not approved by Council resolution or exceeded what might be considered normal in local government in Western Australia;

(h) whether there is any evidence of an organised faction within Council which has promoted particular candidates or caucused regularly on matters before Council in a manner which might suggest that the principal objectives were the promotion of the personal interest of the members of the faction or their associates or friends, rather than the interest of the City or its ratepayers or for more general political purposes;

(i) whether any threats or intimidation have been made to any Councillor with a view to influencing their conduct or voting intention at Council or preventing them complaining to any relevant authority about any matter before Council;

(j) such other matters in respect of the exercise in performance of powers, functions and duties under the Local Government Act or other relevant statutes as may arise out of or be consequent upon or incidental to the inquiry into the matters set out in paragraphs (a) to (i);

(k) investigate the process followed by the City of Wanneroo leading to the construction of community amenities on Chichester Oval in Wanneroo.

(2) declare that you are to report by 21 June 1996 and that you may publish interim reports.

(3) declare that, by virtue of this Commission, you may in the execution of this Commission do all the acts, matters and things and exercise all the powers that a Royal Commission may lawfully do and exercise, whether under the Royal Commissions Act 1968 or otherwise.

- (4) declare that section 18 of the Royal Commissions Act 1968 applies to this Commission.
- (5) declare that without limiting the powers otherwise available to you:
 - (a) in conducting the inquiry you are to seek to avoid prejudice to pending or prospective criminal proceedings in such manner as you think fit and, in particular, by taking evidence or otherwise proceeding in private, precluding the publication of evidence, or deferring the taking of evidence, where you consider any such course to be appropriate;
 - (b) you may, during the course of the inquiry, refer any matter to the Director of Public Prosecutions or another appropriate authority with a view to the institution of criminal proceedings, where you consider that delaying such action to the completion of your report would be undesirable.

Given under my hand and the Public Seal of the State at Perth on
12 March 1996.

By His Excellency's Command
(Richard Court)
PREMIER"

1.3.2 A further commission dated 7 May 1996, amending the commission of 12 March 1996, declared that I was to report on or before 30 April 1997 and publish an interim report on or before 30 August 1996.

1.3.3 There has been public discussion on the scope of the Commission's terms of reference. For the Commission to undertake an investigation into a matter there must, of course, be a causal connection between the allegation or matter investigated and a particular term of reference. Term 1(j) provides jurisdiction or power in the Commission to inquire into matters that "arise out of or are consequent upon or incidental to" the inquiry into the specific items listed. It does not bestow upon the Commission a right to investigate at large. The causal connection

between the subject to be investigated and the specific terms of reference must still exist.

1.3.4 In the course of this sittings of the Commission I expressed and acted upon the view that the adequacy of the police investigations into the allegations made by Mr David King fall outside my terms of reference. That ruling was called into question in closing submissions on behalf of Mr David Grant. In response to the submission I made it clear that if any person can produce to the Commission evidence of substance that might suggest the police investigation was prematurely terminated for reasons in any way associated with corruption in the Council of the City of Wanneroo then the matter will be pursued vigorously. No such evidence has been produced and, indeed, no specific allegation has been brought to the attention of the Commission. I maintain the view that this Commission has no jurisdiction to examine the adequacy of or circumstances surrounding the police investigation simply because there have been suggestions it may have ended earlier than expected.

1.3.5 A number of other matters have been considered by the Commission and determined to fall outside its terms of reference. Those matters have either been referred to the appropriate authority or a decision made to take no further action. Interested parties have been advised of the action taken.

1.4. Standard of Proof

1.4.1 For the assessment of evidence I have followed the eminent authority of the three Commissioners of the Royal Commission into Commercial Activities of Government. The Commissioners expressed their view as to the applicable standard at paragraph 1.6.19 of their report, as follows:

"In our view the correct standard of proof to be applied by the Commission is as in a civil action, that standard being applied in accordance with the gravity of the allegation being considered. This is clearly established by the authority of *Briginshaw v. Briginshaw* (1938) 60 CLR 336 per Dixon J, as he then was, at 362; *Helton v. Allen* (1940) 63 CLR 691, 714 and *Rejtek v. McElroy* (1965) 112 CLR 517, 521-522."

1.5. Improper Conduct

1.5.1 The terms of reference of the Commission, on their face, require the investigation of matters of fact. In particular they do not require me to determine whether the behaviour or conduct investigated was corrupt, illegal or improper. Fact finding inevitably involves an assessment of the conduct of people and, in the relevant circumstances of the matter, doing so in the context of their obligations and responsibilities as public officials. Thus, where conduct on the part of public officials is found to fall short of the standard required I have taken it as implicit that it should be described in the report and a finding made as to its propriety. In my view the findings of any Royal Commission would be of limited value to the community if they stopped short of judging the propriety or otherwise of the conduct it finds to be proven. The same applies to recommendations for change to practices or procedures that have given rise to criticised conduct.

1.5.2 While the test for corrupt or illegal conduct is uncontentious, it is necessary to define the test this Commission will apply to determine whether conduct is improper. The question was considered in 1992 by the Royal Commission into Commercial Activities of Government and in 1995, in the light of subsequent authorities, by the Royal Commission into Use of Executive Power. In the report of the latter, the learned Commissioner set out the principles distilled from earlier Royal Commissions and authorities as follows:

- (1) The test of "impropriety" is objective, that is, it does not depend on consciousness of impropriety on the part of the person under consideration.
- (2) Impropriety in a particular case is to be determined by reference to the particular circumstances in which it is said to have occurred.
- (3) The issue is whether the conduct impugned is inconsistent with the proper discharge of the duties of the office in question. (*R v. Byrnes*; *R v. Hopgood* (1995) 130 ALR 529 at 538; *Whitehouse v. Carlton Hotel Pty Ltd* (1987) 162 CLR 285; 70 ALR 251)

- (4) Impropriety consists in a breach of the standards of conduct that would be expected of a person in the position of the person under consideration by reasonable persons with knowledge of the duties, power and authority of the position in the particular circumstances.

Point (2) qualifies point (1) to the extent that the particular circumstances may in some situations include the state of knowledge of the person under consideration.

1.5.3 These principles are in my view applicable to the matters arising for consideration by this Commission.

1.6. Evidentiary Matters

1.6.1 It has been necessary from the outset to concentrate to some degree on the two witnesses who have proved to be the source of many of the allegations of direct concern to the Commission. Those witnesses, Mr David King and Mr Barry Corse, have made wide ranging allegations that will be fully considered and investigated in due course. Those allegations include, but are by no means confined to, the issues investigated in the first sittings. The matters dealt with to date are only part of the overall picture.

1.6.2 This Commission was appointed to investigate matters of public concern and notoriety. Consequently the approach it has adopted when dealing with a specific allegation is first to establish the source of the allegation, the motives of the person found to be the source and the mechanism or method by which the allegation was disseminated and became public.

1.6.3 As I have noted, a Royal Commission would be of limited use if it did no more than disclose facts. It must also identify problems and make recommendations so that the conduct is not repeated and the problems are rectified. It cannot achieve that objective unless it first ascertains in detail how the conduct or problem arose in the first place. It is consequently necessary to establish in detail the factual circumstances in which an

allegation or rumour had its genesis and the circumstances of the people creating or disseminating that allegation or rumour.

1.6.4 The Commission has, for example, spent some time examining the investigation by the Police Internal Affairs Unit into Mr Wayde Smith. That investigation is not, of itself, causally related to any of the terms of reference. It is relevant to the extent it sheds light on Mr Smith's activities as a councillor of the City of Wanneroo and the activities of others involved with him on the Council. The police investigation is also the means whereby audio tapes on which the voice of Mrs Cheryl Edwardes could be heard came into existence. Similarly, the involvement of the Ministry of Justice and the Office of the Director of Public Prosecutions in eliciting information from Mr King about the activities of the councillors of the City of Wanneroo during the relevant period becomes relevant as part of the basic factual background to Mr King's evidence. It also provides much of the context in which Mr King's motives and the accuracy of the information he provided can be assessed.

1.6.5 In the course of investigating the factual background to the allegations central to the Commission's investigation for these purposes, I have found it necessary to call into question the credibility and criticise the conduct of a number of people. Where this occurs I have not made an adverse finding in the formal sense nor categorised the legality or propriety of the conduct. While the people affected may see no difference in the end result, I believe the distinction is real and should be observed.

1.6.6 I should also mention the issue of factions on the Wanneroo Council. In this sittings the deliberations and conduct of councillors were considered in some detail in relation to the Sinagra trip and the death of Mr Robert Baddock. In both matters the existence of deep factional divisions in the Council became very apparent. Those divisions coloured the evidence given by the witnesses to a significant degree. There is a strongly held view among a number of councillors and ex-councillors that there was at the time a faction led by Dr Bradshaw, the members of which almost invariably voted in accordance with Dr Bradshaw's wishes and were in some way under his influence and power. A number of witnesses experienced difficulty explaining the basis for that view. Some became very defensive when asked to do so. The issue of factions is clearly a sensitive topic amongst councillors.

1.6.7 It is, of course, a necessary and appropriate function of any tribunal of fact to establish and assess the basis of an opinion given in evidence before accepting it as truth or even as honestly held. However, I appreciate it is often difficult for a witness to explain the nuances of a situation, particularly when it involves observing and interpreting the conduct of others over a period of time. It may be particularly difficult to explain to someone who was not there and has no first hand knowledge of the circumstances, the people involved, or their personalities and characters. Some people are simply unable to enunciate exactly what it was they observed which led them to a particular conclusion. That inability is not, of itself, sufficient reason to discard the opinion. In such circumstances, however, the opinion must be carefully scrutinised. The readiness of a number of witnesses to impute sinister motives to any utterance or action by a councillor in the opposing faction had the effect of detracting from the credibility of that person's evidence generally. The Commission will return to the issue of factions and their effect on the operation of the Council after further investigation and hearing.

1.7. The First Sitzings

1.7.1 On 12 April 1996 the Commission announced its intention to conduct hearings into certain allegations related to its terms of reference that had been the subject of widespread publicity and comment. Those allegations were as follows:

- (a) An allegation that an audio tape existed which records the voice of Mrs Cheryl Edwardes discussing a bribe in the context of Wanneroo Council.
- (b) Allegations in relation to a trip overseas in August 1990 by certain councillors and the Town Clerk of the City of Wanneroo known as the Sinagra trip.
- (c) An allegation of impropriety in relation to extensions to the home of Mr and Mrs Edwardes.
- (d) Allegations concerning the circumstances surrounding the death in July 1987 of Wanneroo

councillor, Mr Robert Baddock.

1.7.2 At the time of the announcement Counsel Assisting stressed there was no significance to be attached to the choice of matters to receive early attention from the Commission. It happened they were the closest to readiness for hearing and they happened to be discrete in their scope. I also believe it has been helpful to dispose of some of the longstanding allegations of great public interest before commencing hearings into the more substantive matters of alleged corruption in the Council of the City of Wanneroo.

1.7.3 The hearings took much longer than expected for two reasons. First, it was necessary to venture somewhat beyond the strict confines of the matters presently under investigation for the reasons I have outlined. Also, on some issues it was astonishingly difficult to obtain the same or even a similar account of the same critical event or circumstance from any two witnesses. The problem was worsened by the inability of several important witnesses to maintain an essentially similar recollection of the same events and circumstances on more than one occasion. While I appreciate the situation is not unknown to Royal Commissions, getting to the truth on a number of issues has been unusually difficult and time consuming.

1.7.4 Hearings for the first sittings commenced on 15 May and concluded with closing submissions from Counsel Assisting on 9 August 1996. Oral evidence was received from 84 witnesses whose names are listed in Annexure 1 to this report. 288 exhibits were taken into evidence.

1.8. Materials Held on Mr Peter Kyle's Computer

1.8.1 At the time Mr Peter Kyle vacated the position as head of the Inquiry into the City of Wanneroo he copied onto his personal computer system all of the Inquiry's records. The office he ran was extensively computerised. Details of most documents gathered in by summons and otherwise for the purposes of the Inquiry were held on the computer system. Mr Kyle still retains those records.

1.8.2 On 25 March 1996 I wrote to Mr Kyle asking him to remove the material from his computer and return to the Commission any hard copy

records he had taken with him. On 26 March Mr Kyle replied declining to comply with my request. He also said, somewhat beside the point, that he did not believe he had, "any hard copy records which the Inquiry does not itself possess". By that time this Royal Commission had been appointed. The Inquiry into the City of Wanneroo no longer existed.

1.8.3 After some consideration I formed the view that I had no power under the Royal Commissions Act to legally enforce the removal of the materials from Mr Kyle's computer or the return of hard copy documents. Since the matter appeared to be in the province of the Minister for Local Government I wrote to the Minister on 1 April 1996 advising him of my grave concern and requesting him to take urgent action on behalf of the Commission to secure recovery of the records.

1.8.4 I have not received a written reply to my letter to the Minister, despite two reminders. I also have reason to believe no action has been taken to recover the materials. This Commission is consequently in the invidious and frustrating position of having many of its records relating to the investigation of very sensitive and serious matters held by a member of the public. The Commission has no control over the security of the records or the use to which they may be put and no power to enforce their return. I strongly urge the Minister and Attorney General to take whatever legal steps are necessary and available to secure the removal of the records from Mr Kyle's computer and the return of the hard copy documents, thereby restoring to a proper level the security of this Commission's investigations.

CHAPTER 2

DAVID KING AND THE DISSEMINATION OF HIS ALLEGATIONS

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2.1. Introduction

2.1.1 Mr David King was a councillor for the City of Wanneroo for much of the time period of concern to this Commission. He was elected to council for a three year term on 6 May 1985 and again on 10 May 1988. He unsuccessfully sought re-election in May 1991 and again in May 1992.

2.1.2 During Mr King's time on council, Mr Matthew Pavlinovich, through his company Durlaw Pty Ltd, made an application to the City of Wanneroo for the rezoning of a property known as the Craigie Roller Rink. That application was unsuccessful. Mr Pavlinovich then engaged a town planning consultant, Mr Peter Webb, to represent Durlaw Pty Ltd before Council in a further attempt to rezone the property.

2.1.3 On 15 August 1992 Mr King was arrested by police for an offence of official corruption relating to that rezoning application. At the time of his arrest Mr King was interviewed on video tape by the arresting officers. During that interview Mr King implicated Dr Wayne Bradshaw in the offence. Dr Bradshaw was later charged and convicted. Mr King told the Commission he provided no information to police about similar types of offences committed by himself or other people, which is confirmed by the transcript of the interview.

2.1.4 From the time of his first appearance in court until May 1994, Mr King maintained a plea of not guilty. Following some telephone conversations with the Director of Public Prosecutions, Mr McKechnie QC, on 25 May 1994, Mr King's counsel, Mr Edward de Vries, wrote to Mr McKechnie advising that Mr King intended to plead guilty to the charge of official corruption. The letter, which was counter-signed by Mr King, continued:

"Further, our client undertakes to give significant aid to the investigation of the criminal conduct of any persons of whom he has knowledge and will make himself available to testify at any trial and to honestly answer all such questions as may be asked."

2.1.5 On 30 May 1994 Mr King pleaded guilty before Judge Williams in the District Court. At the hearing Mr McKechnie successfully applied to have sentencing postponed to enable Mr King to decide whether he was prepared to give police details of other matters of corruption. Mr King was subsequently

interviewed by police officers, Detective Senior Sergeant (later Inspector) Brian Griffiths, Detective Sergeant Kim Gage and Detective Senior Constable Debbie Lamperd, on two occasions prior to sentencing; on 31 May and 1 June 1994. Mr McKechnie described the result as "(N)ot very satisfactory. ... he didn't volunteer anything much". The transcript confirms his observation. Mr King's explanation for his failure to co-operate with the police was unsatisfactory.

2.1.6 On 2 June 1994 Mr King was sentenced to imprisonment for a term of three years with eligibility for parole. The sentencing judge started from a sentence for a term of four years but allowed a discount of 12 months for Mr King's plea of guilty and the assistance he had given and could potentially give to the Crown with respect to the prosecution of his alleged co-offender, Dr Wayne Bradshaw. After a night at the East Perth Police Station lock-up Mr King commenced his sentence at Wooroloo Prison Farm on 3 June 1994. On 24 June 1994 Mr King was transferred from Wooroloo Prison Farm to the Armadale Police Station lock-up ("Armadale lock-up").

2.1.7 On 1 July 1994 at the Armadale lock-up Mr King met with Mr Barry Corse from the Ministry of Justice and Ms Diane Rowe ("the Corse interview"). Ms Rowe was a friend of both Mr Corse and Mr King. During that interview Mr King told Mr Corse that he had co-operated in providing useful information on other offences to the police when he was interviewed in August 1992 and again in May and June 1994. That advice was incorrect. On 7 July 1994 Mr King was interviewed at the Armadale lock-up by Mr Brian Lawrence, the Manager of the Intelligence Unit of the Ministry of Justice. Mr King told Mr Lawrence that in May and June 1994 he had fully co-operated with police and provided them with information he considered was the basis for further police investigation. That advice was also incorrect.

2.1.8 Mr King believed he had been harshly dealt with by the criminal justice system. He had a misplaced belief that because of his cooperation with the authorities he would not be imprisoned. Mr King's belief was entirely misconceived since he had delivered nothing of value to the authorities.

This was the subject of constant complaint by Mr King to Ms Rowe, Mr Corse and Mr Lawrence.

2.1.9 On 26 and 27 September 1994, while still a trustee prisoner at the Armadale lock-up, Mr King was interviewed by Mr Kenneth Bates from the office of the Director of Public Prosecutions ("the DPP") and Mr Lawrence ("the Bates interview"). The interview was recorded and later transcribed onto 112 pages of single space typescript. In the course of that interview Mr King raised approximately 48 allegations of misconduct against a number of his fellow councillors at the City of Wanneroo and others.

2.1.10 Mr King's comprehensive interview with Mr Bates was the culmination of a fairly protracted effort on the part of a number of people to extract information from Mr King. Between the date of his sentence, on 2 June, and 26 September 1994 Mr King spoke to at least two people of his knowledge of Wanneroo matters and made a number of allegations of corruption involving councillors of the City of Wanneroo and others. Those allegations included the allegation that a councillor, Mr Colin Edwardes, and his wife, Mrs Cheryl Edwardes MLA, had been involved in corrupt conduct in relation to an overseas trip undertaken by certain councillors in August 1990. There had been previous publicity and criticism directed at the council with respect to the size of the party travelling and the fact that they had flown first class. So far as this Commission has been able to determine Mr King was the first person to allege that the trip involved corrupt activity on the part of any person.

2.1.11 The allegation that Mr and Mrs Edwardes had corruptly accepted house extensions as payment for some kind of unspecified favour bestowed on the donor by Mr Edwardes in his capacity as a councillor of the City of Wanneroo also originated with Mr King. That allegation has been examined in this sittings of the Commission. Much of the investigation carried out by the police into the affairs of Wanneroo councillors began with the allegations raised by Mr King.

2.1.12 As I have noted, the events leading up to Mr King's interview with Mr Bates and the circumstances in which it took place have a direct bearing on Mr King's credibility in making the allegations and, of course, on the allegations themselves. Those matters are consequently of fundamental interest and importance to this Commission both for present purposes and with respect to future investigations. Certain officers of the Ministry of Justice were closely

involved in persuading Mr King to tell all he knew in a number of interviews. These efforts culminated in the Bates interview.

2.1.13 Mr King came before the Commission as a man convicted of a serious offence of dishonesty. This did not, of course, mean that his word could not be accepted. However, it was apparent from the evidence of Ms Rowe that Mr King's ethical standards have not improved. He told Ms Rowe that "he believed his behaviour was no different to a business transaction where he would receive a commission". Mr King also saw no moral or legal difficulty in accepting campaign donations and pocketing the money left over after his expenses had been met. He also had a history of portraying his own position to others inaccurately. These factors required the Commission to view Mr King's evidence with caution.

2.1.14 The Commission's investigation into the allegations made by Mr King was conducted pursuant to items 1 (c) and (d) of its terms of reference. I do not consider it is necessary to invoke Item 1(j) in relation to the matters related to the Ministry of Justice which arose in the course of the investigation but it does provide a secondary basis for jurisdiction.

The Ministry of Justice

2.1.15 The Ministry of Justice was created in July 1993 with responsibility, *inter alia*, for the functions previously performed by the Crown Law Department, the Department of Corrective Services and the Department of Juvenile Justice. Mr David Grant was appointed Director General. Mr Grant had a background in prison administration at a senior level in New South Wales and Victoria and joined the Western Australian Department of Corrective Services as Executive Director on 10 June 1992.

2.1.16 One of the actions Mr Grant took during his time as Executive Director was to bring about the creation of an Intelligence Unit within the department. The job of the Intelligence Unit was to gather intelligence relating to the operation of prisons, with particular reference to matters of security. According to Mr Grant the information to be gathered was primarily for use by the superintendents of prisons but a secondary function was to relay useful information to relevant outside authorities such as the State or Federal police.

That function had previously been carried out by the Investigations Section of the department which also had responsibility for internal prison investigations.

2.1.17 Mr Lawrence was appointed Manager of the new Intelligence Unit. He had joined the Department of Corrective Services as a Prison Officer in 1982. By 1992 when the Intelligence Unit was created he was an Assistant Investigation Officer with the Investigations Section. Mr Lawrence was able to choose his own staff - four intelligence officers and a collator/analyst.

2.1.18 The Intelligence Unit was initially responsible to the Executive Director of Corrective Services, Mr Grant. When the Ministry of Justice was created on 1 July 1993, Mr Lawrence, as Manager of the Intelligence Unit, answered to the Executive Director of the Corrective Services Division, at that time Dr Denzil McCotter. It was, however, not long before the Intelligence Unit was back under Mr Grant's personal control. As Mr Grant explained it, early in 1994 he realised he needed the function performed by the Intelligence Unit with respect to the main prison system carried out in the Juvenile Justice area as well. After consultation with the Attorney General, he then brought the Intelligence Unit directly under his personal control, with an expanded brief covering both the divisions. At the same time, the Investigations Section and the Special Operations Unit were also made directly answerable to the Director General.

2.1.19 According to Mr Grant the information gathering role of the Intelligence Unit was confined to prison related activities. Part of its task was to establish and maintain liaison with outside law enforcement agencies. It was no part of the unit's function to gather information at large, either for himself or for senior officers. The unit was not involved in police investigation other than those relating to prisoners or the good order of the prison.

2.1.20 It has been necessary to set out in some detail the formation and role of the Intelligence Unit and the respective positions of Mr Grant and Mr Lawrence to assist in understanding the subsequent behaviour of both of those officers. Both involved themselves with Mr King and in the allegation of the existence of a police tape recording involving Mrs Edwardes. That involvement appears, on the face of it, to have been inconsistent with their official responsibilities. Before setting out the evidence and my findings with respect to that involvement it is necessary to briefly describe, as far as description is

possible, the role of Mr Barry Corse in the life of the Ministry of Justice in mid 1994.

Barry Corse

2.1.21 Mr Corse was described by Mr McKechnie as an officious interloper, a purveyor of malicious gossip. The senior officers in the Ministry of Justice called before the Commission unanimously expressed views to the same or similar effect. From the evidence of all material witnesses, not least Mr Corse himself, I consider that to be an accurate, though incomplete, assessment. Mr Corse is a veteran of the Vietnam war and, on his own account, suffers both physical and emotional disabilities as a result of his service. He joined the Western Australian Public Service in 1984. In August 1987 he transferred to the Department of Corrective Services as an Industrial Relations Officer. On 28 December 1989 he was appointed to the permanent position of Consultant, Occupational Health and Safety. On 12 September 1991 this position became redundant and Mr Corse was redeployed. On 18 May 1992 Mr Corse commenced with the Department of State Services as a Human Resource Planner. That position terminated on 18 December 1992 and Mr Corse was once again a redeployee.

2.1.22 In early May 1994 Mr Corse appeared in what had since July 1993 become the Ministry of Justice. While none of the witnesses who were in senior positions in the Ministry at the time will admit to knowing precisely what Mr Corse's duties were at that time or where he was supposed to be located, he appears to have been attached to Mr Lawrence and to a police task force that was present in the Ministry to investigate internal staffing problems associated with a group of ministry officers sometimes referred to as the "purple circle". Mr Corse was at the time, and remains, well known to most politicians, journalists, many police officers both State and Federal, the Official Corruption Commission, senior public servants and the Public Service Commission as a purveyor of information, usually in the form of poorly expressed and unsubstantiated allegations of misconduct by people in positions of authority. In evidence he attempted to justify this activity as his duty as a "public officer".

2.1.23 Since Mr Corse played a central role in both the Ministry's dealings with Mr King and in the dissemination of the tape rumour, it will be necessary to return later to the question of his position in the Ministry and his

relationship with Mr Grant and Mr Lawrence in some detail. I can say at the outset that I view Mr Corse's evidence with great caution. The basis for that view will become apparent in the course of my examination of the issues.

2.2. Early Contacts With Mr King

2.2.1 Some weeks before Mr King was sentenced a mutual friend of Mr King and Mr Corse, Ms Rowe, had made arrangements for the two men to meet over dinner at a restaurant. Ms Rowe is a former industrial officer with the Miscellaneous Workers Union who left that position in March 1994 to commence as State manager of a cleaning company. During her time with the union Ms Rowe for a number of years to 1991 worked with and knew Mr James McGinty MLA, the present Leader of the State Opposition. In May 1994 Mr McGinty was a State opposition member of parliament. At her first appearance before the Commission, in answer to a question from Counsel for Mr and Mrs Edwardes, Ms Rowe denied she was politically involved with the Australian Labor Party during her time with the union, apart from her longstanding membership of the party. When she was later confronted with the fact of her membership of the State Executive of the ALP over some years, Ms Rowe conceded that she had, at least for that period, been politically involved. Ms Rowe said she had at the time known Mr King as a friend for some 5 to 7 years. She had known Mr Corse as a friend since March 1993 when they worked together for some months at the Department of State Services while both of them were on secondment.

2.2.2 In a chronology he compiled some 6 to 12 months prior to appearing before the Commission Mr Corse records the date of the proposed dinner as 15 May 1994. In most other respects, however, the witnesses' recollection of the circumstances of the proposed meeting, as in most aspects of this matter, differ markedly. Ms Rowe says she had discussed Wanneroo matters with Mr King and he had told her he had made a tape containing "extensive allegations that he was making about Wanneroo Shire issues". He had given her "generalised statements" with the names of a few councillors he alleged were involved in receiving money for favours. Ms Rowe said he also mentioned Mrs Edwardes' name. Ms Rowe said she told Mr Corse about Mr King and his allegations. Mr Corse expressed interest in meeting Mr King and that was the reason she came to arrange the dinner meeting. Ms Rowe's evidence concerning the purpose of the meeting was inconsistent. She

maintained on a number of occasions that the purpose of bringing Mr King and Mr Corse into contact was simply in the hope that Mr Corse would help to improve Mr King's situation in prison in some way. On another occasion she agreed that "the purpose of the meeting was to allow Mr King to ventilate his allegations with Mr Corse". Ms Rowe denied any intention that Mr Corse would pass on any information he might gain, despite her knowledge of his extensive information network. Mr Corse, on the other hand, says that Ms Rowe approached him and asked whether he could get some sensitive information regarding "Wanneroo" to the proper authorities. Ms Rowe believes she identified Mr King as the person Mr Corse was to meet before the proposed date. Mr Corse says that Ms Rowe did not want to tell him Mr King's name and did not do so until later, after Mr King was sentenced. In any event, Mr King did not show up for the meeting.

2.2.3 On 8 June 1994, five days after Mr King was taken to Wooroloo Prison, Mr Griffiths recorded in his day book a contact from Mr Lawrence and a meeting with Mr Corse in the following terms:

"Receive info from DI Brandis to contact Brian Lawrence 264-1213 re WCC ... Phoned LAWRENCE who claimed to be intelligence manager - Prisons Department. *Stated a third party had information concerning corrupt involvement of politicians and others re WCC, also claimed Dave King "was ready to spill his guts" on everything, but would not talk to police and DPP.* Would not reveal name of person who had passed on info, but stated he would get him to ring me. I later received phone call from person Barry CORSE (2637622) claimed to be a 'specialist consultant' working on corruption matters in Department of Corrections. He requested a meeting re King and WCC matters. With Det GAGE to 441 Murray St, Perth and I/V Barry CORSE. He spoke generally and failed to provide any specific information of any value. He appeared to be motivated out of ill will towards various high profile public service people and did not impress me with his veracity. Meeting was taped. ... " (italics added)

Mr Griffiths said that Mr Corse rang about 15 minutes after his conversation with Mr Lawrence. He had no other call from anyone who could have been the person to whom Mr Lawrence was referring. I accept Mr Griffiths' evidence and find that the person referred to by Mr Lawrence as the third party was Mr Corse. It follows that I find Mr Lawrence referred Mr Corse to Mr Griffiths as a person who could provide the police with useful information on corruption in the council of the City of Wanneroo and on Mr King's intentions. That action by

Mr Lawrence is inconsistent with his own description of his relationship with Mr Corse and the unfolding of events. When confronted with Mr Griffiths' evidence Mr Lawrence agreed he had referred Mr Corse to Mr Griffiths, through Detective Inspector Ian Brandis, on the basis of information Mr Corse had given him. He agreed that the statements he had made to Mr Griffiths had come from Mr Corse. Mr Lawrence did not warn Mr Griffiths that the information from Mr Corse was not a reliable source and that his information should be treated with caution. It is clear, and Mr Lawrence agreed, that Mr Corse had provided his information on Mr King to Mr Lawrence on or before 8 June 1994. Mr Corse's chronology contains a note alongside the date for 8.6.94 - "King story to BL - discussed possibilities".

2.2.4 Mr Lawrence said on his first appearance before the Commission that he first had contact with Mr King a couple of weeks after he was imprisoned, about 14 or 15 June 1994. He said the contact had resulted from a visit he received from Mr King's son, Mr Clive King, who was a prison officer with the Metropolitan Security Unit ("MSU"), now known as the Special Operations Unit ("SOU"). I will refer to Mr Clive King as "Clive" hereafter, with no disrespect intended, simply to distinguish him from his father. Mr Lawrence put the context in the following terms:

"I had received information from Mr King's son, Clive King, who is a prison officer with the Special Operations Unit. He was concerned that his father may be under some threat and if prisoners found out that his father - - that he was a prison officer then there might be some retribution. Clive King actually came and saw me in my office at Westralia Square and raised these concerns."

2.2.5 Mr Lawrence went further:

"And what did he tell you again?---That he was concerned about his father's safety; that he felt that his father, in some way, had been made a scapegoat, and despite that he was no longer on talking terms with his father, he didn't want to see him get injured; and that his father wasn't the only one involved in this - - this business. When I asked him to - - to elaborate, he said, "Look, I more or less grew up around this, where lots of people used to visit the house and talk about things", and he said, "I'm telling you now, it's bigger than what you imagine and it goes right to the heart of the Liberal party".

2.2.6 Mr Lawrence stated further, obviously in reference to his

discussion with Mr Corse on or before 8 June 1994:

"I also received further information. Barry Corse came and saw me and said that King could be under extreme danger and that he believed that there may be members of the community who would attempt to silence King as a result of the information he had."

Mr Lawrence said that he gave information from Mr Corse the lowest grading possible for reliability and likely truth. He said he questioned Mr Corse as to the source of his information but he would not say. Mr Lawrence said Mr Corse also provided him with other information.

2.2.7 Mr Lawrence then created a document headed Information Report which recorded the date the information was received as 15 June 1994, the reporting officer as Mr Lawrence, the date and time at which the document was created as 08:12 on 16 June 1994 and distribution as "D.G." for Director General ("The Information Report"). The document is of sufficient importance to the issue of Mr Lawrence's credibility to warrant reproduction in full and it is annexed hereto as Annexure 2. Mr Lawrence said the first five paragraphs on page 1 of the report came from information supplied by Mr Corse and the last two paragraphs on that page from Clive. The report raises a number of obstacles to acceptance of Mr Lawrence's evidence as credible and truthful.

2.2.8 On his two appearances before the Commission Mr Lawrence gave widely differing accounts of the sequence of events behind the creation of his Information Report. On the first occasion Mr Lawrence said he received information from two sources on different dates. One of those dates was 15 June 1994 as shown on the Information Report. He said he received the information from Mr Corse on that day. It follows that the information from Clive was received at some earlier point. On the second occasion, when he was confronted with the evidence of his telephone contact with Mr Griffiths on 8 June, he accepted that it was the information from Mr Corse which must have come to him earlier, on or prior to 8 June.

2.2.9 Mr Lawrence was also sure that when Mr Corse spoke to him about his lady friend who knew Mr King he also spoke about the threats to Mr King. Since Mr Griffiths only had one contact from Mr Lawrence at around this time, the reference on page 2 to contacting Mr Griffiths to inform him of the threats could only be in relation to the contact on 8 June 1994. It follows, and Mr Lawrence

further accepted, that the "source and date information received" box at the head of the document must then have referred to the information received from Clive. Mr Lawrence said that Clive did not want his identity disclosed because he did not want it known he was concerned for his father's welfare. I shall return to the Information Report shortly.

2.2.10 Very little of the evidence from Mr Lawrence in relation to his contact with Clive was consistent with the accounts of other witnesses. Mr Lawrence was himself unable to maintain key aspects when he subsequently returned to the witness box some three weeks later. First, Clive flatly contradicted most of Mr Lawrence's evidence as to their meeting. Clive told the Commission that when he read the report of Mr Lawrence's evidence in *The West Australian* on 25 May 1996 he disagreed with what had been said. He contacted his union and a solicitor and then made contact with the Commission.

2.2.11 First, Clive said he did not approach Mr Lawrence. When his father was sent to prison he notified his superintendent, Mr Jim Schilo, of the relationship and the fact that his father was a prisoner, as he was required to do under Ministry rules. He said he heard nothing for a couple of weeks when he was approached at work by Mr Schilo and his assistant superintendent, Mr Greg Johnson. Mr Schilo and Mr Johnson told Clive that the Manager of the Ministry's Intelligence Unit, Mr Lawrence, wanted to have a chat with him. Clive said he had already made a statement to CIB detectives about his knowledge of his father's involvement in the Wanneroo council. He did not want to speak to Mr Lawrence but after being contacted another two or three times by his superintendent and assistant superintendent, he agreed to a meeting.

2.2.12 Clive said he met Mr Lawrence in Mr Lawrence's office at Westralia Square. Mr Lawrence told him he had met with his father on a few occasions and he wanted to confirm some details with him. He said he had heard some rumours that a contract had been taken out on his father's life by Dr Wayne Bradshaw. Clive said he told Mr Lawrence he too had heard that rumour. Secondly, Clive said he expressed no concern whatsoever for his father's welfare. He had fallen out badly with Mr King in about 1992 at the time of his parent's divorce and had not spoken to him since. Clive said "you could probably go so far as to say we hated each other". He did not at any time refer to his father as being made a scapegoat. He did not refer to the circumstances of his father's interview with the police. He said he was aware of those

circumstances because the CIB had contacted him but he did not mention them to Mr Lawrence.

2.2.13 Further, Clive said there was no discussion about growing up being aware of corruption in Wanneroo and he had not said anything like "it goes right to the heart of the Liberal party." He said he may have told Mr Lawrence that it would not surprise him if it went right to the top. Clive is now 29 years old. He left home in 1990, at the age of 23. His father was on the council of the City of Wanneroo between 1985 and 1991. Clive was consequently living at home while Mr King was on the council for five years, between the ages of 18 and 23. It would seem unlikely that Clive would consider and say that he "grew up around this" or words to that effect. Clive said he told Mr Lawrence he had no evidence.

2.2.14 Mr Schilo and Mr Johnson essentially supported Clive's version of the manner in which the contact was made. Mr Schilo recalls Clive reporting the fact of his father's imprisonment to Mr Johnson who reported it to him. Mr Schilo also recalls having a conversation with Mr Lawrence about Mr King about two weeks after Mr King's sentence during which Mr Lawrence mentioned that he was aware that Clive was Mr King's son and in the MSU. Mr Schilo said Mr Lawrence also mentioned he had been seeing Mr King. If this was true it does not fit with the chronology as I have found it to be. According to Mr Schilo, Mr Lawrence then asked him whether he would ask Clive to see Mr Lawrence. Mr Schilo said that he was new to the unit and did not know Clive personally but agreed to pass on the request. Within 24 hours he did so, in the presence of Mr Johnson. Clive's response was along the lines "why would Mr Lawrence want to speak to me since I have already spoken to the police?" Mr Schilo conveyed to Clive that Mr Lawrence had intimated to him that Mr Lawrence wished to discuss Wanneroo matters because of Mr King's involvement. According to Mr Schilo, at no time did Clive express any concern for his father's welfare. Clive was very bitter towards his father and conveyed an intense dislike of him. Mr Schilo said he had never heard anyone speak like that about his father. The only other involvement Mr Schilo had with the matter was to authorise Clive to use a Ministry car to attend his meeting with Mr Lawrence.

2.2.15 Mr Johnson said he had been told by his superior, Mr Schilo, that Mr Lawrence had made the approach to the Superintendent. They spoke to Clive together. He recalls that Mr Schilo passed on the request from Mr Lawrence and that Clive mentioned he had already spoken to the CIB.

Shortly after, Clive came to Mr Johnson and asked his personal opinion on whether he should speak to Mr Lawrence. Mr Johnson said he told Clive he was not obliged to do so - it was entirely his decision. Mr Johnson recalls that some time later he answered the telephone in Mr Schilo's office and it was Mr Lawrence. Evidently assuming Mr Johnson was aware of the situation with Clive, Mr Lawrence asked Mr Johnson whether Clive was intending to see him. Mr Johnson said he was not sure. He said he did not have to follow up on Mr Lawrence's inquiry because shortly after that conversation Clive told him he had already been to see Mr Lawrence.

2.2.16 When Mr Lawrence gave evidence before the Commission on a second occasion his account on this issue also changed. However it remained essentially inconsistent with the accounts of Clive, Mr Schilo and Mr Johnson. Mr Lawrence then said the contact was initiated through Clive's superintendent, Mr Schilo. In the course of the discussion between them referred to by Mr Schilo, Mr Lawrence said Mr Schilo had raised concerns about Mr King's safety and advised him that Clive was worried about his father. Mr Lawrence then said to Mr Schilo "(L)ook, if he's got a problem maybe he should come and see me". He pointed to the fact that he was the person in the Ministry responsible for threat assessment. Mr Lawrence said Clive then came to see him in response to that invitation conveyed to him by Mr Schilo. He did agree that in the light of that evidence, his previous evidence to the effect that Clive had initiated the contact was wrong but he denied he had ever rung either Mr Schilo or Mr Johnson to ask them to request Clive to speak with him.

2.2.17 In his Information Report (Annexure 2) Mr Lawrence recites the subject of the report as "(T)hreats being made against prisoner KING, David Anthony - Wooroloo Prison". The report does not include any reference to concerns on the part of Clive as to his father's welfare. The reference to threats to Mr King came from information supplied by Mr Corse. It was for that reason that Mr Lawrence rated the information F6 - reliability unknown and truth unable to be judged. Mr Lawrence said he had little or no faith in information received from Mr Corse. He agreed he took the information he received from Clive seriously. He was quite unable to satisfactorily explain why, in those circumstances, he failed to mention in the report the information he had received from Clive regarding threats to his father. The explanation he gave, that Clive wanted his concern kept confidential, was unconvincing because Clive's identity was not revealed, or even hinted at, in any event. Mr Lawrence, when pressed,

said he simply chose not to mention that information.

2.2.18 Presumably to establish a closer relationship between Clive and his father than admitted by Clive, Mr Lawrence also raised a conversation he said he had at some subsequent time with Mr King in which Mr King told him that in the course of a strip-search of prisoners by Special Operations Unit officers Mr King had seen his son, Clive. Mr Lawrence said Mr King had told him Clive had put a finger to his mouth to indicate silence and had then taken his father aside and let him off the search. In support of that evidence Mr Lawrence produced a number of MSU search forms which purported to record strip searches on 15 June by Clive and an officer named Harper of a number of named prisoners. Mr Lawrence put forward the proposition that the absence of a form for Mr King corroborated his evidence that Clive had let his father off a search. In fact, as Mr Lawrence eventually conceded, all the forms establish is that Clive and another officer conducted a number of searches of the people named.

2.2.19 There was evidence of MSU operations at Wooroloo, which included Clive, on 9 June and 15 June 1994. There was no evidence to refute Clive's denial that he had let his father off any search or otherwise shown him preferential treatment. Clive agreed that on one of the operations he had seen his father and placed his finger to his mouth. He did that, he said, not out of concern for his father's security and safety but to avoid any jeopardy to the search operation. He said he was 25 to 50 metres away from his father at the time and immediately reported the contact to his superior. Mr Johnson produced MSU search forms which showed that Mr King had been both strip and rubdown searched on 9 June. Mr Johnson also said the area searched on 15 June was 3A, an area for long term prisoners. On the forms for the searches on 9 June Mr King was shown to have been in cell 1A 34.

2.2.20 In all the circumstances, including the fact that Clive, Mr Schilo and Mr Johnson deny any concern for his father's welfare on Clive's part, I am of the opinion that the reason Mr Lawrence omitted to mention in his Information Report the information relating to Mr King's safety he asserts he received from Clive was that he had not received any such information. It follows that Mr Lawrence's only informant as to possible threats to Mr King was Mr Corse, who was said by all witnesses, including Mr Lawrence, to be an unreliable source. It also follows that the whole basis for the approach by Clive asserted by Mr Lawrence falls

away. I accept the evidence of Clive, Mr Schilo and Mr Johnson that it was Mr Lawrence who sought out Clive. I also find that he did so not from any concern for Mr King's welfare but because he wished to speak to Clive about the information he believed Mr King held on "the Wanneroo corruption issue". I am unable to accept that Mr Lawrence could have been mistaken in his evidence on these matters. In my opinion he deliberately attempted to mislead the Commission.

2.2.21 The chronology established from the evidence in relation to the Information Report, Annexure 2, is also of considerable significance in relation to the tape rumour. I will return to it again in chapter 3.

2.2.22 Mr Lawrence said that after submitting his Information Report on 16 June he discussed the matter with Mr Grant in person. He said he told Mr Grant he was unsure of his information and they decided that he should go to Wooroloo Prison Farm to "have a word" with Mr King. Mr Lawrence established by reference to his official car log book that he made the visit on 21 June 1994. Mr Lawrence said he invariably filled in his log book whenever he used the car. The log book contained only one entry for a trip to Wooroloo Prison during the month of June 1994.

2.2.23 The Superintendent of Wooroloo Prison Farm at the time, Mr Peter Moore, recalls Mr Lawrence attending to see Mr King. It so happened that Mr Moore had himself arranged to see Mr King on that day to raise with him complaints he had received as to Mr King's behaviour. According to Mr Moore, Mr King had been irritating the other prisoners with his smug, name-dropping attitude and had already been involved in one incident in the kitchen where he had been threatened by another prisoner. Mr Moore summoned Mr King and advised him, for his own good, to settle down and adapt to life in prison. Mr Lawrence attended that meeting and made his inquiries of Mr King in the presence of Mr Moore. Mr Moore does not recall Mr Lawrence asking or discussing with Mr King any matters pertaining to the City of Wanneroo. Mr Moore also said he was not aware of Mr Lawrence having visited Mr King on any other occasion at Wooroloo and believes he would have been informed had Mr Lawrence done so.

2.2.24 Mr Grant recalls speaking to Mr Lawrence about his conversation

with Clive. He recalls the conversation as follows:

“And what was your recollection of what he told you?---He told me that Mr King's son had indicated that, given the imprisonment of his father, he was - - although they were no longer close, he felt some concern for his safety and would probably require some protection, that given his relationship with a prison officer, he may be assaulted by other prisoners. He also said that King's son had indicated that he was - - he felt some sympathy for his father given his present circumstances, especially because he, that is, King's son, had - I'm paraphrasing now - grown up amid the corruption at Wanneroo and that corruption went to the heart of the Liberal Party. I think - - I believe there were some names mentioned but I cannot recall with any certainty.”

2.2.25 The similarity between Mr Grant's answer on this point and that of Mr Lawrence as set out in paragraph 2.2.4 and 2.2.5 is striking. Both accounts are directly in conflict with the evidence of Clive. In the light of the close working relationship between Mr Grant and Mr Lawrence and their concomitant interests it would seem most unlikely that Mr Lawrence would convey to Mr Grant a fabricated conversation with Clive. I note, again, that the only reference to concerns for Mr King's safety and the scope of his allegations on the Wanneroo corruption issue in Mr Lawrence's written Information Report to Mr Grant (Annexure 2) are said by Mr Lawrence to have come from Mr Corse. Mr Grant's account was fairly detailed and clear. There is little or no room for an interpretation of mistake. In these circumstances the only conclusion reasonably open to me is that Mr Grant's evidence on the Clive King connection, like that of Mr Lawrence, was a fabrication. It follows that both Mr Grant and Mr Lawrence took the action they did essentially on the basis of information provided by Mr Corse. That finding is fortified by my conclusions as to the relationship between Mr Corse on the one hand and Mr Grant and Mr Lawrence on the other which is canvassed later in this chapter.

2.2.26 Mr Grant told the Commission he considered the information he was given by Mr Lawrence to be sufficiently significant to raise with Mr McKechnie. Mr Grant thought that at the time he spoke to Mr McKechnie, Mr Lawrence had not seen Mr King - he had only spoken to his son. Mr McKechnie has a different recollection. He recalls being approached by Mr Grant some time after Mr King was sentenced, he estimates two to three weeks, to advise him that Mr Lawrence had been speaking to Mr King who “may have information he wished to pass on”. Mr McKechnie recalls the general thrust

of Mr Grant's information to be that Mr King distrusted the police and the DPP, believed he had been double-crossed and desperately wanted to get out of prison. He had no recollection of Clive being mentioned at that first meeting nor any discussion of Mr King's welfare or well-being. Mr McKechnie was quite definite in his recollection that he was told of the relationship between Mr Lawrence and Mr King at the initial meeting. He said "that was the purpose of the meeting actually - to tell me that Mr Lawrence had struck up - or that they had a relationship". Since Mr McKechnie is equally definite in his recollection that Mr King was still at Wooroloo when the meeting took place, his account places the date at which it occurred as between 21 and 24 June 1994. Mr Lawrence first went to see Mr King on 21 June and Mr King was moved to the Armadale lock-up on 24 June. Mr Grant and Mr McKechnie agree that at the first meeting Mr McKechnie asked that Mr Lawrence be encouraged to continue his relationship with Mr King to determine whether Mr King would be prepared to co-operate with the authorities. Mr McKechnie believed Mr King knew a great deal more than he had to that time disclosed. Mr McKechnie's evidence as to the initial meeting with Mr Grant is consistent with my finding that Mr Grant's account is false in certain material respects.

2.3. Later Dealings With Mr King

2.3.1 The principal obstacle to establishing just what happened with the Ministry of Justice dealings with Mr King after Mr Lawrence's initial approach on 21 June 1994 is that, with the notable exception of Mr McKechnie, until the police re-entered the picture there is not one credible witness to the events.

2.3.2 After Mr Lawrence's visit on 21 June 1994 the next person to attempt to gain information from Mr King appears to have been Mr Corse, on 1 July 1994. In the meantime, on 24 June Mr King had been moved from Wooroloo Prison Farm to the Armadale lock-up as a trustee. There was some evidence before the Commission as to the circumstances and reasons which led to Mr King being moved but I do not consider that evidence to be of any significance for present purposes.

2.3.3 Mr Corse's chronology must, of course, be consulted with a great deal of caution but it does indicate the way in which Mr Corse viewed the events of this time. The chronology shows that on a date which is indistinct on the document, but between 2 June and 8 June 1994, he learned from Ms Rowe

that the person with whom he was to have had dinner on 15 May was Mr King. The entry in the chronology reads, "DR - its King". There are other entries which relate to Mr Corse's eventual meeting with Mr King, as follows:

"8.6.94 KING STORY TO BL - DISCUSSED POSSIBILITIES TO SET UP A PRIVATE VISIT. DR WILL NEED TO ARRANGE IF KING WILL PLAY BALL. ...

15.6.94 BL WHATS THE PROBLEM - WHEN'S THE MEET - Mr GRANT NEEDS HELP THE HEAT IS ON HIM - AG's PLAN TO REPLACE HIM.

1.7.94 KING INTERVIEW - PM VERBAL REPORT TO BL AS AGREED - Q HOW SOON WRITTEN.

4.7.94 5.30 PM. BL. Q. WHEN REPORT.
7.15 PM. BL. Mr GRANT WILL ACTION ASP. URGENCY."

2.3.4 Mr Corse agreed that part of the entry for 8 June was out of place. He said Mr Lawrence did request him to go and see Mr King but not until a few days after their first discussion on the subject on 8 June. He said Mr Lawrence asked him if he would go to see Mr King. Mr Corse said he told Mr Lawrence he did not know whether he would because Mr King was by then in gaol but "eventually I believe he made it clear that if I could it would be appreciated by him, representing the Director General". Mr Corse said Mr Lawrence said nothing to indicate he had already seen Mr King himself. Mr Corse elaborated on this evidence as follows:

"And your understanding was that that was with at least the appreciation of Brian Lawrence and David Grant?---I was under the impression it was as a result of a very strong desire by Lawrence, representing Grant, that I go to see what King had to say, to see if there was any chance of him setting up any future meetings.

So you were confident that you had their full approval - - ?---Oh, most definitely."

2.3.5 Mr Corse even went so far as to say that Mr Lawrence was pressing him with comments like "(H)ow soon can you get out there? David's waiting". Mr Corse said he went to see Mr King at around 10.30 a.m. and not during his lunch hour as was later suggested. He said he made it clear to Mr King that he was there in a private capacity but that he was a "public officer". Mr Corse said that at the end of their discussion he asked Mr King whether he had any problem with Mr Corse passing the information Mr King had

given him to the proper authorities. Mr Corse could not remember Mr King's response but thought it was "no". He said an objection from Mr King would not have made any difference to his subsequent actions, in any event. He said he went with the specific purpose of obtaining information about Wanneroo and passing it on to the proper authorities. At one point in his evidence he said the allegations were of interest to him because Mrs Edwardes was the Attorney General and he had regular dealings with Mr Edwardes who had a senior position in the Ministry. He later denied he had any particular interest in Mrs Edwardes and regarded Mr Edwardes as a friendly associate. This evidence directly conflicted with the interview Mr Corse had with Mr Griffiths on 8 June 1994. The transcript of that interview reveals a degree of hostility on the part of Mr Corse to both Mr and Mrs Edwardes.

2.3.6 Mr Corse went to see Mr King with Ms Rowe. Mr Corse said she introduced him to Mr King simply as a Ministry of Justice consultant who may be able to help Mr King. Their discussion ranged over a number of Wanneroo related matters. Mr Corse said that as soon as he could he made some pencilled notes of what had been discussed. Some days later, on 6 July 1994, he wrote a memorandum to the Director General, Mr Grant, setting out the substance of his discussion with Mr King. That memorandum is annexed to this report as Annexure 3. References to allegations made by Mr King with no present relevance have been removed.

2.3.7 Mr Corse says that on his return to the Ministry he made an oral report to Mr Lawrence on his visit to the Armadale lock-up. That report is noted in the conclusion to the memorandum, on page 3. He sent the original of his written report (Annexure 3) to Mr Grant and a copy to the Official Corruption Commission, the Public Service Commission, Mr Derrick Tomlinson MLC and believes he may have given a copy to Detective Inspector Alexander ("Jock") McNaughton, the officer in charge of the "purple circle" investigation in progress at the time. Mr Corse was unable to adequately explain why he provided copies of his memorandum to all those people. Mr Corse denied giving a copy to Ms Rowe and emphatically denied giving a copy to either the media or Mr McGinty, the then Shadow Minister for Transport, Parliamentary and Electoral Reform.

2.3.8 Mr McGinty provided a statement to the Commission in which he states that Mr Corse did provide him with a copy of the memorandum.

Mr McGinty annexed a copy of the document he obtained from Mr Corse to his statement. It is a copy of Annexure 3, signed but without the handwritten addition at the foot of page 1. Mr McGinty further states that he met Mr Corse at a coffee shop in King Street, Perth, where Mr Corse identified himself as a senior investigative officer for the Ministry of Justice or in similar terms. Mr Corse has been supplied with a copy of Mr McGinty's statement and he denies its contents. Despite a specific request, Mr Corse did not provide any grounds for his denial nor did he specify the parts of Mr McGinty's statement with which he disagreed. I accept Mr McGinty's evidence. Mr Corse has not been truthful with the Commission on this important point.

2.3.9 Mr Grant agrees he received Mr Corse's memorandum. The handwritten note on the bottom of page 1 in Mr Grant's handwriting states that the document was "handed to DPP (JMCK) 8/7/94". Mr Grant confirmed having passed the document to Mr McKechnie. He said it was the first piece of written information on Mr King to go to the DPP. Mr McKechnie recalls seeing Mr Corse's memorandum.

2.3.10 On 10 August 1994 Mr Corse's memorandum entered the public domain. On the evening of 9 August 1994 Mr McGinty made a speech in Parliament in which he referred to the fact that allegations of corruption against Mr and Mrs Edwardes and Mr Wayne Smith MLA had been referred to the DPP for investigation. The speech was reported in *The West Australian* on the following morning, 10 August. Mr McGinty raised the matter in Parliament again on 10 August. In the debate that followed Mr Corse was identified as the source of the document containing the allegations that had been referred to the DPP for investigation. On the same day Mr McKechnie issued a strongly worded media release. In that release Mr McKechnie explained that he had been given a copy of Mr Corse's memorandum and noted that the information it contained originated with Mr King. He said that such information as Mr King had provided "is totally unsupported and properly fits the category of gossip, rumour and smear". Mr McKechnie said further that "the assertions of misconduct against Cheryl and Colin Edwardes fall into that category". He characterised such allegations without substance as "a cowardly attack".

2.3.11 Mr McKechnie said he was extremely annoyed to learn from Mr Grant of Mr Corse's interview with Mr King. He said that when the aftermath was raised in the media he discussed the situation with Mr Grant in "forthright

terms". He said his office and the police, using the services of Mr Lawrence, had been trying to get Mr King to open up and tell the truth about what had been going on. It was a fairly delicate operation and then "here's this officious interloper coming in and trampling all over all the good work that was being done". Mr McKechnie said he viewed the information being peddled by Mr Corse as "malicious gossip" and the situation as a potential disaster. Mr McKechnie said he told Mr Grant to tell Mr Corse to stop interfering in matters which were not his concern. He said he believed Mr Grant tried to do that. He also called Mr Corse in and told him "fairly bluntly" that he was interfering in matters which were not his concern. Mr McKechnie said Mr Corse told him he believed the matter was in good hands but he had a duty to perform. Mr McKechnie said he had difficulty seeing what that duty was but Mr Corse did agree to desist. Mr McKechnie fixed the date of that meeting, by reference to a file note, at 23 September 1994. That date was, of course, some time after the story became public.

2.3.12 Mr Corse had undoubtedly stirred up a hornet's nest and caused a great deal of trouble. The important questions appear to be first, why did he do it and secondly, did he act alone?

2.3.13 In summary, Mr Corse says he was asked to see Mr King by Mr Lawrence who made it clear he was representing Mr Grant. There is no suggestion from Mr Corse that he was acting for anyone else when he gave the document to Mr McGinty. He has denied having done so. Mr Corse began his memorandum, "(O)n Friday 1 July 1994, in company with a friend, I *privately* visited prisoner/trustee David King at the Armadale lock-up, between the hours of approximately 11.25 am and 12.10 pm." (italics added). Mr Corse explained the reference to a private visit by saying he was directed to include those words by Mr Lawrence who was conveying to him the wishes of Mr Grant. After some persistent questioning on the point Mr Corse finally said "at this point in time I still don't know why I did that". I do not accept that Mr Corse was directed to say in his report that he went to see Mr King privately. Nonetheless, his position before the Commission was that he "was there, on duty, with the authority and the knowledge of the Director General and Brian Lawrence". That is Mr Corse's evidence.

2.3.14 Mr King said Mr Corse just turned up out of the blue one day with Ms Rowe who was a good friend of his. The following is a summary of

Mr King's account, unless otherwise indicated. Ms Rowe introduced Mr Corse as a disgruntled Liberal party supporter and said that he was "okay". Ms Rowe expressed sympathy at Mr King's sentence and Mr Corse asked if he could take notes as they talked. Mr King said "no" and recalls that the request caused him concern. He recalls Mr Corse telling him he was a public officer. Mr King's evidence is somewhat incoherent on the point but he appeared to be trying to convey that despite not taking notes Mr Corse must have a pretty good memory because, from what he had read in the papers, between the two of them they had basically got the contents of their discussion right. There were, however, a couple of things on which Mr Corse had "stuffed up". He had not seen Mr Corse's memorandum (Annexure 3) until it was shown to him recently by Counsel Assisting. He pointed to a number of items in that report which he claimed he did not say. He particularly refuted Item 11 saying that Mr Edwardes was hard to contact at work and did not like receiving calls. He had never heard of Pat Strickland. He did not know where Mr Corse got his information for that item. It does appear that Mr Corse may have inserted that item for reasons of his own, unrelated to his visit to Mr King. The first note was investigated by the Public Service Commissioner and found to have no substance at all. On being asked about the second note Mr Corse said, "Oh, that - no, that was made on my own notations - again from Corrective Services/Ministry of Justice gossip".

2.3.15 Mr King did not want Mr Corse to pass on the information he conveyed and said that was the reason he did not want Mr Corse to take notes. He said he probably complained to Mr Corse that he had been double-crossed by the DPP and police or something along those lines. Mr King said Mr Corse did not ask if he could pass on his complaints to other people. He did not intend Mr Corse to use the information. He said it was supposed to be an off-the-cuff talk with a friend of his who was concerned for his welfare. He had no idea they were going to use the information as they did. He recalled giving evidence to the Commission on 8 May 1996 and saying, on oath, "(B)asically they were fishing for information which they could obviously use for political purposes". Mr King saw no contradiction in those two statements. When pressed by Counsel for Mr and Mrs Edwardes, Mr King gave these answers:

"She rolled up - this friend of Mr McGinty - with a Mr Corse who was introduced to you as a disgruntled Liberal party member?--- That's correct.

Now, you must then have known that this was a meeting at which they had some political agenda?---Mm. Yeah. I would - - now - -

now, that I - - back in hindsight, I can say "Yes. You're right".

I put it to you that you knew it even then and you saw it - and it was probably offered to you - on the basis that these people would make a noise in Parliament, and that might help you get out of gaol?---You can conclude that.

It was one of the ways - - you were a desperate man trying to keep - - get out of prison?---Yeah. You could say that.

Yes. And so you let it be known, rightly or wrongly, that you said you had evidence of corruption on the part of other people. Correct?---I had things that I knew that I would be prepared to - - to state. Correct."

In the end Mr King seemed to settle on this answer:

"Well, the fact of the matter is that I didn't know what they were going to do and until it came up in parliament some time later I was absolutely spewing, and after Brian Lawrence had told me not to talk to Barry Corse again I didn't have anything to do with him, or anybody else for that matter."

He said he thought he had been used by his friend Diane Rowe and Barry Corse. That is Mr King's version of the interview. In my view it is inherently implausible that Mr King would provide the information he did to a complete stranger without any assurance of confidentiality unless he intended Mr Corse to pass it on. Alternatively, Mr King did not care one way or the other.

2.3.16 The motives of Ms Rowe in facilitating the meeting between Mr Corse and Mr King were subjected to some scrutiny. The following narrative is Mr Rowe's version of events unless otherwise indicated. After Mr King was sentenced Mr Corse said to her again that he would like to meet with Mr King. Ms Rowe understood he wanted to talk to Mr King about Wanneroo matters and knew he would pass on any information gained to someone, though she did not know who. She thought he was a senior official in the Ministry of Justice and believed, in some way she was unable to articulate, that Mr Corse could be of help to Mr King. Ms Rowe believed the visit was in an unofficial capacity but recalls Mr Corse telling her she need not worry, his superiors were aware he was going to see Mr King. She introduced Mr Corse to Mr King as a friend and not as an officer of the Ministry. She did not say he was there for any particular purpose. Mr Corse initiated the discussion and it concerned Wanneroo matters. Ms Rowe believed Mr Corse said he would discuss the matter with someone in the Ministry of Justice and recalls that Mr King did not put up any opposition to

that advice. There was also general discussion about Mr King's welfare.

2.3.17 Ms Rowe was unaware of the subsequent publicity concerning Mr Corse's visit and did not know the matter had been raised in Parliament. She was unaware of those facts to this day. She did not and does not read newspapers, did not and does not listen to the radio and seldom watches television. She has not learned of the publicity from any other source. For someone of Ms Rowe's political background and contacts that evidence of her lack of awareness of the subsequent publicity is inherently unbelievable and I do not accept it. Ms Rowe could not have failed to be aware of the results of her handiwork.

2.3.18 Ms Rowe did not ever suggest to Mr Corse that he speak to Mr McGinty about the information obtained from Mr King nor did she facilitate him doing so in any way. She agrees with Mr Corse that he did not give her a copy of his memorandum to Mr Grant. She denies any suggestion that the whole affair was a political exercise and asserts that she was at all times motivated by a concern with the welfare of Mr King. She has had one conversation with Mr Norman Marlborough MLA about Mr King. He telephoned later in Mr King's gaol term to ask her to arrange a meeting with Mr King. Ms Rowe told Mr Marlborough she would talk to Mr King. She thought Mr King could do without the further stress and did not return Mr Marlborough's call.

2.3.19 The verifiable facts surrounding Ms Rowe's participation in the Corse interview strongly point to a deliberate exercise planned by a politically committed person to embarrass those of the opposite political persuasion from herself. Ms Rowe was at the time a longstanding member of the ALP and a member of the State Executive, though possibly not an active member of the latter body. She had worked closely with Mr McGinty for a number of years. It just happened to be Mr McGinty into whose hands the resultant document fell. In my opinion it is of some significance that Mr Corse described Ms Rowe as "Jim McGinty's lieutenant". Mr Corse would most likely have gained that impression from Ms Rowe. The contents of the memorandum, and Mr Corse's action in referring it on, were promptly raised in Parliament.

2.3.20 The possible inference suggested by those objective factors is strengthened by the efforts of Ms Rowe in the course of her evidence to minimise her political involvement and connections and her knowledge of

Mr Corse's propensities. On her first appearance before the Commission she denied that her job as an industrial relations officer involved her in active involvement in the Labor party. On her second appearance it was put to Ms Rowe that answers she had given on the previous occasion were not entirely accurate. Having first agreed she was a member of the ALP State Executive until March 1994, Ms Rowe gave the following answers to counsel for Mr and Mrs Edwardes:

"You said under oath last time - -?---Yeah.

- - when you were asked whether this was all a political exercise, at page 2365, "On my part I cared about David King who at that time was a personal friend."?---That's right.

"I had no political motives in what I did and I have not been politically involved with the Labor Party. I may be a member but not actively involved in the Labor Party"?--- Yeah.

It's not true that you have not been politically involved with the Labor Party?---Well, it depends on what you call "politically involved". If you call attending a state executive meeting with, as I said, 50 to 100 people involved, well, yes, I attended ALP meetings but that's - -"

In my view those answers are transparently silly. Further, there is no doubt that Mr Corse had a widespread and well-earned reputation as a pedlar of information, innuendo and rumour. Further yet, I have little doubt that a person in Ms Rowe's position would be aware of that reputation but Ms Rowe denied that she knew then that Mr Corse was a pedlar of innuendo and rumours and would not accept that to be the case even now.

2.3.21 As I have noted, Ms Rowe also told the Commission that Mr King had mentioned to her the name of Mrs Edwardes in connection with alleged unlawful activities in Wanneroo. Ms Rowe said she could not remember any details. When she was asked whether it was of interest to her that Mr King was suggesting a Liberal Party member of Parliament was receiving money, she said, "At that stage I wasn't aware that these people were members of the Liberal Party". She said it was not of great interest to her at the time. She later conceded "I am prepared to say that I knew she was a member of the Liberal Party". Counsel for Mr and Mrs Edwardes later asked Ms Rowe:

"Are you saying you didn't know in 1994 who the Attorney General was? Are you saying you had never seen newspapers with those sorts of headings? --- No. I'd agree I would have known at the

time, but we were also -- the time that David King was talking to me about was years prior to that. It was not in 1994."

2.3.22 I accept the evidence of Ms Rowe and Mr King that they had been friends for a number of years. While I note Mr King's evidence that the visit with Mr Corse was the first time Ms Rowe had been to see him, I accept Ms Rowe's evidence that she went to see Mr King in prison and in the lock-up on a number of occasions and not just for the purpose of bringing Mr Corse and Mr King together. I find that Ms Rowe's actions in bringing Mr Corse and Mr King together was motivated by the hope and expectation that Mr Corse would pass on the information he obtained in a way that would result in some benefit to Mr King. There is insufficient evidence to support a finding that her actions were politically motivated.

2.3.23 As previously noted, Mr Grant said that Mr Corse's memorandum (Annexure 3) was the first written information he had sent to the DPP on the subject of Mr King. There was no covering letter advising caution or commenting on Mr Corse's position. It appears to have been sent on the basis that Mr McKechnie should accept it on face value. Mr Grant's reaction to Mr Corse's action is considered below, in the context of Mr Corse's role in the ministry. Mr Lawrence said he did not learn that Mr Corse had been to see Mr King until some weeks later, from the newspapers. He said he asked Mr Corse on what authority he had interviewed Mr King and Mr Corse replied that he had gone there as a member of the public. Mr Lawrence said he told Mr Corse, "Barry, you're looking for trouble". That evidence from Mr Lawrence, of course, flies in the face of the notation in Annexure 3 where Mr Corse notes at page 3 "(T)his information confirms my verbal report to Brian Lawrence, Ministry of Justice at approximately 2.00 pm Friday 1 July 1994". Mr Corse knew Mr Lawrence and Mr Grant were in close working contact and that Mr Lawrence would have been able to refute the statement if it was untrue. In those circumstances it is almost inconceivable that Mr Corse would have referred to Mr Lawrence in that way in a document intended to be read by Mr Grant. In any event the reference was gratuitous. Mr Corse would have had no reason to include it if it was not true.

2.4. The Cultivation of Mr King by Mr Lawrence

2.4.1 Mr Lawrence said that after Mr King was moved to Armadale on 24 June 1994 he began visiting him "from time to time", to see how he was going. He said there was no set pattern to his visits but they were approximately once

a week. He said Mr King quickly developed confidence in him and expressed anger at having been "fitted up" by the police and DPP. Mr King confirmed that Mr Lawrence was "very, very friendly towards me and I felt comfortable with him". He described Mr Lawrence as "a gentleman and a very, very nice man". Mr Lawrence said Mr King was complaining but very emotional.

2.4.2 On 11 July 1994 Mr Lawrence wrote a memorandum to Mr Grant in which he advised Mr Grant he had visited Mr King on 7 July and obtained a significant amount of information from him. After setting out Mr King's complaints about the way in which he was treated by the police and the DPP, the memorandum listed nine separate allegations said to have been raised by Mr King against approximately a dozen different people. Mr Grant said he forwarded a copy of that memorandum to the DPP on 1 August 1994. There is a notation on the document to that effect in Mr Grant's handwriting. Mr Lawrence said he was told by Mr Grant that he had spoken to the DPP who said "I should continue visiting King, and to explore what information we could get out of him".

2.4.3 On 15 August 1994 Mr Lawrence sent another memorandum to Mr Grant detailing further discussions between himself and Mr King. It contained further allegations by Mr King of corrupt activities in Wanneroo. Mr King actually produced four documents to support a connection between a number of the parties against whom he was making allegations. Mr Lawrence noted that Mr King was, "adamant that at this point in time he does not want the evidence passed to either the DPP or Police". Mr Grant said he forwarded the document to the DPP on the same day. Again, there is a notation to that effect on the memorandum in Mr Grant's handwriting. Mr Lawrence said he did not keep copies of either of the two memoranda he sent to Mr Grant or, in fact, of any report he prepared. He not only did not keep hard copies but he deleted all reports from his computer because, he said, there were several staff members in the building with very strong links to Colin and Cheryl Edwardes. He said he made that decision after discussion with Mr Grant. Mr Lawrence said he had daily oral briefings with Mr Grant during which he kept Mr Grant fully up to date on his contacts with Mr King in addition to his written advice.

2.4.4 Mr McKechnie confirmed he received from Mr Grant copies of Mr Lawrence's memoranda of 11 July and 15 August 1994. He believes he received Mr Lawrence's first report before he received Mr Corse's memorandum to Mr Grant (Annexure 3). Mr McKechnie said that if Mr Grant's note

on Mr Corse's document indicating it was passed to Mr McKechnie on 8 July is correct, and Mr McKechnie has no reason to doubt it, then the information in Mr Lawrence's memorandum must have been conveyed to him earlier. Mr McKechnie also confirmed Mr Grant's evidence to the effect that the documents passed to Mr Lawrence by Mr King were passed to him. He, in turn, passed copies to the police.

2.4.5 On 3 August 1994 Mr McKechnie met with Mr King. Mr Lawrence was also present. Mr McKechnie's file note of the meeting discloses that he said to Mr King that if Mr King co-operated fully in disclosing all he knew he would grant him an immunity with respect to the information provided and would do all he could through proper, official, channels to secure his early release from prison. He further noted that Mr King "advised me that he did not wish to co-operate until he was out of prison. If he was out of prison he would cooperate and provide me with information". Mr McKechnie viewed the position as a standoff and so advised Mr King. He referred to his meeting with Mr King in his media release of 10 August in response to the publicity generated by Mr Corse. Following the meeting Mr McKechnie said he continued to pin his hopes of obtaining information from Mr King on Mr Lawrence.

2.4.6 The next thing Mr McKechnie recalled happening after the intervention by Mr Corse is a telephone call from Mr Lawrence to inform him there had been a breakthrough with Mr King. He had a meeting with Mr Grant and Mr Lawrence on 12 August, two days after his media release. The media release had itself received extensive publicity. He also recalls having discussions with police at around that time to initiate investigations into the information supplied by Mr King which was supported by the four documents he had produced. In the event, Mr Grant and Mr Lawrence told Mr McKechnie that Mr King had agreed to tell all to the DPP and Mr Lawrence. Mr McKechnie agreed to give Mr King, in writing, an indemnity that no information he supplied would be used in evidence against him. That indemnity was duly delivered but after the interview was conducted. Mr McKechnie believes he would have given Mr King an undertaking prior to the interview with respect to the actual record of interview. The later, written, indemnity was expressed to be "in respect of any prosecution arising out of criminal conduct disclosed by you in the course of (the) interviews".

2.4.7 Mr King confirmed the essentials of his meeting with

Mr McKechnie on 3 August 1994. Mr King also recalls another meeting with Mr McKechnie in early September when he agreed to be interviewed by an officer from the office of the DPP. Mr King said he agreed to that interview on the advice of Mr Lawrence and Mr Grant. He said the interview took place over two days and that he told Mr Bates everything he knew about Wanneroo related matters, accurately and truthfully.

2.5. The End of the Ministry's Involvement

2.5.1 There was an aftermath to the taking of the Bates interview with Mr King which throws some further light on the conduct of Mr Grant throughout this affair. Mr McKechnie said that the tape recordings of the Bates interview were transcribed by a confidential contractor to the DPP. Considerable pains were taken over the security of the document. A limited number of copies were made - Mr McKechnie believed there were eight. He said the original of the document was placed in his safe. Each of the eight copies was given a number and the number was boldly printed on each page of that copy in grey. The words "NOT TO BE COPIED" were printed across the bottom of each page of all copies, similarly in large, bold grey print. Mr McKechnie said that copies were retained in his office and Mr Lawrence was given one through Mr Grant. He said several copies were given to the police, including one to Mr Leslie Ayton, then the Deputy Commissioner of Police, and several to the investigating detectives. Mr McKechnie was not sure whether Mr Grant was given his own copy but thought he may have been. He said that if Mr Grant was given a copy of his own or had retained Mr Lawrence's copy, it was "absolutely not" his intention that Mr Grant copy the document.

2.5.2 Mr Grant was questioned as to his treatment of the copy of the Bates interview transcript that came into his hands. His answers, while somewhat lengthy should, I believe, be recorded in full:

"And the Bates interview was marked - - I can't now recall the exact wording but it was either "Do not copy" or "Not to be photocopied"?---Yes.

That was, in fact, stamped across every page of that document?---Yes, it was.

And because of the nature of the contents of it, the allegations contained in it, it was a highly confidential document?---Yes.

And you had no need to retain a copy of that document, did you?
--- And I didn't.

You were given a copy of the document, though, at some stage?--
-Yes.

What did you do with it?---I shredded it.

You shredded it?---Yes.

Did you keep a copy of it?---No.

Are you quite sure?---I did not keep a copy.

Did anyone in the Ministry of Justice keep a copy of it?---Not to my knowledge.

Your secretary at the time, Miss Ross - - ?---Yes.

Do you recall giving her the Bates document and asking her to completely retype it?--- I did ask her to do that.

Did you then, once she had re-typed the copy provided to you by the DPP's office, get her to delete it from the system?---Yes, and I subsequently destroyed the disk on which it was being kept.

You subsequently destroyed the disk?---Yes.

Yes; because that's what happened, wasn't it? You got her to completely re-type the document, a document that was already typewritten. You got her to re-type it; you got the disk, she deleted the document from her computer and you kept the disk?--- And destroyed the disk.

And destroyed the disk. Why did you do that?---I wanted to keep in my own safe, the information that I had been provided with so that if the security of my office was breached, that there would be no doubt that I had not disposed of it properly.

Sorry, can you explain that again, please, Mr Grant? I didn't understand you?---Yes. I wanted to make sure that if the document went missing in some way which is why I kept it originally in the safe, that I had a copy which I could refer to if I needed to - - if I needed to. I quickly made a decision that that was not necessary and I destroyed it.

You could have done that by photocopying it, couldn't you?---No, because the document was stamped, "Not to be copied".

The evidence essentially speaks for itself but I make a number of observations. First, to the point where Counsel Assisting mentioned Miss Ross it is clear that Mr Grant was again attempting to mislead the Commission. Secondly, I infer from Mr Grant's previous answers that he only agreed he had his secretary retype the document because it was clear to him at that point that Counsel Assisting could prove he had done so. Thirdly, as Mr McKechnie emphatically

stated, Mr Grant's conduct in effectively copying the document in those circumstances was utterly reprehensible. The fact that Mr Grant was the chief executive officer of the Ministry of Justice at the time makes his conduct even more deplorable. Fourthly, Mr Grant's explanation as to why he had the document retyped is nonsensical and I reject it. Fifthly, I also find it highly improbable that Mr Grant "quickly made a decision that that was not necessary and (he) destroyed (the copy document)". Whatever Mr Grant's reason for creating and keeping an illicit copy of the document, the damage had been done. There was no reason for him to change his mind and hastily destroy the document, unless he lost his nerve for whatever use for the document he had in mind. I will consider the possible motives for Mr Grant's conduct shortly.

2.5.3 Mr McKecknie QC said that after the Bates interview he understood the police would be involved in the King matter. He also understood from Mr Lawrence, or possibly Mr Gage, that Mr King realised at that point he was not going to get anywhere unless the police were involved and they were going to investigate the information he provided. After that, as far as Mr McKecknie was concerned, there was no further need for the involvement of either Mr Grant or Mr Lawrence. Mr McKecknie said he expected his own office to revert to its more traditional role of giving advice when asked.

2.5.4 Consistent with many aspects of this affair, however, even the process of Mr Grant and Mr Lawrence letting go the reins was the subject of publicity and controversy. Mr Lawrence said he kept seeing Mr King until he was released from prison on 26 April 1995. He kept trying to get information out of Mr King until Mr Grant told him to stop. After that, Mr Lawrence said he continued to visit Mr King but out of concern for his welfare.

2.5.5 In October 1994 Mr Melvin Hay was Assistant Commissioner of Police, Crime Operations. Mr Hay said that after the Bates interview he received a copy of the transcript with instructions to pursue the matters raised. Mr Gage was at that point co-ordinating inquiries in relation to Wanneroo matters. Mr Gage told Mr Hay he had read the transcript and identified several issues that required further investigation and would need elaboration from Mr King. Mr Hay said Mr Gage told him he had approached Mr King on three or four occasions but on each occasion he was told by Mr King that he had been told by Mr Grant and Mr Lawrence he would be released prior to Christmas. Mr King had said that unless he could get a guarantee to that effect he was not prepared to talk to

Mr Gage. Further, Mr Hay said Mr Gage was having trouble tracking down the documents referred to in Mr Lawrence's second memorandum to Mr Grant. According to Mr Gage, Mr King said they were with Mr Lawrence, Mr Lawrence said they were with the DPP and the DPP said his office did not have them.

2.5.6 Mr Hay said he reported the situation to the Deputy Commissioner, Mr Leslie Ayton and the Commissioner of Police, who was by then Mr Robert Falconer. Mr Falconer's diary reminded him that he was approached by Mr Hay and Mr Ayton on 18 October 1994 when the problem was explained to him. He decided to call a meeting with Mr Grant to request him to cease contact with Mr King and allow the police officers to get on with their job. Since the matter involved the head of what Mr Falconer saw as a powerful agency he first contacted his Minister, Mr Robert Wiese MLA. According to Mr Falconer's diary note, Mr Wiese suggested he involve Mr McKechnie as an observer. Mr Falconer said Mr McKechnie had fulfilled that role on another recent occasion. Mr Falconer said he contacted Mr McKechnie but he was in Bunbury conducting a trial and unable to attend the planned meeting.

2.5.7 Mr Falconer said he then asked Mr Richard Elliott, a consultant to the Ministry of Premier and Cabinet, to attend in Mr McKechnie's place. Mr Elliott said he was telephoned by Mr Falconer who explained the problem to him and asked him to attend a meeting that same evening as an observer. Mr Elliott said there was no discussion as to why he was selected. He said he had fulfilled the same function in disputes between chief executive officers on other occasions and did not regard the request as in any way unusual.

2.5.8 The meeting took place at 6.30 p.m. According to all participants it was attended by Mr Falconer, Mr Grant, Mr Elliott and Mr Hay. At the meeting Mr Falconer said he told Mr Grant his detectives had been to see Mr King several times but Mr King was "holding up to them or throwing in their face" the fact that he was dealing with a much more senior person, namely Mr Grant. He said he pointed out to Mr Grant that once the matter was handed over to police that was the way it had to be. Mr Grant's continued involvement was a hindrance. Mr Falconer also recalls asking Mr Grant about the documents Mr Gage was seeking. He said Mr Grant replied that they had already been handed over to police. Mr Hay said his officers did not have them. Mr Falconer said Mr Grant then commented that he might have given them to Mr Ayton.

2.5.9 Mr Falconer said Mr Grant's reaction was "one of apology and explanation". Mr Falconer said Mr Grant repeated a number of times words to the effect that if it had not been for him "and us putting this in your hands" the police would not have known about it in the first place. Mr Falconer said he conceded that point several times but Mr Grant kept coming back to the point that it was the Ministry of Justice that had "started the ball rolling". Mr Falconer said he kept conceding Mr Grant's point but replied that now Mr Grant had brought the matter to the attention of the police and a decision had been made for the police to deal with it, Mr Grant was "standing on the hose". Mr Falconer said Mr Grant accepted the proposition and agreed to desist. He said Mr Elliott played no part in the meeting other than greetings and a pleasantry to Mr Grant on departure. He said the meeting took around 15 minutes.

2.5.10 The evidence of Mr Elliott and Mr Hay on the meeting is to the same effect. Mr Elliott recalls some reluctance on the part of Mr Grant to agree to Mr Falconer's request as follows:

"What was discussed at the meeting?---There was a matter of Mr Grant was being asked to remove himself and his officers from interfering in the police handling of David King.

And Mr Grant's response to that request?---Ultimately the response was yes, but his response immediately to Mr Falconer was, "You wouldn't have Mr King as a witness if it wasn't for me and my people." They went back and forth on that with Mr Grant justifying what his involvement was in the matter, but not answering the question directly as to whether he should back off or not, but after some to-ing and fro-ing on that subject he agreed that he and his people would cease and desist dealing with Mr King."

Mr Elliott said that Mr Grant restated about five times the view that if it was not for his department's activities Mr King would not be available as a witness. He said "we kept talking circularly". Mr Hay also recalls Mr Grant's reiterated justification of the Ministry's role in obtaining the transcript from Mr King. He said that "we were, of course, appreciative of that but the inquiry had proceeded a step further from that transcript and we needed to continue the investigation".

2.5.11 Mr Grant recalled being telephoned by Mr Falconer's secretary, being asked to attend the meeting and doing so. He said he had no idea what Mr Elliott's role was and said he played no active part in the meeting. Mr Grant did not recall Mr Elliott discussing anything in the course of the meeting.

Mr Grant said that Mr Falconer told him they had reached the stage where the "Bates/Lawrence/King" interview had been completed and it was better for the police to take over. He said he agreed. He said that since Mr King was still suspicious of police he offered Mr Lawrence's services if Mr Falconer wished. Mr Falconer declined the offer and asked Mr Grant if the ministry would then cease its role in the King matter. Mr Grant said he agreed. He also said he gave Mr Lawrence instructions accordingly on the next day. Mr Grant did not recall any discussion about the documents.

2.5.12 Mr Elliott's role in the meeting on 18 October 1994 subsequently became the subject of considerable publicity. On the unanimous evidence of those present at the meeting it is clear there was nothing the least bit sinister, improper or even inappropriate in the presence of Mr Elliott. He was there, at the invitation of Mr Falconer, in the capacity of impartial observer only and did not participate in the discussion. Any suggestion that Mr Elliott attended the meeting in Mr Falconer's office on 18 October 1994 in some substantive role, as *eminence grise*, is entirely misplaced.

2.6. The Role of Mr Corse in the Ministry of Justice

2.6.1 I have already noted the pivotal role played by Mr Corse in two matters of primary concern to this Commission; the obtaining of information from Mr King and the dissemination of the tape rumour. The nature of that role and the apparent acquiescence of the Ministry of Justice in his activities clearly required some investigation. Once started that investigation elicited convoluted and conflicting accounts of Mr Corse's position.

2.6.2 After Mr Corse, Mr Lawrence and Mr Grant had given evidence for the first time it became clear that the issue was not only of considerable importance to the assessment of the credibility of those witnesses but also central to an understanding of the involvement of Mr Grant and Mr Lawrence in those matters. Mr Grant and Mr Lawrence attempted to distance themselves as far as possible from Mr Corse and his activities. Mr Corse claimed he was acting at all times at their direction and with their encouragement. Getting to the truth from these conflicting positions has been quite an exacting exercise.

2.6.3 As I have already noted Mr Corse turned up in the Ministry of

Justice in approximately April 1994. It is clear from a number of documents tendered in evidence that following his return Mr Corse described himself as a "consultant". The title was not further elaborated on. In evidence Mr Corse described himself as a Consultant in the area of Human Resources. It does not appear that Mr Corse had any proper basis for the use of the title. What is clear on the whole of the evidence is that when Mr Corse returned to the Ministry in 1994 he did not hold any substantive position, let alone one of that description.

2.6.4 Curiously, Mr Corse's personal file does not reveal the circumstances or precise date of his return to the Ministry and, as I have noted, none of the witnesses who were in senior positions in the Ministry at the time were able to assist. What is known is that at some point soon after his return, Mr Corse together with another Ministry of Justice employee, Mr Dean Hill, worked from the same premises as the police task force headed by Mr MacNaughton.

The Police Task Force

2.6.5 The task force commenced operations on 26 May 1994. Its role was to investigate certain alleged corruption, drug offences and illegal practices within the Corrective Services Division of the Ministry of Justice. It came into existence as a result of an approach by Mr Grant, to the Commissioner of Police. According to Mr MacNaughton, Mr Grant wanted a joint investigation to be carried out by police officers and Ministry of Justice staff. Mr MacNaughton saw the investigation as a purely police matter and conducted the inquiry accordingly. He did not communicate this view to Mr Grant who, on Mr MacNaughton's understanding, continued to believe it was a joint operation.

2.6.6 Mr Grant said he considered the task force to have been jointly established by himself, Mr Ayton and Mr McKechnie. Mr McKechnie agreed he was aware of the activities of the task force and had some responsibility for it. Mr Grant said the arrangement was for the police to provide the personnel and the Ministry of Justice to provide "the rest". Mr MacNaughton essentially confirmed that arrangement but added that Mr Grant reneged on the agreement. There was some disagreement on the evidence as to whether the police investigation was to be a covert operation. Mr Corse said he believed it was to be covert. Mr Hill said he was told the same thing.

2.6.7 Mr Lawrence agreed the operation was intended to be covert and best efforts were made to ensure that result. However, Mr Lawrence said "everybody knew" of the existence of the task force. Mr Grant said the task force was not a covert operation but conceded that in the "very early days" it was not generally known it was operating. By June/July 1994 that position had changed. Mr MacNaughton said the operations of the task force did not become public knowledge until September 1994, approximately three months after it commenced operations.

2.6.8 The task force commenced operations on 6 June 1994 from Ministry of Justice offices in Murray Street, Perth. Mr Corse and Mr Hill worked from the same premises. Mr Corse later advised Mr MacNaughton that the task force would need to move and on 8 August 1994 the task force, together with Mr Corse and Mr Hill, relocated to 19 Pier Street, Perth. It operated from there until 26 August 1994. From that date the task force concluded its activities from CIB Headquarters without the assistance of Mr Corse and Mr Hill.

The Evidence of Mr Corse

2.6.9 Before the Commission Mr Corse initially said he believed his return to the Ministry was organised by Mr John Mitchell, the Executive Director of Corporate Services. However, Mr Mitchell denied any knowledge of the circumstances of Mr Corse's return. Mr Mitchell said he first became aware of it, probably in May 1994, when Mr Grant asked him to give thought to defining a task for Mr Corse.

2.6.10 Mr Corse described the task assigned to him on his return as follows:

"I was to review the outstanding and existing Ministry of Justice concerns into the cost overruns and the apparent impropriety into the Casuarina Prison development."

2.6.11 Mr Mitchell's description of the task differed somewhat. He was asked:

"And what task did you come up with?---The task that I discussed and eventually agreed with Mr Grant was that Mr Corse would review the audit reports into the Building Services Division of the

Department of Corrective Services.

And what did that involve?---Essentially what we sought to achieve was to place ourselves where if asked, as we expected to be, by the Auditor General had we complied with all the recommendations, of which there were many, we could answer that question clearly."

2.6.12 Mr Mitchell was firmly of the view that the task had considerable value and needed to be carried out. It was not simply a task designed to keep Mr Corse occupied. However he was equally certain the task required no investigation or liaison with police officers or Mr Lawrence. On Mr Mitchell's evidence the task required nothing more than a review of certain documents and the preparation of a report. Mr Mitchell's view is supported by an answer given in Parliament on 25 October 1994 by the then Attorney General, Mrs Edwardes. Mrs Edwardes described Mr Corse's role in the Ministry:

"To bring together the recommendations of the findings of the audit into the Building Services Division of the then Department of Corrective Services and confirm that those findings have been implemented, taking into account structural changes in the building function consequent on the creation of the Ministry."

2.6.13 There was no mention there of an investigative function or involvement with a police task force. However Mr Corse's understanding of the situation differed:

Were you part of the task force?---No. As I described it to the DPP, I thought I was a front or diversion for the task force.

Why did you think that?---Because those were terms that were used --

By whom?---By myself, Brian Lawrence and the officers who were involved in the police task force.

You described yourself as the diversion?---Yes, that was a word that was commonly used.

By you, Mr Lawrence and the police officers in the task force?---Yes.

A diversion from what?---Well, there was a perception that because *I was investigating under direction the re-opening of what had gone wrong in the Casuarina area*, those who may have been involved in any impropriety would be so busy watching me that they wouldn't be watching the police who were conducting an under-cover or covert operation." (italics added)

2.6.14 On this account Mr Corse was conducting an investigation which also operated as a distraction from another, quite separate, police investigation. At a later stage in his evidence Mr Corse said that while he was not a part of the police task force he was instructed by Mr Lawrence to assist the police officers with their "logistical or operational needs" where he could.

2.6.15 Mr Corse was not the only Ministry of Justice employee sharing premises with and assisting the police task force. Mr Corse said he worked in a group comprising himself, Mr Hill and a typist. He called the three of them the Consultancy and Review Group. No-one else appears to have done so. A request for resources was made under that name to the Director General. Mr Corse said that initially such requests were made above the signature of Mr Hill but after such a request on 26 July 1994 was signed by Mr Hill and Mr MacNaughton, Mr Lawrence advised him that Mr Grant did not want Mr Hill signing such requests. The document was retyped for signature by Mr Corse.

2.6.16 Mr Corse said he understood his role with the police task force was being performed with the knowledge, and indeed at the direction, of Mr Grant, with Mr Lawrence being the conduit or link between them. Mr Corse said Mr Lawrence gave him directions and requests on a daily basis. He said Mr Lawrence even issued him with a mobile telephone. On his own evidence, Mr Corse never actually spoke to or met with Mr Grant about this or any other matter. However, he said Mr Lawrence constantly referred to Grant when speaking to him.

2.6.17 Mr Corse said he was also asked by Mr Lawrence to provide information about the task force's operations - to keep an eye on them. In fact, on his account, Mr Corse took an unusual approach to this task. He went to the head of the task force and told him Mr Lawrence had asked Mr Corse to keep an eye on them. He said he did that because he did not trust Ministry of Justice senior management and because he felt it was his duty.

2.6.18 Mr Corse continued with these undemanding activities until 18 August 1994 when he was told by Mr Mitchell he was to perform only those duties listed in his duty statement. He said he was told to thereafter limit himself to reviewing the recommendations and findings of reports prepared in respect of the Buildings Review. On 15 September 1994 Mr Corse submitted an interim

report on his review.

2.6.19 It is difficult to determine with precision the period during which Mr Corse should have been performing this task. It was at least several months. In that time the total result achieved from Mr Corse's activities was a largely incomprehensible three page report. The person assigned to supervise the task, the acting Director of Human Resources, Mr George Tolley, described the interim report as "a load of gibberish". Mr Tolley's reaction was to show the report to Mr Mitchell and demand that he cease to be responsible for Mr Corse's supervision.

2.6.20 On 27 September 1990 Mr Corse was transferred from the Ministry of Justice to the Public Service Commission.

Mr Dean Hill

2.6.21 In most respects Mr Hill supports Mr Corse's account of his involvement with the police task force. Mr Hill first came into contact with the Police task force in May 1994. Prior to that time he had been carrying out a task assigned to him by Dr McCotter which involved reporting and making recommendations on the communication systems for all the corrective service institutions in the State. At the commencement of Mr Hill's dealings with Mr Corse that task had not been completed, although interim reports had been presented.

2.6.22 In May 1994 Mr Hill and Mr Corse were both working on the same floor of the Ministry's Murray Street premises. Mr Hill said he was not aware of what duties Mr Corse was performing at the time but he did know Mr Corse was not his superior and he was not answerable to Mr Corse in any way. It is curious then that when Mr Corse advised Mr Hill he was to assist the police task force, he acted on Mr Corse's request notwithstanding it competed with the instruction from Dr McCotter.

2.6.23 Mr Hill said he was told by Mr Corse he was to provide the task force with "expertise on public service matters; on pay, allowances, conditions, procedures, philosophies, policies, which they may be unaware of in regard to the investigation which they were undertaking". The instruction was not

in writing but on Mr Hill's understanding it came from Mr Grant to Mr Lawrence to Mr Corse to him. Mr Hill said his understanding was based entirely on what he was told by Mr Corse.

2.6.24 In fact, Mr Hill said he never spoke to Mr Grant. He did, however, speak to Mr Lawrence on occasions when he answered Mr Corse's telephone. He concluded that Mr Lawrence was well aware he was there. It follows that Mr Lawrence was also aware of Mr Corse's presence in the office. Mr Hill also recalls a visit by Mr Lawrence to the Murray Street premises when he called in to say hello after talking to the police.

2.6.25 Mr Hill said Mr Corse was requesting his assistance even before the task force was set up:

"At that first meeting?---He just said he had been advised that Grant had told Lawrence that this task force was to be established based on copies of correspondence which I passed up through the system to Lawrence and the matter was to be investigated and the police would be involved and we were to assist.

What documents?---The original reason for the police being involved was that a number of documents were provided to me from one of my staff when I was the manager of building services division which seemed to indicate that a purple circle conspiracy was being conducted against him and others within the ministry."

2.6.26 Irrespective of the knowledge of other Ministry of Justice staff, there is no doubt Mr Hill provided information and administrative assistance to the task force. He was interviewed by Mr MacNaughton on 31 May 1994, approximately one week after the police investigation commenced. This date is supported by an entry in Mr Hill's diary for that day which reads "Briefing J MacNaughton 9 am to 11 am". There is further entry for 1 June 1994 which reads "Profile Proforma". Mr Hill said that was a reference to a request from Mr MacNaughton for him to prepare "personality profiles for the people of the purple circle who were being investigated from the public service point of view". In due course Mr Hill provided additional information on the original profiles.

2.6.27 Mr Hill said he compiled an assets register for furnishings and equipment relating to both Mr Corse's group and the police officers. He arranged for a petty cash advance. He facilitated the move of the police task force from the Murray Street premises to the Pier Street premises. He was involved in

obtaining equipment and resources. There are documents to support Mr Hill's involvement in each of these activities although none, in themselves, support a conclusion that others within the Ministry were aware of what he was doing. In particular the request for resources, to which I have already referred, where Mr Lawrence was said by Mr Hill and Mr Corse to have requested the signatures be changed has this effect. Mr Hill also identified a list of all government private plated motor vehicles assigned to senior management staff of the Ministry of Justice as at 1 July 1994. Mr Hill said he requested and obtained that information from Mr Lawrence at Mr MacNaughton's request. The documents also support the evidence of Mr Hill and Mr Corse when they say Mr Lawrence was aware they were providing assistance to the task force.

2.6.28 While Mr Hill was firm in his view that Mr Lawrence was well aware of his activities with the police task force, he was unable to confirm, other than through statements by others, that Mr Grant was also aware. He did say that towards the end of his time with the task force Mr Mitchell and Mr Tolley were aware of his presence there although not necessarily the role he was performing.

2.6.29 On 16 August 1994 Mr Tolley terminated Mr Hill's association with the police task force. Mr Hill said Mr Tolley advised him "...that the task force was being moved, that Mr Grant had withdrawn his resources agreement and that the police were moving back into their organisation even though they were carrying on with the investigation and there was no longer any need for (them) to be there". Mr Hill was not as difficult to place as Mr Corse. He commenced work in another position within the ministry on 24 August 1994.

2.6.30 Both Mr Lawrence and Mr Grant denied that Mr Corse had any role to play with the police task force. Resolving the conflict between the evidence of the two groups has proved extremely difficult. In view of the difficulties with Mr Corse's credibility it would be easy to discount his evidence as unreliable. His unsuitability for any role in conjunction with a police investigation is manifest. In circumstances where Mr Corse's well deserved reputation was known to Mr Grant one would expect it to be highly unlikely he would permit Mr Corse to operate from the same premises as a police task force, let alone play any active role in its activities. As I have noted, however, there is convincing evidence which corroborates much of Mr Corse's version of events. I am satisfied that Mr Corse's presence and activities in conjunction with the police task force and indeed most of his activities within the Ministry at the time were known to both

Mr Lawrence and Mr Grant. The motives of Mr Grant and Mr Lawrence in allowing this situation to arise and continue are another matter.

Mr Lawrence's Evidence

2.6.31 On the evidence of both Mr Grant and Mr Lawrence the relationship between them was close. Mr Lawrence answered directly to Mr Grant and said he liaised with him on a daily basis. Although at times he attempted to minimise his involvement with the police task force Mr Lawrence eventually admitted it was his responsibility to provide resources and information for the task force and that he was the conduit between the task force and the Director General. He agreed he was the person in the Ministry who would know most about what was happening at the task force. He was in regular contact with it both by attending the premises and by telephone. It is curious then that Mr Grant should deny as he did that Mr Lawrence had any formal liaising role. Mr Grant said Mr Lawrence was simply to meet the logistical requirements of the task force. I note also that Mr Lawrence initially described his own role in those terms.

2.6.32 Ultimately Mr Lawrence conceded the fundamental importance of his role in relation to the task force:

"You were the only one from the Ministry who had an actual function that was supportive of this task force?---Yes.

You were the only conduit between it and the person responsible for the Ministry that they were inquiring into?---Yes.

In any event, Mr MacNaughton settled the matter, as follows:

"What was Mr Lawrence's involvement, as you understood it?--- Mr Lawrence was probably my direct contact between Mr Grant and the ministry and myself. I mainly dealt directly with Mr Lawrence."

2.6.33 I find that all material matters affecting the operation of the police task force were known to Mr Lawrence and, through him, by Mr Grant.

2.6.34 When Mr Lawrence first gave evidence before the Commission he was clearly attempting to distance himself from Mr Corse and Mr Corse from the task force. He said Mr Corse had never worked under his or Mr Grant's control.

He said Mr Grant kept Mr Corse at arms length and that Mr Corse was just "wandering around the place picking up information". Mr Lawrence said further, "Barry is one of these people who has wandered around Perth for many years picking up information and sort of doing his own thing". He said Mr Corse was not working on anything with him, he did not give him any duties and it was in July or August 1994 when he told Mr Corse he would be given a job in the Ministry. It follows, of course, that on this account Mr Corse did not have a job in the Ministry before that time. Mr Lawrence portrayed Mr Corse as doing nothing, at least nothing known to Mr Lawrence, until July/August 1994. Mr Lawrence stated unequivocally that Mr Corse was not involved in dealing with the task force or its needs and neither was Mr Hill. Their only function was to provide the task force with information.

2.6.35 Mr Lawrence was questioned regarding a memorandum Mr Corse sent to Mr Grant through Mr Lawrence dated 18 August 1994, after Mr Corse had been told by Mr Mitchell to confine his activities to those defined on his duty statement. In the memorandum Mr Corse referred to his involvement with "the police officers on special assignment". Mr Lawrence denied ever seeing that document. He also denied ever seeing the memorandum from Mr Corse to Mr Grant requesting resources for the "Consultancy and Review Group". Mr Lawrence said Mr Corse was not involved in any way with the task force or in supplying its needs. He said if he had received the memorandum requesting resources he would have spoken to the commander of the task force and asked him what was going on. Effectively, what Mr Lawrence was saying is that if he had known Mr Corse was playing some role in connection with the task force he would have taken some action.

2.6.36 As to Mr Hill's position, Mr Lawrence said "In the same way as Mr Corse - he provided certain information and he had been interviewed".

2.6.37 When Mr Lawrence was recalled to give evidence he maintained his position that Corse had no role with the task force other than to provide information. However, he did concede he was aware Mr Corse was located in the same building. Mr Lawrence said this was because "there was no space at Westralia Square". He also elaborated on his knowledge of how Mr Corse came in contact with the police task force:

"You put (Inspector MacNaughton) in contact with Barry Corse?---

Yes.

Why did you do that?---Because Barry Corse was in possession of certain documents at that time in relation to the purple circle. I, in fact, arranged a meeting with Barry Corse, Jim Zaknich and Dean Hill, all of whom had information about the purple circle; they were actually in possession of certain documents."

Mr Lawrence said that at the initial meeting with Mr MacNaughton he simply introduced Mr Corse and others as people who had information about the purple circle and "more or less left it with Jock". He denied he told Mr MacNaughton that henceforward those people were to assist him in his investigation.

2.6.38 Mr Lawrence conceded that Mr Corse was not an appropriate person to permit anywhere near a covert police operation. On his own account Mr Corse was known to him as someone who purveyed information, 90 per cent of which was "absolute rubbish". Mr Lawrence admitted Mr Corse was someone with whom any police officer obtaining information would need to be cautious. He agreed that in those circumstances it would be incumbent upon him to warn the task force commander. Mr Lawrence said he was sure he would have done so and "let (Mr MacNaughton) know about Barry". Mr MacNaughton said Mr Lawrence did not do that.

2.6.39 On his second appearance Mr Lawrence also maintained his evidence that Mr Hill had no role in providing the task force with equipment. When it was pointed out to him that Mr MacNaughton had given a different account he explained the situation in this way:

"Again, Mr McNaughton's evidence was that he was sure he mentioned to you that Hill was accommodating the police with regard to equipment, and that you did not suggest to him that that was inappropriate?---When I found out that Dean Hill was providing them with equipment, I actually got on to Jock and said, "Look, don't let Dean Hill - - "he wrote a memo across to the Ministry. They were requesting taxi vouchers and money and all sorts of things. It went up to David Grant and he got hold of me and said, "Look, what is going on?" I got on to Jock McNaughton and said, "Jock, if you want anything, it's to come from you, under your hand."

It is implicit in this evidence from Mr Lawrence that if the document had come under the hand of Mr MacNaughton there would have been no difficulty with the request. However, this is a clear reference to Mr Hill's request for

resource requirements, the same document which Mr Lawrence had earlier denied ever seeing. The first two items on the list request a petty cash advance and taxi vouchers. It was signed by Mr MacNaughton as well as Mr Hill.

2.6.40 I note that Mr Lawrence's explanation is consistent with Mr Corse's evidence of the original request being unacceptable because it was signed by Mr Hill. The difference between Mr Lawrence and Mr Corse is that on Mr Lawrence's account he insisted on Mr MacNaughton signing the document, not Mr Corse. However, since Mr MacNaughton did sign the original and Mr Corse did sign the second attempt the independent evidence is only consistent with Mr Corse's account.

2.6.41 In any event Mr Lawrence's version of events is inconsistent with his actions when he was made aware of Mr Hill's activities. It was clear from the first memorandum requesting resources dated 26 July that Mr Hill had assumed a role with the task force more than simply a provider of information, a role it was entirely inappropriate for him to perform. In fact Mr Hill had assumed the role Mr Lawrence should himself have been carrying out. And yet Mr Lawrence took no action in relation to Mr Hill. He said he thought he spoke to Mr MacNaughton about it but was not even entirely sure about that.

2.6.42 Of course, the obvious thing for Mr Lawrence to do would have been to speak to Mr Hill. He was the person overstepping his role, not Mr MacNaughton. Mr Lawrence's explanations for not doing so are unconvincing. He said he spoke to Mr MacNaughton and not Mr Hill because he was in charge of the police, which was an irrelevant observation because Mr Hill was not a policeman. He also said that if Mr MacNaughton chose to use "these people" that was his business. It was clearly Mr Lawrence's business also because on his account Mr Grant had appointed Mr Lawrence to fulfil these functions. Mr Lawrence then said he did not speak to Mr Hill because he had no jurisdiction over him and Mr Hill was not his responsibility. However Mr Lawrence had to agree he also had no jurisdiction over Mr MacNaughton. Clearly then the most effective way to put a stop to this inappropriate situation, if it was contrary to his wishes, was to speak to Mr Hill or report it to Mr Grant so he could speak to Mr Hill. Mr Lawrence did neither of those things.

2.6.43 One of Mr Lawrence's responses to the proposition that in all the circumstances someone in his position would have done something was, "why

should I?". On any reasonable assessment that question is far easier to answer than the converse - why did he not act? Mr Lawrence's unsolicited explanations as to how it happened that Mr Hill was performing this role for Mr MacNaughton are equally implausible. He said it was "probably because these people were there he found it convenient to ask them or to get something that he needed". His other explanation was that Mr Hill was an accommodating person.

The Evidence Connecting Mr Lawrence with Mr Corse and Mr Hill

2.6.44 Given their respective positions in the Ministry, evidence to the effect that Mr Lawrence had little or nothing to do with Mr Corse would be prima facie credible. But that is not the effect of the evidence. Mr Lawrence said Mr Grant kept Mr Corse at arms length and made Mr Lawrence deal with him. On 15 June 1994 Mr Lawrence gave an assurance to Mr Corse that Mr Grant had said he would find a position in the Ministry for Mr Corse that was relevant to his qualifications. The obvious questions which arise are why would Mr Lawrence, who was not a human resources officer, deal with Mr Corse on Mr Grant's behalf and why was he passing messages to Mr Corse about his employment prospects within the Ministry?

2.6.45 There is also the matter of the mobile telephone. Mr Lawrence admitted that in July 1994 the Intelligence Unit loaned Mr Corse a mobile telephone. It is difficult to see why the Manager of the Intelligence Unit would provide any of the unit's property to Mr Corse if, as Mr Lawrence asserted, he had no connection with Mr Lawrence or the unit and performed no function on its behalf. Indeed, the passing of information by Mr Corse was a proclivity that needed to be controlled, not facilitated. Again, Mr Lawrence's explanation is unconvincing. He said Mr Corse told him he thought his telephone was being tapped and asked if he could use one of the unit's digital mobile telephones for a couple of weeks. Mr Lawrence said he then had trouble getting it back and it was easier to simply let Mr Corse keep it because the telephone was just sitting there not being used.

2.6.46 Mr Lawrence's evidence in relation to providing Mr Hill with registration numbers was also evasive and unconvincing. This was apparent not only from his responses but also his demeanour in the witness box. Mr Lawrence was asked:

"Do you recall an occasion on which you provided to Mr Hill the registration numbers of the private plated motor vehicles of the Ministry of Justice employees?---I may have done.

Why would you have provided that information to Mr Hill?-- -
Probably because MacNaughton wanted it.

Why would you then not provide it to Mr MacNaughton?---I don't know. I don't actually recall that. "

When Mr Lawrence was shown the list of vehicle registration numbers prepared by Mr Hill, Mr Lawrence said he did not recall passing that information to Mr Hill. He did, however, agree that in his position he would have access to the information and if the police required it he would be an appropriate person to obtain it for them. He said he could think of no reason why he would provide the information to Mr Hill. Mr Lawrence said if the information was requested by Mr Hill he would have spoken to Mr MacNaughton. He agreed that if Mr Hill said he had provided the information then either Mr Hill was wrong or he gave him the information because he thought Mr Hill was in a position to request it.

2.6.47 Mr Lawrence had shifted his position from saying he "may have" provided the information to Hill to effectively disputing he had done so. On the whole of the evidence, Mr Hill's account on this point is to be preferred. It follows that I find Mr Lawrence was aware Mr Hill was performing a function with respect to the task force other than simply providing information.

2.6.48 Other evidence clearly contradicts Mr Lawrence on this same point. Mr MacNaughton said Mr Corse and Mr Hill were definitely part of the investigation. He said Mr Lawrence knew they were in the same premises and was aware that Mr Hill was performing the resources function for them. Mr MacNaughton said Mr Lawrence put him in touch with Mr Corse in the first place and, contrary to Mr Lawrence's assertion, gave him no warning about Mr Corse, the quality of his information or his tendency to purvey it widely. According to Mr MacNaughton it was not until about September 1990 that Mr Lawrence expressed any concern about Mr Corse's involvement. Significantly, this was after Mr Corse had visited Mr King, after that visit became public and after the Public Service Commission had raised the matter with Crown Counsel.

2.6.49 Mr MacNaughton has no reason to mislead the Commission about this matter and no-one has suggested he has. I accept his evidence in

preference to that of Mr Lawrence, wherever they conflict.

2.6.50 Mr McKechnie also understood Mr Corse was working with the police task force. Mr McKechnie gave the following answers:

"Well, at one stage I became aware - I think Mr Grant told me - that he was working with one of the police officers somewhere and he seemed to be getting a lot of information there and I didn't know who he was and nobody seemed to own him - -

I'm sorry, working with police officers?---Well, he seemed to be working with them, assisting them putting documents together or something of that nature.

Would that have been the task force headed by Inspector MacNaughton?---Yes.

What did you understand Mr Corse was doing there?---Well, I didn't quite know but he was certainly working with them, putting together documentation and the like. That was a task force, not into the City of Wanneroo but into matters involving the Ministry of Justice which I also had responsibilities about."

Mr McKechnie also remembered being shown what must have been Mr Corse's request for resources. Mr McKechnie said he was concerned about Mr Corse's involvement and spoke to Mr Grant about it. He believed he probably mentioned it in his conversation with Mr Corse as well but he was sure he spoke to Mr Grant and told him it seemed to him to be "completely inappropriate". In view of his connection with the task force, Mr McKechnie's response appears to have been reasonable and appropriate.

2.6.51 Mr Lawrence was given an opportunity to respond to the evidence which contradicted his account. He said:

"Well, if he was part of the investigation, that was done at the behest of Mr MacNaughton. It was a police investigation, it was controlled by the Commissioner of Police, and if Mr MacNaughton took Mr Corse on, then that was his business. It had nothing to do with the Ministry."

Mr Lawrence appeared to be overlooking the fact that Mr Corse was an employee of the Ministry of Justice.

2.6.52 While Mr Lawrence agreed he was aware Mr Corse was working in close proximity to the police task force at the Murray Street premises, he said

neither he nor Mr Grant were aware he had moved with the task force to Pier Street until Mr Grant received some documents. He said Mr Grant's response was, "what are they doing there with the police? Get them out of there". On Mr MacNaughton's evidence the task force did not commence operations from the Pier Street premises until 8 August 1994. The only document referred to in evidence which could have alerted Mr Lawrence or Mr Grant to the activities of Mr Corse was the memorandum of 26 July requesting resources for the Consultancy and Review Group. As this document pre-dated the move to Pier Street it is difficult to reconcile with Mr Lawrence's explanation.

2.6.53 Mr Lawrence was questioned regarding the apparent conflict between allowing Mr Corse to remain in close proximity to the task force when it was located in Murray Street but taking action when he moved with it to Pier Street. His initial explanation was that the police were still interviewing Mr Corse when they were at Murray Street. When he was asked on what he based that belief he admitted he did not know and had not inquired. When pressed he said "that's Jock MacNaughton's business". At a later point in his evidence he explained it by saying "one would have assumed by then their part in providing the information and making what contacts they had to with the police would have been over". Mr Lawrence was asked to explain that view also:

"What information did you have to lead you to that conclusion?--- Well, it was just said to me by David Grant, "What are they doing down there? Get them out of there."

Well, was that the reason you took some action, that Mr Grant actually told you to?---I didn't take any action.

Was that the reason that anybody took action?---Yes.

As you understood it, because - -?---As I understood it.

- - Mr Grant wanted it to happen?---Yes.

Prior to that you didn't have a problem with it?---No. If MacNaughton was using these people in terms of getting information - -

So it wasn't a question of you thinking that they must have outlived their informants' usefulness by that stage? - -No.

No, so that was irrelevant?---Yes.

Why did you raise that?---I don't know."

Unfortunately that exchange was typical of Mr Lawrence's evidence. Even on his own account, which I do not accept, Mr Lawrence's inaction is inexplicable in the

light of his role as the direct and only contact between Mr MacNaughton and Mr Grant. At the very least one would expect Mr Lawrence to have raised the issue with Mr Grant. There is no suggestion on his evidence that he did so.

2.6.54 In my opinion the conclusion that Mr Lawrence was well aware that both Mr Hill and Mr Corse were working with the police task force and not simply as informants is obvious.

Mr Grant's Knowledge of Mr Corse's Association with the Task Force

2.6.55 Less obvious is the state of Mr Grant's knowledge. Mr McKechnie described Mr Grant as being both irritated and amused by Mr Corse's activities. The task force was Mr Grant's responsibility as Director-General. It was looking into very serious matters directly affecting the Ministry. Despite Mr Grant's denial, on the evidence it is clear Mr Lawrence was his liaison with the task force. I have no doubt that if Mr Lawrence was aware of something inappropriate happening with the task force he would advise Mr Grant. The evident nature of their relationship suggests that if Mr Lawrence knew, then so did Mr Grant. Mr Grant's evidence is quite inconsistent with that proposition.

2.6.56 Mr Grant said Mr Corse, a redeployee, returned to the Ministry of Justice voluntarily but without authority in around June or July 1994. He said he was not even aware Mr Corse was in the Ministry until it came to his attention that Mr Corse had attempted to establish himself as an ally or part of the police task force. Mr Grant believed he was told of that by Mr MacNaughton. He said he was surprised and uncertain as to "why it was taking place". Mr Grant was asked whether he was concerned and replied:

"I became very quickly concerned for that reason and another reason in relation to the King matter and I therefore instigated his appointment to what I describe as a real job, very shortly thereafter."

Mr Grant also said he became aware Mr Corse was involved in requests for a range of equipment although his understanding was that the request was not for the task force but for some other purpose. Mr Grant would appear to be referring there to the memorandum of 26 July 1994.

2.6.57 Mr Grant was asked about the action he took when he first

became aware of Mr Corse's activities. He said:

"I took two steps. The first was to speak to John Mitchell and ask him to basically invite Mr Corse to cease and desist and leave the premises down there, and just as importantly, perhaps more importantly in some ways, to provide him with a legitimate job, which he also did.

When was that done?---I'm not sure of the dates but it was towards the end of the first half of 94. I think it was - - it may have been June-July. It was around that period. I'm not sure of the dates."

Mr Grant said this request would have been made orally because it was unusual for him to become involved in personnel matters. He could not recall whether he asked Mr Mitchell what Mr Corse was supposed to be doing but believed he would have done so.

2.6.58 Mr Grant was similarly vague about whether he asked Mr Lawrence about Mr Corse's activities. He said Mr Lawrence kept him informed about Mr Corse's "enthusiasm for involving himself in the police activities and other activities". He said he thought Mr Corse's involvement evolved. Initially Mr Corse "went down there as an informant of some kind" but not on a continuous basis. He said he thought that developed into an attempt by Mr Corse to locate himself as part of the team. There was no immediate cause for concern so long as the police were satisfied he was fulfilling a proper role. It was when Mr Corse attempted to actually involve himself as part of the task force that he took the actions he described.

2.6.59 It is difficult to reconcile Mr Grant's assertion that there would be no immediate cause for concern with his stated opinion of Mr Corse at the time and his belief in Mr Corse's unsuitability for any involvement with the task force.

2.6.60 It seemed that Mr Grant was saying he first took action and gave instructions for Mr Corse to be found a job after receiving Mr Corse's memorandum reporting on his visit to Mr King, that is on 6 July 1990. But Mr Grant also said he became aware Mr Corse believed he was carrying out covert activities on his behalf when he received a list of resource requirements from Mr Corse. He said it was around that time he became concerned and asked Mr Mitchell to create a job for Mr Corse. The "list of resource requirements" he referred to could only be the memorandum dated 26 July 1990.

Mr Grant further confused his own chronology with the following answer:

"Just before that I had been informed that Mr Corse and Mr Hill - I wasn't sure of the typist - had established themselves in one of our premises in Pier Street and I instructed Mr Mitchell, coincidental with this, to - - I think my phrase at the time was "crowbar them out of there."

2.6.61 Mr Grant also said it was not until Mr Corse moved himself into the Pier Street premises and Mr Grant became aware of his activities that Mr Corse was actually given a position or a task to perform. According to Mr Grant the task given to Mr Corse was to carry out a review of the documentation of the building services review. He said it was the only job Mr Corse was ever given. It must be kept in mind when considering Mr Grant's account that the move to the Pier Street premises did not take effect until 8 August 1994. Mr Corse's task as agreed between Mr Grant and Mr Mitchell was approved by Mr Grant on 12 July 1994. The move to Pier Street was also well after Mr Corse had visited Mr King and well after his memorandum recording the visit had been received by Mr Grant and passed on to Mr McKechnie.

2.6.62 There is a further difficulty with Mr Grant's account. Mr Grant said that when he heard Mr Corse had been to see Mr King he inquired of Crown Counsel whether Mr Corse could be charged. He said he believed Crown Counsel also consulted with the Public Service Commission. Mr Grant was asked whether he or the Public Service Commission had raised the matter first and he said that the Public Service Commission inquiries were coincident with his own concerns. Mr Grant's assertion is not consistent with the objective evidence.

2.6.63 As I have already noted, Mr Corse's memorandum of his interview with Mr King was addressed and delivered to Mr Grant who in turn sent a copy to Mr McKechnie. Mr Corse also sent a copy to the Public Service Commission and another was provided to Mr McGinty. The matter was raised in Parliament on 9 and 10 August 1994 and reported in the media on 10 and 11 August 1994.

2.6.64 The Public Service Commissioner, Mr Keith Michael, wrote to Mr Corse on 11 August 1994. In that letter Mr Michael stated that he had discussed Mr Corse's action in visiting Mr King with Crown Counsel and senior counsel representing the DPP. There is no reference in the letter to any

discussion with the Director General of the Ministry of Justice. On 16 August 1990 the Attorney General, Mrs Edwardes, wrote to Mr Grant requesting his advice "as to Mr Corse's actions as an officer of the Ministry of Justice relative to the Public Service regulations and protocols".

2.6.65 On 17 August 1994 Mr Michael wrote to Mr Grant. Mr Michael again referred to the fact that he has discussed Mr Corse's report with Crown Counsel. The letter includes this statement:

"Following consultations with Crown Counsel and the Director of Public Prosecutions, I wish to express my grave concerns that Mr Corse's lack of expertise in this area may compromise any action that I or the Police may be able to take in respect of any of the matters which form the subjects of his reports."

Mr Michael goes on to ask four specific questions concerning Mr Corse's activities. It is implicit in those questions that Mr Michael had not received any information regarding Mr Grant's knowledge of the matter. There is certainly no indication from the letter that Mr Grant had already been in touch with Crown Counsel.

2.6.66 Mr Grant responded to the Attorney General's inquiry on 31 August 1994. He advised Mrs Edwardes that Mr Corse had acted without his authority and added:

"I have asked Mr Mitchell to advise me regarding Mr Corse's actions as an officer of the Ministry in respect of Mr David King and in respect of the completion of the memorandum relative to Public Service Regulations and protocols."

Mr Grant responded to Mr Michael's letter on the same day. At no point in the letter did he indicate he had taken any action other than to provide Mr Corse with a list of duties and a clear reporting relationship.

2.6.67 The effect of this documentary evidence is to compel a conclusion that no action was taken by Mr Grant or anyone else in the Ministry of Justice to curtail Mr Corse's activities until Mr Grant received the letter from the Public Service Commissioner on or about 17 August 1990. It was Mr Michael and not Mr Grant who approached Crown Counsel.

2.6.68 It is one thing to determine what actions Mr Grant did or did not take. The Commission has, however, been unable to determine Mr Grant's motivation in acting as he did. Mr Grant's own explanation for his conduct with respect to Mr Corse is self serving and implausible. Mr Corse was a person known to be entirely unsuited to any involvement with a police investigation. He interfered in a totally unacceptable way in two matters with which the Director-General himself was personally involved and for which he was responsible; the police task force and the cultivation of Mr King. At the very least, Mr Corse's conduct constituted gross misconduct as an officer of the Ministry of Justice. In those circumstances the fact that no firm and immediate action was taken against Mr Corse requires explanation. None was forthcoming from Mr Grant.

2.6.69 Further, there is no departmental written record of Mr Corse's activities. There is nothing on his employment file to draw attention to his misconduct in any way - no reprimand, no suggestion he be counselled nor any request for an explanation in writing. No-one dealing with Mr Corse in future would know from his file that he had behaved so reprehensibly. Indeed Mr Corse's personal file creates the impression that he was sufficiently well thought of at the time to be given a task to carry out with an increased level of difficulty and a temporary special allowance as appropriate payment. Just how Mr Corse came to be given the job he was, with a temporary special allowance, is instructive in itself.

2.6.70 Mr Grant's evidence also conflicts with Mr Mitchell's and Mr Tolley's in terms of timing. Mr Mitchell said he first became aware of Mr Corse's return to the Ministry when Mr Grant asked him to give some thought to defining a task for Mr Corse. Mr Mitchell was unable to give an exact date for the conversation but thought it was probably around May 1994. Mr Mitchell said Mr Grant gave no reason for his request and conveyed no suggestion that Mr Corse was behaving improperly. Mr Mitchell said it took some time for the task to be organised. He thought Mr Grant first spoke to him about it in May but the task was not finally defined until July 1990. Mr Mitchell's recollection of July is supported by the documentary evidence.

2.6.71 As I have noted, the task Mr Corse was assigned was to review the audit reports into the Building Services division of the Department of Corrective Services. Mr Mitchell said the task did not require investigation or liaison with

police officers or Mr Lawrence. All Mr Corse was required to do was review a number of documents and prepare a report. When the task was initially assigned Mr Corse was not subject to any direction at all. However Mr Mitchell said he spoke to Mr Corse on several occasions and formed the view that Mr Corse was not carrying out the task he had been given. Mr Mitchell also formed the view that Mr Corse should be allocated a direct supervisor. He believed he formed that view in August 1994. He said he spoke to Mr Grant about the matter and Mr Grant nominated Mr Tolley as an appropriate supervisor. According to Mr Mitchell, at no time during that meeting did Mr Grant mention that Mr Corse had been behaving in an improper or inappropriate manner. Mr Mitchell did not recall Mr Grant expressing any concern of dissatisfaction with Mr Corse. Mr Mitchell also denied being made aware that Mr Corse was in the Pier Street premises.

2.6.72 Further, Mr Mitchell disputes entirely Mr Grant's account of the action he took over Mr Corse:

"Mr Grant said in his evidence that when he found out that Mr Corse had been to see Mr King, he inquired of you as to the authority that Corse had to undertake such a function?---I don't recall any such conversation.

Were you in a position to provide the director general with that sort of information?---I would not have been.

He also said at a later stage in his evidence, "I spoke to John Mitchell and asked him with what authority Corse had gone to Armadale"?---I've no recollection of that.

Do you recall having a conversation with Mr Grant about Mr Corse's location in the Pier Street premises?---No, I don't.

Do you recall Mr Grant using the phrase or suggesting to you that "they crowbar them out of there"?---No.

Can you think of any conversation along those lines that you had with Mr Grant?---No."

2.6.73 Mr Mitchell said he was not aware Mr Corse had been to see Mr King in prison until after the matter was reported in the media. He said the only request made to him by Mr Grant was for him to speak to Mr Kevin Payne at the Public Service Commission to determine whether another placement could be found for Mr Corse. Mr Grant was at that point effectively asking that Mr Corse be transferred out of the ministry. Mr Mitchell believes this conversation with Mr Grant took place during August 1990. Mr Mitchell travelled

overseas in early September and did not return until mid October. He was unaware that Mr Corse had gone until after his return.

2.6.74 There is considerable documentary support for Mr Mitchell's account, particularly the timing. The Commission received in evidence the first page of an undated draft memorandum to Mr Grant concerning Mr Corse and his employment within the Ministry. The draft is of interest for two reasons. First, it has been corrected in Mr Grant's handwriting to make Mr Corse subject to Mr Mitchell's supervision. Secondly, unlike the engrossed memorandum which was sent to the Human Resources section to enable Mr Corse's position to be classified for a temporary special allowance, it is phrased in terms which suggest Mr Corse was already performing those duties.

2.6.75 Mr Mitchell said he did not accept Mr Grant's amendments to the document. Mr Corse had a reputation for being a difficult staff member and Mr Mitchell did not want him in his division. According to Mr Mitchell, Mr Corse's reputation was such that Mr Grant would have needed to direct someone to take him. In the face of Mr Mitchell's refusal, Mr Mitchell said Mr Grant was unable to decide who could best fulfil the supervisory role. Mr Mitchell understood this to be the reason Mr Corse was initially unsupervised.

2.6.76 The final version of the memorandum was directed to Mr Tolley, the acting Director Human Resources, signed by Mr Mitchell and dated 12 July 1990. In the memorandum Mr Mitchell states that "pending his placement it is necessary for Mr Corse to be properly employed". Mr Mitchell goes on to state that he had discussed the matter with the Director General and "(had) agreed the following list of duties with him". The wording is consistent only with the creation of a task for someone, rather than confirmation of the duties of a task already being carried out.

2.6.77 The other interesting aspect of the document, which is initialled by Mr Grant, is the request that the task be considered for a temporary special allowance. The request is stated to be made by Mr Grant and not Mr Mitchell. Mr Tolley said it was not necessary for Mr Grant to make the request since Mr Mitchell had authority to do so. One interpretation is that Mr Mitchell was intending to make it clear it was not he who was responsible for the request.

2.6.78 Mr Grant initialled the memorandum on 12 July, after he became aware that Mr Corse had visited Mr King. It is difficult to understand why at that point Mr Grant would personally request a classification assessment which would probably result in Mr Corse receiving a pay rise. One explanation proffered was that the classification went with the task and not the person. Temporary special allowances are a device whereby an officer may be properly remunerated where asked to perform a job at a level higher than his substantive position. Alternatively, an officer in that position may himself apply for a reclassification. An application for temporary special allowance is commonly made by the officer himself. For Mr Grant to have facilitated the award of a temporary special allowance to Mr Corse in the circumstances is anomalous indeed.

2.6.79 It is even more difficult to understand why Mr Corse's temporary special allowance was backdated to May 1994. No witness, not even Mr Tolley who was the head of the relevant section, was able to explain how or why that occurred. The memorandum requesting the matter be considered for the payment of a temporary special allowance simply did not indicate a starting date for the task. As noted, the document made it clear the task had not yet commenced. Several witnesses from the Human Resources section confirmed that on occasions senior Ministry staff made oral requests for a particular task to be classified at a specific level. It may be that in this case there was an oral request made that Mr Corse's temporary special allowance payment be backdated to May 1990. That is the only explanation for what would otherwise be inexplicable.

2.6.80 This explanation is supported by reference to the appropriate classification procedures. The classification of Mr Corse's task for a temporary special allowance was not carried out in accordance with those procedures. According to Mr Grant, by 7 July he knew Mr Corse was overstepping the mark and instructed he be given a job, not that he carry out one he had already been given. There is simply no plausible explanation for the back-dating which is consistent with Mr Grant's evidence.

2.6.81 The conclusion that Mr Corse was deliberately being given a benefit is irresistible. However, once again, Mr Grant's motive is unclear. The reward could have been seen as an effective way, although a somewhat perverse and certainly inappropriate one, of inducing Mr Corse not to meddle in affairs which did not concern him. The more sinister interpretation is that

those same activities were being rewarded. There is insufficient evidence to resolve the question.

2.7. Conclusions

2.7.1 There is no doubt that Mr Grant and Mr Lawrence engaged in the exercise of cultivating Mr King with the object of extracting from him information as to the commission of offences. Had the approach come from Mr King there could have been no criticism of Mr Lawrence or Mr Grant. As I have found that Mr Lawrence, with the encouragement of Mr Grant, made the approach, it was outside the scope of their official duties. Once the relationship was established and had the imprimatur of Mr McKechnie, both officers were clearly acting legitimately. With the hopes and expectations held at the time by Mr McKechnie and police as to Mr King's knowledge of wrong-doing associated with the Wanneroo council, that effort was no doubt seen as a useful and proper undertaking. Further, no criticism can be levelled at either Mr Grant or Mr Lawrence for the manner in which they dealt with the information they obtained from Mr King during this process.

2.7.2 From the accounts of those present at the meeting in Mr Falconer's office on 18 October 1994, except Mr Grant, it appears there may have been an inappropriate element of personal glory seeking in the efforts of Mr Grant and possibly Mr Lawrence to get Mr King to speak out. Mr Grant saw the Bates interview as a considerable achievement for Mr Lawrence and himself and wanted no-one left in any doubt as to where the credit should fall. It is also clear that Mr Lawrence was very reluctant to relinquish his relationship with Mr King and continued to see him long after the need had passed. The Commission received and took into evidence submissions on behalf of Mr Grant which included factual material concerning the role played by Mr Grant in exposing corrupt activity on the part of his minister while he was working in New South Wales. From the submissions it is clear Mr Grant saw his role on the earlier occasion as something of a career triumph. Mr Grant's conduct in relation to the cultivation of Mr King is consistent with a very strong desire on his part to repeat the experience. The "cloak and dagger" collateral activity of Mr Grant and Mr Lawrence is also grounds for criticism.

2.7.3 First, there is Mr Grant's conduct in dealing with the transcript of the Bates interview in the manner he did to which I have already referred.

Again, in the absence of candour from Mr Grant, his motives are unclear. From the clandestine manner in which this activity was carried out it may be inferred that Mr Grant did not intend to use the copy document for official, approved or authorised purposes. If he had a legitimate need for an additional copy of the transcript no doubt one would have been provided to him by the DPP. There is insufficient evidence on which to base any finding as to what Mr Grant's motive might have been. However, I infer further that Mr Grant's motive was unconnected with his official duties as chief executive officer of the Ministry and that he had some personal use for the document in mind. Mr McKechnie described that conduct as utterly reprehensible. I agree.

2.7.4 Secondly, I have found that Mr Grant and Mr Lawrence used and encouraged Mr Corse in his information gathering activities, for their own ends. I find, from the totality of the evidence on the question, that Mr Lawrence and Mr Grant were well aware of Mr Corse's activities and deliberately took no action against him until his activities were publicly known in mid-August 1994. Further, I find that Mr Corse could not have been carrying out those activities without the approval of either or both Mr Lawrence and Mr Grant. Mr Corse must have been fulfilling a function they believed it was in their interests for him to perform. Since gathering information was the only activity in which Mr Corse was engaged I infer that gathering information was the relevant function. This inference is strengthened by the fact that Mr Grant clearly displayed an inappropriate interest in gathering information in other respects, namely his attempt to obtain a copy of the Cheryl Edwardes tape which is dealt with in chapter 3, and in having the Bates interview with Mr King retyped.

2.7.5 While it is clear that Mr Corse's role with the task force must have been instigated by Mr Grant and Mr Lawrence, there is insufficient evidence to conclude that Mr Corse visited Mr King at the direction of either officer. The wording of Mr Corse's memorandum to Mr Grant of 6 July 1994 is prima facie sufficient to preclude such a finding. Mr Corse said he was instructed to write the words "I privately visited ... David King", but I do not find that explanation plausible. It is true that in the Byzantine world of the Ministry of Justice at the time the bizarre cannot be excluded but Mr Corse's account of his role with the task force and his relationship with Mr Grant and Mr Lawrence is supported by independent evidence. His assertion that he visited Mr King at the direction of Mr Grant as conveyed through Mr Lawrence, is not. For that reason I am unable to find that either Mr Grant or Mr Lawrence ever issued such a direction.

2.7.6 There is no doubt from the evidence of all officers of the Ministry of Justice at the time that in mid-1994 the agency was not a happy place of employment. Among its senior officers at least there appears to have been a pervading climate of low morale, lack of loyalty to the Minister and the Ministry, mistrust, corridor gossip and rumour-mongering, factionalism and fear leading to a preoccupation with personal survival. There is no doubt this Commission has barely scratched the surface of the malaise that then afflicted and may well still afflict the Ministry. It has done so to the extent necessary to establish why the matters that do concern it were dealt with as they were and no further.

2.7.7 While I believe, in the circumstances, a recommendation is inappropriate, I make the observation that the nature and extent of the management problems in the Ministry of Justice disclosed in the course of this investigation were shocking. Unless there has been a fundamental change in management and culture since June 1994 the situation clearly requires robust attention. Such issues as the propriety and appropriateness of a Ministry having an intelligence unit directly answerable to the chief executive officer with no other controls would appear to require attention. The need for an intelligence function in the administration of Corrective Services is demonstrable. Whether the Ministry of Justice as a whole requires or benefits from such a function is another matter.

2.8. Findings on Credibility

Mr King

2.8.1 As I have noted, any consideration of the credibility of Mr King must start with recognition of the fact that he has been convicted of a serious offence of dishonesty, namely soliciting a bribe. That fact, of itself, does not destroy Mr King's credibility. It simply means his evidence must be treated with some caution. To the fact of Mr King's conviction must be added that he still is unable to accept that his conduct was wrong. In Mr King's view, as expressed to Ms Rowe and to the Commission, his conduct was no worse than many other councillors and was analogous to a businessman accepting a commission. Nor did Mr King see any moral or legal problem with accepting campaign donations and pocketing the money left over after his expenses had been met.

2.8.2 Further, on Mr King's own account and the evidence of

Ms Rowe, Mr Lawrence and Mr Corse, supported by contemporaneous documents, after his conviction Mr King complained bitterly to those people at the treatment he had received at the hands of the criminal justice system. He knew when making the complaints that he had provided the authorities with no useful information whatsoever at that time. He made a number of allegations but produced no evidence. Mr King eventually recognised that he had not fully co-operated with the police. His explanations for his failure to co-operate as he had promised were hollow. He had not been truthful with Mr Corse, Ms Rowe and Mr Lawrence.

2.8.3 I deal with a number of Mr King's specific allegations in chapters 4 and 5. At this point, however, I find Mr King to be a witness whose evidence cannot be accepted unless corroborated.

Mr Corse

2.8.4 Mr Corse came before the commission as a man with a reputation, a pedlar of information, a rumour monger. The evidence he has given and the evidence others have given about his activities have established that much of his reputation is soundly based. Mr Corse has been both of those things. Corridor gossip and the discreet coffee shop rendezvous had become a way of life for Mr Corse. Mr Tolley said that at one point he advised Mr Corse to stop playing "secret squirrels" and to get on with the job he had given. The answers given by Mr Corse and his letters and memoranda have also established that Mr Corse has an extremely imprecise manner of expression. There is no doubt he adopted, with apparent pleasure, a generally conspiratorial manner of both conducting and expressing himself. To put the position at its highest for Mr Corse, in the conduct of his activities gathering and disseminating information, it is clear that he was prone to exaggerate and distort situations.

2.8.5 In relation to most of the essential aspects of the relationship between Mr Corse on the one hand, and Mr Grant and Mr Lawrence on the other, there was direct conflict in the evidence. With respect to most of that evidence I have preferred the account of Mr Corse. In his dealings with Mr King he said he believed he acted at all times not only with the authority but at the direction of Mr Grant, as communicated through Mr Lawrence. I have found there is no evidence to support that belief. That is not a finding that Mr Corse has attempted to mislead the Commission on that issue. On the

other hand, Mr Corse has persistently denied he passed on a copy of Annexure 3 to Mr McGinty. I have found that he did so and that he has deliberately misled the Commission on the point. Mr Corse is also not believable on aspects of his evidence in relation to the Cheryl Edwardes tape rumour as set out in chapter 3.

2.8.6 In general it was Mr Corse's propensity to twist facts and situations around to fit his conspiratorial views of matters, to speculate inappropriately, and to elevate speculation which fits that view into fact, that seriously reduces the usefulness of his evidence. I have no reason to believe Mr Corse deliberately attempted to mislead the Commission on more than the specific occasions I have noted. The difficulty with him as a witness was not generally his attitude to the truth, but with his mental processing of information. It was consequently necessary to strenuously test his evidence to reduce it to a factual basis, if there was such a basis. His evidence consequently needed to be treated with great caution.

Mr Lawrence and Mr Grant

2.8.7 Mr Lawrence did not impress as a witness from the moment he entered the witness box. His demeanour was evasive and defensive. The evidence he gave was inconsistent between the two occasions he appeared and even between different times on the same occasion. He also gave evidence that was inconsistent with statements he had made on earlier occasions to others. When exposed in an inconsistency or logical or temporal difficulty Mr Lawrence gave every appearance of making up a replacement story as he went along. Many of his answers were inherently implausible and simply unbelievable. As I have noted, on one occasion it was evident that he and Mr Grant had both attempted to mislead the Commission with a version of events which was clearly incorrect. In relation to the matters considered by this Commission, Mr Lawrence was a thoroughly unsatisfactory witness whose evidence could not be accepted unless corroborated.

2.8.8 Mr Grant did not suffer from the serious demeanour problems of Mr Lawrence but his evidence was only slightly more believable. Mr Grant's attempts to keep his account in accord with Mr Lawrence were evident and, like Mr Lawrence, he had great difficulty maintaining consistency with statements he had made earlier to others. Mr Grant also gave and maintained evidence on a number of issues that was inherently implausible. When the totality of his

evidence on the issues before this Commission is considered with that of other witnesses and the available documents, I find I am also unable to accept Mr Grant as a witness of truth, I make further comment on Mr Grant's credibility at paragraph 3.5.35.

2.9. Summary of Findings

2.9.1 In relation to the matters investigated in this chapter I record the following findings:

- (a) Mr Lawrence received information that Mr David King was under threat to his safety at Wooroloo Prison from Mr Corse and not Mr Clive King as he claimed.
- (b) The decision that Mr Lawrence should cultivate Mr King in order to obtain information from him concerning Wanneroo related corruption was taken by Mr Grant in consultation with the DPP. No criticism can be levelled at Mr McKechnie, Mr Grant or Mr Lawrence for that decision nor for its implementation.
- (c) Mr Corse visited and interviewed Mr King at the Armadale Police lock-up with the knowledge and encouragement of Mr Grant and Mr Lawrence but not at the direction of either. Mr McKechnie was not aware of Mr Corse's intention.
- (d) Mr Corse's action in visiting and interviewing Mr King was contrary and inimical to the intentions of the DPP for the cultivation of Mr King.
- (e) Ms Rowe organised the meeting between Mr King and Mr Corse in the expectation that Mr Corse would pass on the information that he obtained from Mr King, for the benefit of Mr King. While the evidence concerning Ms Rowe's participation in the meeting strongly points to a deliberate exercise planned to embarrass the Liberal Party there is insufficient evidence to support such a finding.
- (f) In or about September 1994 Mr Grant had his secretary type a copy of the Bates interview and destroyed his official copy. He then retained the illicit copy of the document for an unknown period of time.

- (g) While there is insufficient evidence on which to base a finding as to Mr Grant's motive for taking that action, it was not taken for official purposes but for Mr Grant's personal use. Mr Grant's action was reprehensible.
- (h) Mr Elliott's attendance at the meeting between Mr Grant, Mr Falconer and Mr Hay on 18 October 1994 was purely in the capacity of observer, at the invitation of Mr Falconer. He had no other role and did not contribute substantively to the meeting.
- (i) Mr Grant and Mr Lawrence instigated the involvement of Mr Corse and Mr Hill with the police task force in the Ministry of Justice. No action was taken by Mr Grant to curtail Mr Corse's activities until he received a letter from the Public Service Commissioner on or about 17 August 1994.
- (j) Mr Corse was provided with a benefit in the form of a temporary special allowance from May 1994. There is insufficient evidence to determine whether that benefit was to induce Mr Corse to discontinue his information gathering activities or as a reward for those activities.
- (k) Mr Grant and Mr Lawrence used and encouraged Mr Corse in his information gathering activities for their own ends. There is insufficient evidence to determine the nature of those ends.

CHAPTER 3

THE CHERYL EDWARDES TAPE

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3.1. Introduction

3.1.1 On 19 June 1994 *The Sunday Times* published an article written by Mr Martin Saxon in which it was stated as fact that in 1990 the then Attorney General, Mrs Edwardes, had been secretly taped by a police undercover team in the course of investigations into alleged corruption at the Wanneroo City Council. Mrs Edwardes was said to have been taped during "confidential discussions with former Wanneroo mayor Dr Wayne Bradshaw". In fact, rumours of the existence of a police audio tape on which Mrs Edwardes' voice was to be heard engaged in a discussion where a sum of money was discussed in an improper context had been circulating, at least in the Ministry of Justice, for some time prior to and after the publication of the article. The actual amount of money discussed varied widely between purveyors.

3.1.2 It is, of course, first necessary to determine whether there ever was an audio tape recorded by police officers in the course of an investigation on which the voice of Mrs Edwardes could be heard discussing a sum of money in an improper context ("the Cheryl Edwardes tape"). I describe the allegation in that deliberately imprecise manner to encompass the numerous variants of the rumour that were raised in the course of the hearing. While there is evidence that there was at one time in existence one or more tape recordings on which the voice of Mrs Edwardes could be heard, I have concluded without any doubt that a tape recording on which her voice can be heard discussing a sum of money in an improper context does not exist and has not ever existed.

3.1.3 The Commission has been very conscious of the need in this particular inquiry to be completely exhaustive in its investigation. It has approached the task on the basis that the nature of titillating rumours is such that even if it is untrue, if the investigation leaves open any possibility, no matter how remote, that such a tape may have existed, then the rumour will not have been totally extinguished. This is particularly so in the case of rumours with political overtones, as in this case. To achieve that level of certainty Commission investigators have interviewed and taken statements from 21 people who were associated with the police operation during which tape recordings were made who may have knowledge of the origin and circulation of the story. Three of these witnesses gave oral evidence

before the Commission. Statements from the remaining 17 witnesses, whose evidence was largely formal and repetitive, were tendered in evidence and made available for public scrutiny.

3.1.4 The Commission has conducted its investigation into the Cheryl Edwardes tape allegation pursuant to items 1 (c) and (d) of its terms of reference.

3.2. The Police Internal Affairs Unit Investigation of Mr Wayne Smith

3.2.1 In early 1990 the Western Australian Police Force had two units whose job it was to police the conduct of its own officers. The Internal Investigations Branch was concerned with internal discipline and misconduct on the part of police officers. The Internal Affairs Unit ("the IAU") was and remains concerned with matters of corruption involving police officers. The head of the IAU from its inception in 1988 until 11 August 1992 was Inspector (later Superintendent) Leslie Ayton. Inspector Donald McLeod joined the unit on 1 March 1990 as an investigator. At that time there were four inspectors, one senior investigator and the officer in charge. There was an administration sergeant, clerical staff, surveillance officers and technical staff.

3.2.2 Mr Ayton had been making do with two investigators until March 1990 when Mr McLeod and other additional officers joined the Unit. At that time there were approximately 20 investigations waiting to be allocated. One of these was an allegation against Mr Wayne Smith MLA, then a Detective Sergeant in the Fraud Squad. The allegation was recorded on what is called an Info-In form dated 18 December 1989. Mr Ayton believes he personally took the information and created the Info-In. The document was suppressed because of the need to protect the name of the informant. The Info-In noted that Mr Smith was senior vice-president of the Ocean Reef branch of the Liberal party. It expressed concern regarding his relationship with Dr Bradshaw who had been mayor of Wanneroo during a corruption inquiry. Mr Smith was said to have given character support to Dr Bradshaw at a recent Liberal party pre-selection meeting by stating that as a detective sergeant he had been involved in the corruption inquiry and that Dr Bradshaw had been completely cleared. The informant noted Mr Smith's heavy

involvement in real estate deals and his possible involvement in such deals with Dr Bradshaw as a silent partner. It was noted that Mr Smith had a delicatessen in Wanneroo Road and a block of land elsewhere. It also contained the comment that Mr Smith's assets seemed to exceed his income. Mr Ayton said he was aware of Mr Smith's propensity to use his position as a police officer to his own advantage. He considered the information concerning Mr Smith's activities warranted further investigation and assigned that task to the newly arrived Mr McLeod. Mr McLeod took over the investigation on 9 March 1990. He said the decision to investigate was based on the Info-In, Mr Smith's poor reputation in the Police Force and Dr Bradshaw's general reputation as a shady dealer. The investigation was codenamed Operation Mudguard.

3.2.3 Mr McLeod was made aware of some initial surveillance carried out on Mr Smith prior to him taking over the inquiry. That surveillance had disclosed several associates of Mr Smith, including Dr Bradshaw, Ms Diana Borserio and Mr and Mrs Edwardes. Mr McLeod was acquainted with Mr and Mrs Edwardes through his involvement with his children in the Little Athletics Club at Greenwood. Mr McLeod said he became President of the club while Mr and Mrs Edwardes were patrons. He had met them through a mutual friend in the club and said he knew them fairly well at that time. He never went to their home but he did attend a number of social functions where they were present. Mr McLeod said that Mr Edwardes attended to any representation to the council for the club that was required. At the request of Mrs Edwardes, and along with other members of the club, Mr McLeod helped Mrs Edwardes with an election campaign which he recalls was in "the early eighties", around 1984. Some members handed out How to Vote cards but, as a police officer, Mr McLeod said he restricted himself to driving elderly voters to the polling booth. Mr McLeod said he advised his superior officer, Mr Ayton, of this connection at the time the Operation Mudguard investigation was assigned to him and it became apparent that Mr and Mrs Edwardes may be involved. Mr Ayton confirmed that advice and the view he expressed that the acquaintance was not an impediment to Mr McLeod taking on the investigation. Mr Ayton knew Mr McLeod well and held him in the highest regard. In fact, Mr McLeod's knowledge of some of the people whose names might arise in the course of the investigation, including Mr and Mrs Edwardes, was seen by both officers as an advantage.

3.2.4 In my opinion the circumstances I have described are

not such as to raise any concern that the investigation was affected by Mr McLeod's acquaintance with Mr and Mrs Edwardes. It must be kept in mind that the investigation was not into the conduct or activities of Mr and Mrs Edwardes. The target of the investigation was Mr Smith. Mr and Mrs Edwardes were no more than associates of Mr Smith. Mr McLeod made known to his superior his acquaintance with Mrs Edwardes from the outset. Further, that relationship was tenuous. Mr McLeod said

"... it didn't concern me. I knew there was a possibility of being in a position to perhaps charge any one of the people involved with an offence of corruption and I would not have shirked from that at all."

I accept Mr McLeod's evidence and conclude that his acquaintance with Mrs Edwardes had no impact on his conduct of the investigation. Indeed it has not been suggested by any person that Mr McLeod was in fact influenced by the relationship. However, neither Mr McLeod nor Mr Ayton considered the possibility that these circumstances could create a perception of a conflict of interest. It may have been prudent for Mr Ayton to have considered that possibility and the advisability of allocating the task to another officer.

3.2.5 Mr McLeod took a number of actions to commence the investigation. He established contacts and undertook title searches of properties. Title searches revealed total mortgages in Mr Smith's name of approximately \$970,000 which, for a police officer, was regarded as requiring explanation.

3.2.6 After first obtaining the approval of Mr Ayton, on 3 May 1994 Mr McLeod said he applied to the authorised office, Deputy Commissioner Zanetti, for authority pursuant to the Listening Devices Act 1979 to install a listening device in Mr Smith's home at 15B Courageous Place, Ocean Reef. After again obtaining Mr Ayton's approval, Mr McLeod made a similar application on 16 May 1994 with respect to "the Mayoral office at the Wanneroo City Council Centre, Boas Avenue, Joondalup". Authority was duly granted in each case. Copies of the written applications and authorisations were tendered in evidence. A listening device was installed at 15B Courageous Place on 5 May 1990. A chronology of events compiled by Mr McLeod from his diaries, notebook, running sheets and other notes indicates that the listening device in the mayoral office was installed on the same day that the authority to use was obtained, namely 16 May 1994. The installation was carried out with the co-operation of

the Deputy Mayor, Mr Graham Major.

3.2.7 Mr McLeod said that monitoring of the listening devices was carried out on an irregular basis. The receiver was connected to a tape recorder which recorded as the monitoring progressed. Brief details of what transpired during the monitoring session were written on a monitoring sheet. Monitoring was generally carried out by surveillance staff but technical and investigative staff helped out if available. The tapes and monitoring sheets were left on Mr McLeod's desk. Mr McLeod said he read all the monitoring sheets. Apart from a short period of three weeks when he was on leave Mr McLeod also personally listened to all the tapes. The administration sergeant, Mr John Mawson, was briefed to listen to the tapes taken in Mr McLeod's absence and briefed Mr McLeod on his return.

3.2.8 Mr McLeod said that at the beginning of the operation he instructed the administration staff to listen to the tapes and type a transcription. He said that procedure was unsuccessful because he knew the voices on the tapes better than the administration staff and could do the job much better himself. He began to transcribe in handwriting parts of the tapes that were of particular interest. The majority of these transcriptions were made on to loose leaf paper but some were made in a notebook which Mr McLeod retained. The notebook also contained transcriptions of recordings taken by Mr Major with a tape recorder in the mayor's office of conversations he had with Mr Smith and others on two occasions. Those recordings were unrelated to the listening devices and did not involve Mr or Mrs Edwardes. Mr McLeod said those tape recordings were later erased.

3.2.9 Mr McLeod said that the listening device in the mayor's office was removed when Dr Bradshaw lost office in May 1991. The device in 15B Courageous Place failed at some point which Mr McLeod is unable to pinpoint. It did "fire up" again later but not at full power. Initially it was decided to leave it there because it was intended to continue with the operation. According to Mr McLeod, when Mr Smith resigned in October 1991 there was some dissension between Mr McLeod and Mr Watson as to what should be done with the device. After some discussion, involving Mr Ayton, it was decided to leave the device in place. It was only removed much later, after the house had been sold.

3.2.10 On 5 November 1990 the IAU became involved in an inquiry into the City of Stirling that in due course was taken up and investigated by the Royal Commission into Commercial Activities of Government. Mr McLeod said the whole unit was involved in that investigation and monitoring of the Operation Mudguard listening devices came to a halt. The Operation itself was not wound up but, apart from some continuing interviews by Mr McLeod, it was "put on hold". Investigation into Operation Mudguard, including the monitoring of listening devices, did not recommence before Mr Smith's resignation. Mr McLeod said that since the IAU was only concerned with serving police officers the investigation was then terminated.

3.2.11 Mr McLeod was questioned in some detail as to what was recorded on the tapes. The Commission heard evidence in camera for approximately 30 minutes with respect to recordings taken at 15B Courageous Place which concerned a matter which is the subject of an ongoing inquiry. The matter was of some significance and the evidence may be of later use to the Commission. It has no bearing on the present issue. Neither Mr nor Mrs Edwardes were recorded or referred to in any conversation the subject of the in camera evidence.

3.2.12 Mr McLeod evidently gained some interesting insights into the workings of the Wanneroo City Council at the time as a result of the electronic surveillance. There was, however, no evidence of any criminal offence having been committed. He described meetings in Dr Bradshaw's office before and after council meetings when Dr Bradshaw would tell a regular group of supporters what they should do at the forthcoming meeting. Mr McLeod heard the well publicised "white feather" incident, involving Dr Bradshaw and Mr Arnold Dammers, discussed prior to the meeting. He also described "post match meetings" after council meetings where Dr Bradshaw and his group would congratulate themselves on their performance during the meeting. According to Mr McLeod the emphasis at these sessions was more on undermining the other faction members than on achieving something for the City. He said that Mrs Edwardes was present at some of those meetings. Mr McLeod noted that Mrs Edwardes fitted into the group very well and was very relaxed in Dr Bradshaw's company. In his assessment she "did not raise the level" of the meetings. He agreed with Mr Saxon's source that she was "foul mouthed" when in that relaxed company.

3.2.13 Mr McLeod understandably believed that these features of the taped conversations made them politically sensitive. Again, he said there was never any mention of money in a criminal sense. There was, however, discussion of money being spent with respect to normal business activity. None of the tapes recording those meetings or any of the tapes which Mr McLeod regarded as politically sensitive were transcribed into his notebook. With respect to the listening device tapes as a whole Mr McLeod gave the following evidence:

"In the tapes from the mayoral office, at any stage did you hear a tape which had Cheryl Edwardes talking about obtaining a bribe?---Definitely not.

About obtaining a sum of money?---No.

In any tapes from the mayoral office did you hear Cheryl Edwardes' voice in a conversation at which other people talked about a bribe, or the payment of money?---No.

In relation to the Courageous Place listening device, on the tapes from there did you ever hear Cheryl Edwardes discussing the taking of a bribe from any person?---No.

Did you ever hear a tape on which Cheryl Edwardes' voice was heard when other persons were discussing a bribe?---No.

Did you ever tell anybody that you had heard a tape where Cheryl Edwardes or any other member of the Wanneroo council discussed a bribe?---No.

You've mentioned Cheryl Edwardes's voice appearing on tapes from the mayoral office. You've also referred to tapes from the Courageous Place premises. Was her voice on the tapes from Wayne Smith's house?---She was there on some occasions, yes.

In all, how many tapes came into existence on which Cheryl Edwardes's voice could be heard?---I cannot give you a number. Not - - there wouldn't have been very many; I would say no more than half a dozen of the times that the tapes were run. I'm saying less than half a dozen actual incidents where she was there.

On any of those tapes, was she present or was she speaking of the taking of a bribe or the payment of a sum of money in exchange for some conduct?---No."

3.2.14 Mr Ayton said he was aware that tapes had been obtained for Operation Mudguard. He did not listen to any of them or generally read the transcripts. He said he may have read portions of transcript. He said he was told of the contents of transcripts on occasions. Mr Ayton recalls being told by the IAU Administration Sergeant, Mr John Mawson, about remarks

recorded about the future of Mr Barry MacKinnon, then the leader of the parliamentary Liberal Party and the State Opposition. He recalls it as Mrs Edwardes, Mr Smith, Dr Bradshaw and possibly Mr Edwardes and Ms Borserio "plotting the downfall" of Mr MacKinnon. Mr Ayton said he did not know about Mr McLeod's notebook at the time and did not take a copy of any Operation Mudguard tape. He had access to the tapes but at no time took custody of them. Mr Ayton said that the first time he heard of a tape containing discussion of a bribe was on 14 June 1994 from Mr McLeod. I shall return to that advice later in this chapter.

3.2.15 Mr McLeod said he has never told anyone outside the unit that a tape existed on which Mrs Edwardes or any other person discussed a bribe. He had, however, once discussed a tape on which Mrs Edwardes' voice could be heard. Mr McLeod said he had once received a telephone call, he thought from a police officer he knew, who told him he had heard a rumour that the IAU had the people from Wanneroo "on toast" or something to that effect. Mr McLeod said he told the caller he wished they had but they did not. He could not remember the identity of the caller but recalls he told the caller they, the IAU, had heard Mrs Edwardes on tapes but there was nothing on them of the nature suggested by the caller. He recalled also that he discussed Operation Mudguard with two police officers outside the unit. One was Mr Keith Van Boheeman, formerly an Inspector in charge of the Internal Investigations Branch, and the other was Inspector Adrian Storm. He assumed the call he remembered came from one of those officers, both of whom were engaged in investigations involving Mr Smith. Mr Storm is deceased and Mr Van Boheeman denied having any such telephone conversation with Mr McLeod.

Evidence of IAU Personnel

3.2.16 Mr Mawson recalls performing Mr McLeod's function for two periods of Mr McLeod's leave, for a total of six to eight weeks. He recalls hearing the voice of Mrs Edwardes on the listening device at 15B Courageous Place on a number of occasions. At no time while he was monitoring the listening device did he hear Mr or Mrs Edwardes, Mr Smith or Dr Bradshaw discussing sums of money. The only conversation of any interest which Mr Mawson overheard over the whole period involved Mrs Edwardes and Dr Bradshaw and possibly Mr Edwardes shortly prior to the time when Mr MacKinnon resigned as Leader of the

Opposition. Mr Mawson recalls that the conversation "was along the lines that it was time for Barry MacKinnon to go". Mr Mawson recalls relaying the substance of the conversation to his superiors, Inspector Alan Watson and Mr Ayton a day or two later with a jocular comment that it would be of interest to the newspapers. Mr Mawson recalls that the conversation was the only thing he heard which was vaguely interesting, even though irrelevant to their inquiry.

3.2.17 In addition to Mr McLeod and Mr Ayton, some 19 witnesses gave evidence of their knowledge of the Cheryl Edwardes tape. Those witnesses fell into three categories. First, there were those police officers and civilian staff at the IAU who worked on Operation Mudguard. Secondly, there were those police officers and civilian staff who did not work on Operation Mudguard but were working for the IAU at the material time. Thirdly, there were the investigators who were seconded to a task force investigating matters arising from the Royal Commission into Commercial Activities of Government in 1991-92 and during that time shared office space with the IAU.

3.2.18 The officers and employees in the first category were Inspector Kim Sawyer, Mr "Paul Marshall" (not his real name, for security reasons), Mrs Laura Schranz, Mr Stuart Schranz, Mrs Dorothy Lytton, Mr "Mark Watts" (not his real name), Constable Joe Powell, Constable Lisa Woods, "Officer 11", Constable Darren Nicholas and Mr Mawson. The evidence of these witnesses was consistent on the crucial issue of the existence of the Cheryl Edwardes tape. None of the witnesses had heard of a rumour or allegation concerning the existence of a tape on which the voice of Mrs Edwardes could be heard discussing a sum of money in an improper context. Only "Mr Marshall" and Mr Mawson referred to a tape on which Mrs Edwardes' voice was heard and then it was in the context of a discussion concerning the future of Mr MacKinnon.

3.2.19 The officers and employees in the second category were Acting Superintendent Stuart Syme, Inspector Russell Gardiner, Inspector Stephen Robbins, Mr Watson and Senior Constable Edwin Phillips. The evidence of these witnesses was also consistent on the existence of the Cheryl Edwardes tape. The first any of them heard of such a tape was through the media or investigators from this Commission in recent times. None of the witnesses

said they knew of a tape or heard of such a rumour during the time they worked with the IAU.

3.2.20 The officers and employees in the third category were Mr Wayne Gregson, Mr Allen Eason and Mr Marcus Clarke. Again, these witnesses said they had not heard of the existence of the Cheryl Edwardes tape except through recent media reports.

3.2.21 Thus, all of the witnesses confirmed that to the best of their recollection they had not heard of the existence of a tape recording the voice of Mrs Edwardes discussing money until that allegation was referred to in the media or until it was mentioned to them by investigators from this Commission. Witnesses in the first category also confirmed that the destruction of the tapes obtained in the course of Operation Mudguard was carried out in accordance with normal work practices and in conformity with the Listening Devices Act. "Mr Marshall" recalls the exercise of erasing tapes and destroying paperwork handed to him by Mr McLeod but he cannot recall how many were erased nor can he confirm that all tapes and paperwork obtained from the operation were erased and destroyed.

3.2.22 There is no evidence to suggest that any of the tapes obtained in the course of Operation Mudguard were ever copied.

3.2.23 The evidence of these witnesses is intended to be comprehensive. The Commission has gone to some lengths to ensure that oral evidence or a statement has been taken from every person who worked with or in close proximity to the IAU over the relevant period. I believe it is most unlikely that anyone has been missed. In my opinion the evidence of Mr McLeod and Mr Ayton, together with supporting witnesses, compels two conclusions. First, there were audio tapes recorded by the IAU on which the voice of Mrs Edwardes could be heard. Secondly, that a police audio tape on which Mrs Edwardes voice could be heard discussing a sum of money in an improper context has never existed.

3.3. Destruction of the Tapes and Transcripts

3.3.1 Mr McLeod said there were four categories of tape recordings created in the course of Operation Mudguard: first, those recorded on a

tape recorder by Mr Major; secondly, those from the listening device in Mr Smith's home; thirdly, those from the listening device in the mayor's office; and fourthly, tapes of interviews with witnesses. Mr McLeod kept the reel to reel tapes taken by Mr Major for some time after the investigation was wound up after the resignation of Mr Wayne Smith from the Police Force on 14 October 1991. He said he may have kept them for as long as a year later but they were eventually needed for other operational purposes and taped over. He was not asked to produce them to the Kyle Inquiry. Mr McLeod retained his transcriptions from the reel to reel tapes. The tapes of interviews were also erased at some time after the investigation was wound up. Mr McLeod was not able to be specific as to the dates.

3.3.2 The tapes and monitoring sheets recorded from the listening devices at both 15B Courageous Place and the mayor's office were erased and destroyed respectively on 5 June 1991. Mr McLeod explained why the tapes were erased at that time, before the investigation had been formally wound up, in the following terms:

"Why were they erased?---Because there was nothing of any evidential value on the tapes that would assist my inquiries.

What do you mean by "nothing of any evidential value"?---Of a criminal nature.

Is that the only reason that the tapes were destroyed or wiped?---No. Because it is a requirement of the Listening Devices Act to do so.

Was there any other reason?---I was very concerned about those tapes, anyway, because they were politically sensitive. They weren't - -

In what way?---In the way that showed these people as they really were in their - -

Which people and what did it show them to be?---The people involved in the council, from the mayor down to the rest of that particular faction, were shown to be in their relaxed state very coarse, to my way of thinking, unpalatable people.

And Cheryl and Colin Edwardes, how did they fit within that description you have just given?---I include them in that.

Why did the fact that the tapes portrayed these people in that way cause you concern to the point that you - - it played a factor in your decision to erase the tapes?---Because I could see their value to any other party and that's not what they were recorded for. They were very sensitive. They were of no value as far as a criminal offence was concerned to me, and I certainly couldn't justify, as far as the Listening Devices Act was concerned, keeping them. But I could see, if it came out that we did have listening devices around, some very powerful

people would be very interested in those tapes."

3.3.3 The IAU documentation for the purposes of the Listening Devices Act fell into three parts. Part 1 contained details of the "circumstances for requesting a listening device authority" in which the applying officer was required to justify to the authorised officer the issue of an authority. Part 2 was the "authority to use a listening device" itself, in these cases signed by Mr Zanetti. Part 3 contained details of the "result on the use of a listening device". Mr McLeod said he completed Part 3 on each of the two documents providing authorisation for the final period of surveillance. In each case he noted that the result had been "nothing of evidential value". He noted that recording tapes had been made and that they had not been retained. He further noted in each case that the tapes had not been transcribed and that the transcriptions had been destroyed. He noted the date of destruction, presumably of both tapes and transcriptions, as 5 June 1991.

3.3.4 Mr McLeod readily conceded that those notations on the forms were inaccurate in two respects. First, the tapes had been transcribed. That would appear to have been a simple clerical error which was inconsistent with the notation alongside to the effect that transcriptions had been destroyed. The second, that the transcriptions had been destroyed, required a little more explanation. Mr McLeod had, in fact, retained those parts of the tapes transcribed into his notebook and has done to this day. He told the Commission he had only become aware of the existence of transcriptions from listening device tapes in the notebook in the last six to twelve months. He said he believed at the time that by destroying all the loose pages of typed and handwritten transcript he had disposed of it all. I have no difficulty in accepting Mr McLeod's explanation. The error, which clearly caused Mr McLeod some embarrassment, was also essentially clerical.

3.3.5 Mr McLeod said he made the decision to erase the tapes himself, in consultation with the senior investigator, Mr Alan Watson, and Mr Ayton. He said that both senior officers agreed with his decision. Mr McLeod shredded all the monitoring sheets himself. The tapes were erased by administration staff. To Mr McLeod's knowledge they were all erased. The transcripts were shredded, either by Mr McLeod himself or Mrs Lytton, one of the administration staff. Only the notebook was retained.

3.3.6 In summary, Mr McLeod said he decided in June 1991 to erase the tapes and destroy the transcripts and monitoring sheets for three reasons. First, because there was nothing on the tapes of an evidentiary value; secondly, to comply with the Listening Devices Act; and thirdly, because some of the material on the tapes and in the transcripts was, in his opinion, politically sensitive. Mr McLeod explained that "nothing of an evidentiary nature" meant to him nothing of a criminal nature. There is no doubt that evidence of the commission of an offence is all that should have been of interest to Mr McLeod. As to the second explanation, it is questionable that the tapes and transcripts should have been destroyed before the operation was terminated in October 1991. Evidence that may appear innocuous at one point may fit into a pattern when seen in conjunction with evidence obtained later. I do not accept that the Listening Devices Act required the erasure of the tapes and destruction of the paperwork until the operation was completed. Mr Ayton agreed that there was no statutory requirement to erase the tapes until the operation was completed.

3.3.7 The third reason given by Mr McLeod presented him with something of a dilemma, although in evidence he gave no indication of having been aware of it at the time. If he did not erase the tapes he could be accused of having an ulterior motive in keeping material that was not of any evidentiary value. If he did erase the tapes he could be accused of hiding something or of protecting somebody. He would be unable to produce the material to discount any allegation made.

3.3.8 Perhaps none of the three reasons given by Mr McLeod would, if standing alone, support his decision to destroy the surveillance material. I am satisfied, however, that in combination the three reasons adequately justify the decision. It was a decision reached by the officer with conduct of the operation, the senior investigator and the officer in charge of the unit acting together. In my opinion it was a proper decision in all the circumstances.

3.3.9 Mr McLeod said also that it is possible the reel to reel tapes taken by Mr Major were erased after the commencement of the Kyle Inquiry. If that was the case it is unfortunate they were not produced to Mr Kyle but, as I have noted, Mr McLeod said they were never requested. There is nothing in the transcripts produced which would suggest there was any

significance in the decision to erase the tapes at that time. Nor is there any evidence to suggest that Mr McLeod's actions, with the concurrence of his superiors, were in any way improper or carried out with an ulterior motive.

3.4. Dissemination of the Rumour

3.4.1 The first media reference to a tape on which Mrs Edwardes' voice could be heard, albeit in neutral and fairly accurate terms was Mr Saxon's article in *The Sunday Times* on 19 June 1994. The earliest reference to a rumour that such a tape existed came from Mr Lawrence. He said he first heard the rumour at least five or six years ago, that is in 1990-1991, when he was still in the Investigations Section of the Department of Corrective Services. Mr Lawrence described the rumour he first heard as follows:

"That there was a tape in existence that the police had, no specification who in the police, suggesting that there was the voice of Colin and Cheryl Edwardes and Wayne Bradshaw and the sum of \$20,000 being mentioned."

Mr Lawrence could not recall who of the three people mentioned was said to have mentioned the sum of \$20,000.00. He said at the time it meant nothing to him - it was just rumour and scuttlebutt. Mr Lawrence said he could not recall who told him the rumour but he was sure it was a police officer, a member of the CIB. Even that evidence was equivocal:

"Are you able to say whether you were told that information by a police officer?---I wouldn't - - I am sure it was by a police officer; yes. I wouldn't swear in the Bible. I'm sure it was a member of the CIB, some - a member of the CIB."

3.4.2 Mr Lawrence said that the first time he attached significance to the rumour was in June 1994 when he first began to be involved with Mr King and Mr Saxon's article appeared. He said at that point he said to himself "(W)ow, that scuttlebutt may, in fact, have been fact". In the meantime, in or about October 1993 Mr Lawrence had passed on the rumour to at least three people: Dr McCotter, then the Executive Director, Corrective Services in the Ministry of Justice; Mr John MacColl, then the Assistant Director, Prison Operations in the Ministry of Justice; and the Director General, Mr Grant. Mr Lawrence's evidence as to the circumstances in which he did that is not at all believable.

3.4.3 Mr Lawrence was asked why he felt it necessary to pass on the rumour in October 1993 when he had not done so for two or three years. He said that until October 1993 he saw no reason to do so. He said he passed on the rumour in October 1993 "because Colin Edwardes was working for us as the executive officer and, whilst it was rumour, it is my duty to pass on that type of information to our senior administration". Mr Edwardes was at that time employed as Executive Officer to the Director General of the Ministry of Justice. Mr Lawrence then proffered the following explanation:

"Do you grade this rumour and scuttle-butt that you hear?---No. I didn't - - I didn't formally write any report. It was a case of sitting down and talking to my immediate superior who, at the time, was Dr McCotter. She raised a few concerns with me about staff within the building and some of their activities and at that time I took the opportunity, because it seemed to be connected - - took the opportunity to say, "Well, if that is the case, we need to be careful because I've heard these rumours previously. Just put it in the back of your mind. Just be careful what you say and how you handle very sensitive information in that area" because we just didn't know. There was a question mark over certain members within the ministry.

What is the question mark? Some scuttle-butt you heard from someone in the CIB, you don't even remember who, some 3, 4 years beforehand?---Yes."

3.4.4 Mr Lawrence's next version was that he was prompted to pass on the rumour because of the attention Mrs Edwardes and Wanneroo matters had been receiving in the press at the time. When Mr Lawrence returned to give evidence some three weeks after his first appearance Counsel Assisting put to him that there had been no mention of Mrs Edwardes in connection with "Wanneroo Inc" in the press prior to October 1993. Mr Lawrence agreed there had been none. He accepted also that Mr Edwardes had been in an important position as a public servant since he had first heard the rumour and that nothing had changed to give it more credence. He then said the reason he chose to tell Dr McCotter the rumour was that "(S)he was having a lot of problems and she was taking me into her confidence and I was doing the same - I was providing some information to her". Mr Lawrence was asked whether he attempted to find out who had given him the information and he replied "I racked my brains, I did". Mr Lawrence then said he relayed the rumour after Dr McCotter had raised concerns about the position of Mr Edwardes in the Ministry. He said he told her he did not know whether it was reliable, it was merely information. Significantly, Mr Lawrence could not recall whether he told Dr McCotter he had heard the rumour three or four

years ago. He said also he had heard the rumour again recently, from "our good friend, Mr Barry Corse". Mr Lawrence palpably was having great difficulty keeping his story straight.

3.4.5 Dr McCotter's recollection of the discussion is decidedly different. She said that Mr Lawrence came to see her in late October - early November 1993. At that time Mr Lawrence, as Manager of the Intelligence Unit, reported directly to Dr McCotter as Acting Executive Director, Corrective Services. Mr Lawrence met with Dr McCotter each week to brief her on the activities of the unit and any concerns Mr Lawrence might have. Dr McCotter said it was in the course of one of those regular briefings that Mr Lawrence told her he was concerned that a tape existed which had been obtained by police on which the voices of a number of people, including Mr Edwardes, could be heard discussing money to be obtained to effect decisions by the Wanneroo council. Dr McCotter said she asked Mr Lawrence where he had obtained his information and he told her, without elaborating, that he had obtained it from the police. He had heard the tape and believed it was authentic. Dr McCotter recalls the expression "bagman" being used with respect to Mr Edwardes' role but cannot recall whether Mr Lawrence used the word or she did in response to something he said.

3.4.6 Dr McCotter said that Mr Lawrence told her he would speak to Mr Grant about the rumour. She said he later told her he had done so. Mr Lawrence agreed he said he would tell Mr Grant, despite the fact that he had already told him a week or so earlier "when all this stuff started to resurface in the newspaper". He said he did not think Dr McCotter needed to know he had already told Mr Grant. Mr Lawrence did not recall the word "bagman" being used. He denied he told her that he had heard the tape.

3.4.7 None of Mr Lawrence's explanations for why he raised the rumour with Mr Grant and Dr McCotter in late 1993 when he had, on his own account, chosen not to do so for some years after first hearing of it, withstood scrutiny. The only intervening event that had a bearing on the issue was that Mr Lawrence had heard the story again from Mr Corse. But later in his evidence Mr Lawrence said he could not even be sure whether this occurred before or after he passed the rumour on to Mr Grant and Dr McCotter. In my opinion Mr Corse is clearly the only plausible precipitating factor to explain why Mr Lawrence would have resurrected what he claims to be a very old

rumour. Dr McCotter impressed me as a very credible witness. Where her evidence conflicts with that of Mr Lawrence, I prefer Dr McCotter's account. Mr Lawrence's behaviour in raising the rumour as he did was, at the very least, mischievous and potentially highly destructive.

3.4.8 In late October - early November 1993, Mr MacColl was the Acting Director, Prison Operations in the Ministry of Justice. In that position he had day-to-day contact with Mr Lawrence as Manager of the Intelligence Unit. Mr MacColl recalls having a conversation with Mr Lawrence at about that time in which Mr Lawrence raised the issue of a tape. Mr MacColl said the conversation took place in Mr Lawrence's office in Westralia Square. Mr MacColl described the conversation in the following terms:

"What was said?---Mr Lawrence indicated that there was a tape in existence where it was alleged that Mr Colin Edwardes was discussing money issues related to Wanneroo Council. He went on to say that Mrs Edwardes could be heard in the background and that it talked about the replacement of Mr Barry MacKinnon by Mr Richard Court.

You said "tape". Was it only one tape that you were told about or more than one?---Well, I gained the impression that it was more than one tape, but that may have been an impression I gained rather than it being stated."

Mr MacColl said the discussion of money issues "seemed to be in the nature of the influencing of decisions within the council and some reward for that". Mr MacColl also said "(H)e told me that the police officer who had the tape had kept it for his protection as the issues were obviously sensitive and the people involved were powerful". He did not know why Mr Lawrence was giving him that information. Mr MacColl said he told Dr McCotter about the rumour a couple of days later. He said he did that because Dr McCotter was his executive director and the rumour related to Mr Edwardes who was Mr Grant's executive officer. Mr MacColl said Dr McCotter told him she already knew and that she had advised Mr Lawrence to tell Mr Grant. Mr MacColl said that shortly after he spoke to Dr McCotter, Mr Lawrence told him he had spoken to Mr Grant.

3.4.9 If Mr MacColl's recollection is accurate and not coloured by recent reports, the factually correct reference to a conversation in which the replacement of Mr Barry MacKinnon by Mr Richard Court was discussed suggests that there must, at some time, have been a leak from the IAU.

3.4.10 Mr MacColl did not keep Mr Lawrence's story to himself. He could recall passing the rumour on as "an interesting piece of information" to three people in senior positions in the Ministry with whom he worked. Mr MacColl agreed that those people, who he named, had no interest in receiving the information other than curiosity. Mr MacColl said he was at the time aware that the Intelligence Unit received sensitive information from outside law enforcement agencies in the course of its work and that it was undesirable for that information to be passed around on a whim. He said he asked each of the three recipients to treat the information as confidential. He said he thought they would do what he himself had not done, namely keep it to themselves. Mr MacColl's candour was refreshing but his behaviour was obviously regrettable. From the accounts of a number of Ministry Officers that behaviour was entirely consistent with the culture of the organisation at the time.

3.4.11 Mr MacColl said he also raised the issue of the tape rumour with Mr Grant some months later, after he had been advised by Dr McCotter that Mr Lawrence had spoken to Mr Grant. He said Mr Grant told him he did not know about it and Mr MacColl said he then suggested to Mr Grant that he take up the matter with Mr Lawrence. He did not get back to Dr McCotter to tell her the information she had received from Mr Lawrence was incorrect. Mr MacColl said he just left the matter as it was.

3.4.12 Mr Lawrence said that it was Mr MacColl who had approached him to say that Dr McCotter had been talking about the rumour. He also said he impressed upon Mr MacColl that the information was only a rumour. Mr Lawrence's fairly detailed recollection of the whole incident was quite at odds with the fact that when he was questioned about it by investigators in January 1996 he could not recall talking to Mr MacColl at all. Mr Lawrence's explanation for that inconsistency was that his memory had been prompted on the morning he gave evidence before the Commission by reading an account of Mr MacColl's evidence in the newspaper.

3.4.13 In my opinion Mr Lawrence's evidence was so inconsistent, so conflicting and so implausible that no aspect of it can be relied upon, including when he heard the information he conveyed to Mr Grant, Mr MacColl and Dr McCotter and his assertion that he cannot now recall who told him. It is not necessary for me to make a finding that Dr McCotter and

Mr MacColl are credible in order to disbelieve Mr Lawrence. His own evidence is more than sufficient to ensure that result. I have, however, already noted that wherever the evidence of Mr Lawrence conflicts with that of Dr McCotter I prefer the evidence of Dr McCotter. Where the evidence of Mr Lawrence conflicts with that of Mr MacColl, I also prefer the evidence of Mr MacColl.

3.4.14 Mr Grant confirms he was told of the rumour by Mr Lawrence. He does not recall being told anything about an investigation involving Mr Wayde Smith but he recalls being told by Mr Lawrence of the existence of a tape in which the voices of Mr Edwardes and Dr Bradshaw could be heard and a discussion about an amount of money. Mr Grant thought the sum mentioned was \$20,000.00. He said he was also told there was a woman's voice in the background of the recording and there was speculation that it might be the voice of Mrs Edwardes. Mr Grant recalls being told by Mr Lawrence that Mr Lawrence had received the information from "Scruff" which is the nickname by which Mr Sawyer of the IAU is known. Mr Lawrence said he conveyed to Mr Grant the same information he had conveyed to Dr McCotter and Mr MacColl.

3.4.15 In or about January 1996 Mr Kyle, in the course of his inquiry, undertook some investigation into the source of the tape rumour. At one point he interviewed Mr Grant and Mr Lawrence together. Mr Grant recalls another occasion when he was interviewed alone. With respect to the former meeting Mr Lawrence was referred to notes taken by a Kyle Inquiry investigator who was present. Mr Lawrence gave the following answers to the Commission:

"Are you aware Mr Grant told the Kyle Inquiry that you had told him that through your association with 2 police officers, you had been told about this tape?---Yes. In fact, I think I was there when Mr Grant said that.

Right and that you told him that Don McLeod was one of the officers and that the other officer was someone called Scruff?---I recall Mr Grant saying that; yes.

Scruff is Kim Sawyer?---Kim Sawyer. That's correct. You were there when Mr Grant said that to the Kyle Inquiry officers?---Yes.

Did Mr Grant also say that Les Ayton had a tape - - had the tape or had a tape at the time and allegedly still has it?---I can't honestly say whether that was said. I don't dispute it but I can't honestly recall whether it was said. It could have very well been said but I can't recall."

3.4.16 The note that was put to Mr Lawrence was also put to Mr Grant. Mr Grant disputed the investigator's note and said he had never heard Mr McLeod's name mentioned in relation to this issue. He does recall telling Mr Kyle that Mr Ayton had a tape at the time and agreed that he could only have gained that information from Mr Lawrence. Mr Lawrence and Mr Grant both recall Mr Lawrence attempting to correct Mr Grant when he was giving his account to Mr Kyle. Mr Grant recalls Mr Lawrence telling him he had not received the information from Scruff nor had he told Mr Grant he had. Mr Lawrence recalls trying to tell Mr Grant he had not received the information from Scruff and Mr McLeod and did not tell Mr Grant that he had. Mr Grant told the Commission that, contrary to his own recollection, he was prepared to accept Mr Lawrence's version that he had not been told that Mr Lawrence had received the information from Scruff.

3.4.17 Mr Ayton told the Commission that Mr Kyle met with him on 12 January 1996 to discuss the information he had been given by Mr Lawrence. Mr Ayton recorded the meeting and its aftermath in a memorandum to the Commissioner of Police dated 19 January 1996 in which he said he set out the situation as he understood it to be. The Commissioner, Mr Falconer, said that at Mr Ayton's request he subsequently forwarded a copy of the memorandum to Mr Kyle, in Mr Ayton's words "to set him straight". The copy memorandum is annexed to this report as Annexure 4. For present purposes it is noteworthy for the record it contains of what Mr Kyle was told by Mr Lawrence and what Mr Lawrence told Mr Ayton as to the source of the tape rumour. At that time Mr Lawrence was denying that any police officer was the source. According to Mr Ayton he was told by Mr Lawrence that the source of the story was Mr Corse. Mr Lawrence now denies having told Mr Ayton the story had its beginnings with Mr Corse and said he told Mr Ayton he had heard about the existence of the tape from two sources, namely the CIB and Mr Corse, just as he had stated on oath to the Commission.

3.4.18 In view of my finding on Mr Grant's credibility as a witness as set out below, I am unable to find that Mr Lawrence ever told Mr Grant that the source of his information was either Mr Sawyer or both Mr Sawyer and Mr McLeod. The evidence from both Mr Lawrence and Mr Sawyer is that they had frequent contact with each other in the course of their respective duties. The same was true of Mr Grant and Mr Lawrence. It is consequently conceivable that Mr Grant could have learned that Mr Sawyer was

known as Scruff in another context. It is difficult to discern a motive for Mr Grant wishing to mislead Mr Kyle as to what Mr Lawrence had told him of the source of the rumour but the apparent absence of motive for lying on the part of an unreliable witness is, on its own, no basis for a finding that the witness was telling the truth.

3.4.19 On the other hand, I have no reason not to accept Mr Sawyer's emphatic denial that he ever told Mr Lawrence of the existence of a tape on which Mrs Edwardes' voice could be heard. Mr McLeod was asked whether it had occurred to him that Mr Sawyer might have been Mr Lawrence's source of the information concerning the voice of Mrs Edwardes on a tape. Mr McLeod said it had not occurred to him because Mr Sawyer "is one of the most reliable officers there is as far as security is concerned". It is certainly possible that Mr Sawyer may, on this occasion, have made the mistake of trusting Mr Lawrence with the information but there is insufficient evidence to support a finding that he did so.

3.4.20 I do, however, accept as accurate Mr Ayton's evidence that Mr Lawrence told him he did not hear the story from one or more police officers and that the story had its beginnings in his contact with Mr Corse. While Mr Ayton's memorandum was not contemporaneous with his meeting with Mr Kyle it was prepared sufficiently soon after the meeting to be afforded considerable weight as an accurate record of what he was told on 12 January 1996. It is clear from the tone of the memorandum that Mr Ayton took the advice he had received from Mr Kyle concerning the conduct of his officers very seriously and had acted quickly to interview the people concerned. It follows that I reject Mr Lawrence's denial that Mr Ayton's record of what he was told is correct. Whether or not what Mr Lawrence told Mr Ayton was true is another question and one that I am not able to determine.

3.4.21 Mr Corse believes he first heard of the existence of a tape in early 1994. He said he had heard of the existence of a number of tapes which contained "deep detail of some sort in relation to Wanneroo". He does not, of course, recall where he heard the rumour but recalls that Mr and Mrs Edwardes were implicated. Mr Corse said he did not hear about the tape again until he was asked about it by Mr Lawrence. He had a somewhat enigmatic entry on his chronology for 25 May 1994 - "BL first mentioned tape

- enough to put C & C in jail - my insurance with my own files - safe place". Mr Corse said that, to the best of his recollection, on that day Mr Lawrence asked him whether he had heard "about any tapes involving the Edwardes and Bradshaw and Wanneroo in general". Mr Corse said he replied "Yes" but did not say what he had heard. Mr Corse said he thought Mr Lawrence seemed to know more about it than he did. Mr Corse then gave the following answers to Counsel Assisting:

"What did he say?---I believe he said words to the effect that as I understood it, he either had the tape or had had it in his possession and on the tape, there was sufficient evidence to put the Edwardes in gaol.

So, are you saying he either had the tape or - -?---Well, I was under the distinct impression, based on what he said, that he had the tape. Much later, he said he didn't have the tape but he knew someone that did have."

Mr Corse said that in about August 1994 he thought Mr Lawrence was trying to distance himself from him. It was at that time that Mr Lawrence told Mr Corse that he did not have the tape. Mr Corse said he did not believe him but was not really sure whether Mr Lawrence was lying to him then or had lied to him previously.

3.4.22 Unfortunately both Mr Lawrence and Mr Corse lack any appreciable credibility. In the case of a direct conflict of evidence between them, as here, neither can be believed without corroboration. From the evidence of others I believe that each account has elements of truth but I am quite unable to draw any conclusions with sufficient certainty to use as a basis for findings. I am able to say that I do not believe either Mr Lawrence or Mr Corse when they say now that they do not recall where they first heard of the existence of a tape involving Mr and Mrs Edwardes. Both of them dealt in information in their separate, but in some respects not very different, ways as part of their daily activity. The source of what would assuredly be to each of them an intriguing gem of information would not readily be forgotten by either.

3.4.23 There is, however, circumstantial evidence to suggest the rumour started with a leak from the IAU. First, there were elements of truth in the rumour. The IAU did have tapes on which Mrs Edwardes' voice could be heard. Mr MacColl recalls being told by Mr Lawrence that there was a discussion about the position of Mr MacKinnon in the Liberal party on a tape.

The story printed by Mr Saxon in *The Sunday Times* on 19 June 1994 was substantially accurate. It is regrettable but not unexpected that Mr Saxon opted to comply with his journalistic ethics in preference to his legal obligation and refused to disclose to the Commission the identity of the source of the information contained in his story.

3.4.24 While it is clear that Mr Lawrence embellished the information he received, there is a kernel of truth in the rumour that circulated through the Ministry which strongly suggests it must have had its origins in the IAU. On the other hand, Mr Ayton and Mr McLeod both said they would not expect any IAU officer to release that information. Mr McLeod said he would view such an action as a serious breach of duty by the officer responsible. In his memorandum to the Commissioner of 19 January 1996 Mr Ayton said he was satisfied after making his inquiries that no such thing had occurred. Mr Ayton, however, probably believed Mr Lawrence. He would at that time have had no reason not to do so. I am satisfied that the rumour had its genesis in an unauthorised leak from the IAU.

3.5. The Meeting of 14 June 1994

3.5.1 The Commission first heard from Mr McLeod of a meeting at Mr Grant's office in the Ministry of Justice between Mr Grant, Mr Lawrence, Mr McLeod and Mr Sawyer. In June 1994 Mr McLeod had met Mr Lawrence, he thinks in connection with the Royal Commission into Commercial Activities of Government, and he was aware that Mr Lawrence had a fairly close working relationship with the IAU's analyst, Mr Sawyer. It was, to Mr McLeod's knowledge and understanding "a shared intelligence relationship".

3.5.2 Mr McLeod said that on 14 June 1994 he was acting officer in charge of the IAU in the absence of Mr Watson. The following account of the events of that day are as related by Mr McLeod unless otherwise indicated. Mr McLeod was approached by Mr Sawyer who told him that Mr Lawrence had telephoned to say the Director General of the Ministry of Justice, Mr Grant, would like to see him, Mr Sawyer, in connection with the existence of a tape with "Cheryl Edwardes' voice on it and discussion of a bribe". Mr McLeod was sceptical and cautious of the request and suspected a ploy on the part of the two Ministry officers to determine whether the IAU had any

tapes. He understandably found the request extraordinary coming as it did from the chief executive officer of the Ministry. Since Mr McLeod had had conduct of Operation Mudguard and he was the acting officer in charge of the unit he decided to attend the meeting with Mr Sawyer and did so.

3.5.3 No-one took notes of the meeting but Mr McLeod made a diary note shortly after. He recorded the meeting, in the space for 14 June, as follows:

"With Scruff - David Grant's office. Brian Lawrence contact. DG has info on Prem, A/G, Weasel and Mudguard. Wants insurance in form of copy of rumoured tape which incriminates. Told no tapes - all erased. Hopefully not convinced. Obvious ploy seeking existence of tapes ex Mudguard. DG had documents - will think about advising further. Also move to bring IAU under Min. of Justice! L.D.A. advised."

The initials DG referred to Mr Grant, "Prem" referred to the Premier, A/G referred to the Attorney General, "Weasel" was a code name for Mr Edwardes and the first reference to "Mudguard" meant Mr Wayne Smith. The initials LDA referred to Mr Ayton who was at the time Acting Commissioner of Police. Mr McLeod gave the following evidence in elaboration of his diary note:

"Wants insurance in form of copy of rumoured tape which incriminates"?---He - - he asked us if such a tape existed, he wanted a copy of it, or he wanted to hear it or a copy of it. He said that he was getting in - - he felt that he was getting in too deep. He had - -

Too deep with what or with whom?---He didn't really specify that other than the fact that he was anticipating a backlash from people above him, and said it goes as high as the Premier and involves the Attorney General. That's why I've made those notes in there. He did mention Colin Edwardes and mentions Smith. He appeared to be very nervous, very agitated, and he was asking - -

You say he appeared to be nervous and very agitated. What was it about his behaviour or mannerisms that led you to that conclusion?---He didn't sit down. He paced up and down and he was very tense."

3.5.4 When pressed for more detail Mr McLeod gave the following answers:

"You have to some extent, I appreciate, but can you attempt to relay, to the best of your recollection, what was said in this meeting and by whom?---Yes. He said that he had heard that there was a tape which incriminated Cheryl Edwardes and Colin Edwardes. He felt that he

needed some form of insurance; these may not be his words, but to that effect: some form of insurance because he anticipated a backlash from Cheryl Edwardes and the Premier, or the indication was from a very high level, but he was not specific as to why this backlash was going to come.

COMMISSIONER: Backlash against what, Mr McLeod?--- Sir, he wasn't specific about that. I was - - it seemed to be that because he had this information, he was very nervous about it. He did not say exactly what sort of backlash or why it was going to come. He just anticipated, or he was nervous about retaliatory action because he had gathered this information and it was too hot to handle."

3.5.5 Mr Grant said further that he had heard there was a tape with Mrs Edwardes' voice on it discussing a bribe in the sum of thirty or forty thousand dollars. Mr Grant mentioned the word "corruption" going to the highest levels, with reference to the Premier, the Attorney General, Mr Colin Edwardes and Mr Wayne Smith. Mr McLeod told Mr Grant that the tapes had all been erased but made no attempt to convince him of the truth of that statement. He did not tell Mr Grant that no such tape had ever existed and did not mind the contrary impression lingering with Mr Grant. Mr McLeod was annoyed at the nature of the approach and wanted to keep Mr Grant guessing. He said he was still very sceptical and considered the whole outrageous story "an attempt to come in through the back door to find out whether we still had tapes".

3.5.6 Mr Grant also spoke about an attempt coming up to bring the whole Police Force or the IAU - Mr Grant was not specific but the IAU was mentioned - under the control of the Ministry of Justice. Mr Grant said he had documents in relation to both the information he had on the tapes and on the proposed takeover of the IAU or Police Force. Mr McLeod asked to see those documents but Mr Grant was reluctant to show them to him. He said he would think about it. Mr McLeod did not ever receive the documents and had no further contact with Mr Grant about the matter.

3.5.7 Mr Grant asked Mr McLeod and Mr Sawyer not to tell anyone about the matters they had discussed. Mr McLeod told Mr Grant he would be advising his superior, Mr Ayton, about their discussion but Mr Grant asked him not even to do that. Mr McLeod ignored the request. Mr McLeod was not sure whether he asked Mr Grant where he had heard about the tape but he formed the view that it was not from Mr Lawrence. He based that view on the fact that Mr Lawrence and Mr Sawyer were in regular contact.

If Mr Lawrence had known about it he would have raised it with Mr Sawyer who, in turn, would have passed it on.

3.5.8 Mr McLeod did not initiate or undertake any inquiries into the possibility of a leak from the IAU as a result of his meeting with Mr Grant. He said he did not do so because he knew the rumour to be untrue and considered the matter to be trivial. He did ask a number of IAU officers, but not everyone, if they had passed information on Operation Mudguard to anyone outside the unit. As I have noted, he said it did not occur to him that Mr Sawyer might have been Mr Grant's source of the information because he regarded Mr Sawyer as one of the most reliable officers in the unit as far as security was concerned. As previously noted, it was not, of course, the first time Mr McLeod had heard of the possibility of such a tape from an outside source.

3.5.9 The whole meeting struck Mr McLeod as implausible and unlikely. He found it extraordinary that the normal protocol for contacts between government agencies was not followed. He saw Mr Ayton on the same day and wrote up his diary note after that meeting either on the same day or the day after.

3.5.10 Mr Ayton recorded his meeting with Mr McLeod in a diary note as follows:

"1330 Don McLeod to inform me of the following:

- Justice Ministry has information that IAU has an incriminating tape on A/G.
- David Grant has approached IAU - says he has info on misdeeds and possible (conspiracy?) by A/G, Smith and others. Inferred even Premier.
- Wanted copy of tape in possession of IAU as a safeguard - "strange request" (perhaps Mr Grant is a double agent)
- Grant says that there is a public servant as well as himself who have a document wherein the A/G and others intend to bring policing into Justice Ministry.
- Is keen to establish a lifeline from himself.
- Don said I was his boss and he would tell me of these issues - Grant did not want me told at the moment.

Don will pursue and keep me informed."

Mr Ayton recalls that he was advised by Mr McLeod that Mr Grant had in mind some kind of exchange - the tape for documents relating to the proposed takeover. Mr McLeod has no recollection of mentioning any discussion of an exchange and says it was not raised by Mr Grant.

3.5.11 Mr Ayton agreed that parts of his diary note were comment on his part, particularly the references to "conspiracy", "strange request" and the possibility of Mr Grant being a double agent. He said this was the first time he had heard of the possible existence of a tape containing discussion of a bribe and described the notion as "balderdash". Like Mr McLeod he thought the whole thing was "absolutely extraordinary - the most unusual thing I have come across, in terms of a head of department - very strange."

3.5.12 Mr Sawyer said he recalled the meeting between Mr Grant, Mr Lawrence, Mr McLeod and himself only after he had been reminded of it by Mr McLeod. He has little recollection of what Mr Lawrence told him when he telephoned but recalls him doing so and Mr Lawrence saying Mr Grant wanted to see him or Mr McLeod. He remembers going to the meeting and recalls discussing a tape. He only recalls the fact that Mr Grant was "chasing a copy of a tape" from being reminded by Mr McLeod. He also recalls discussion of the possibility of the IAU being taken over by the Ministry. He recalls that the tape discussed was an audio tape and that it related to Mrs Edwardes but remembers nothing else about it. He does not recall any discussion about corruption nor about improving or extending the flow of information between the IAU and the Intelligence Unit of the Ministry. He cannot recall any document being there. He recalls Mr McLeod being unhappy on the way back from the meeting because Mr McLeod believed Mr Grant and Mr Lawrence had been trying to set them up.

3.5.13 Mr Sawyer said the only time the subject of Operation Mudguard came up between Mr Lawrence and himself was at the meeting on 14 June 1994. He had not previously told Mr Lawrence about a tape on which Mr or Mrs Edwardes' voice could be heard. He said he had not told anyone outside the unit about that. He said his first recollection of hearing about a rumour in the police force concerning the tape was some five to seven months ago when Mr Lawrence told him that Mr Grant had named him as the source of the rumour to Mr Kyle. He said he had not asked

Mr Lawrence where he had in fact first heard the rumour because he knew there was no such tape. He said he told Mr Ayton what Mr Lawrence had told him when he was interviewed in relation to the rumour (see Annexure 4).

3.5.14 Mr Grant and Mr Lawrence told the Commission they remember the meeting on 14 June quite differently. Mr Grant said that either on the same day or the day after he had his first discussion with the DPP about Mr Lawrence's contact with Mr King he had a conversation with Mr Lawrence. He spoke to Mr Lawrence about the need to involve the police in "this process" and, given the sensitivity of the information they were dealing with, asked Mr Lawrence whether from his dealings with the police he knew of any he trusted. Mr Lawrence replied that he had a close professional working relationship with Mr Kim Sawyer of the IAU and he thought that would be the appropriate unit with which to open discussions. Mr Grant said that he thought the essential requirement was confidentiality.

3.5.15 It was suggested to Mr Grant that he had no reason at the time to expect information coming from Mr King would involve corruption of police officers, which was the business of the IAU. Mr Grant answered, in my view evasively, to the effect that he "made no judgments about the potential, in fact, of it". He did agree that Mr Lawrence had contacts with both the IAU and the Bureau of Criminal Intelligence and he had no concerns about the flow of information to and from those units. It appears, on Mr Grant's account, that Mr Sawyer was chosen for contact because first, he was a police officer and secondly, Mr Lawrence trusted him to treat the information from Mr King as confidential. It was put to Mr Grant that, for the purposes he was putting forward, the meeting was premature. Mr Grant disagreed and said it was preparatory - they were beginning the process.

3.5.16 On Mr Grant's account, at the time of this meeting Mr Lawrence had not yet spoken to Mr King but had spoken to Clive. The information he and Mr Lawrence consequently had to impart to Mr McLeod and Mr Sawyer was therefore only that received from Clive. Mr Grant was shown the Information Report (Annexure 1) and noted the date of the document as 16 June which was, of course, after the date of the meeting with the police officers. Mr Grant overcame this apparent difficulty by saying he had been advised of the information contained in the final two paragraphs on page 1 and on page 2 of the report orally before receiving it in writing. He said that

Mr Lawrence had come to him "some time around ... early June" with that information and he saw Mr McKechnie QC "almost straightaway". That evidence in fact creates at least as many credibility problems for Mr Grant as it overcomes but I shall return to those shortly.

3.5.17 Mr Grant agreed it was not the role of the Ministry of Justice to investigate any matters arising out of any information provided by Mr King. Only the DPP had the power to direct an investigation by the police. On the other hand, said Mr Grant, it was not uncommon for there to be unit to unit contact about special matters beyond the normal communication.

3.5.18 Mr Grant said he instructed Mr Lawrence to "phone Sawyer and invite him and his unit leader over for a discussion about matters relating to corruption". Mr Grant clarified that answer to confine the subject for discussion to "a corruption issue". He said the corruption issue was the information from Mr Clive King and the fact that he had had a discussion with the DPP and "we were beginning a process". Mr Grant then gave the following answers to questions from Counsel Assisting:

"Do you recall telling me in April of this year that you believed the meeting was to do with the "section 9 purple circle stuff"?---Yes, I did.

That was incorrect?---Yes. As I have had the opportunity to read transcript of evidence last week and listen to cross-examination this week and think, you know, more carefully about the events leading up to it and subsequent to it, it's become - - I've been able to be clear about what the meeting was about."

Mr Grant said he had read the evidence of Mr McLeod, Mr Sawyer, Mr Ayton and Mr Lawrence and thought about his recollection.

3.5.19 With his memory thus jogged Mr Grant said that when Mr McLeod and Mr Sawyer arrived he and Mr Lawrence discussed with them the information from Clive, corruption and co-operation between the units. He could not recall anything else being discussed but he did recall having a "mud map" or document recording his conversation with Mr Lawrence regarding the Clive King information. Mr Grant could not recall discussing the tape but said "we may well have". He recalled telling Counsel Assisting in April 1996 when asked whether the tape rumour was discussed "of course its possible but it is highly unlikely - I don't believe I did". He said that if the tape was discussed it would have been to ensure that any information that was

available reached the DPP. Mr Grant could not recall ever discussing the tape rumour with Mr McKechnie.

3.5.20 When pressed Mr Grant said there was another matter discussed, namely, "the growing relationship between police and the Ministry of Justice". Mr Grant thought he may have raised that issue. Mr Grant agreed that these were matters of "wide ranging and widely discussed policy" but could see no incongruity in the chief executive officer of the Ministry discussing such matters with the officer in charge of the IAU and one of his inspectors of police. Mr Grant said he might even have talked briefly about the arrangements in Victoria where he said the Police Department is part of the Justice Ministry. He said "I believe I made passing reference to it, yes - what I was trying to get across is that there was a growing understanding about the need to co-operate". Mr Grant, of course, denied the gravamen of the evidence from Mr McLeod, Mr Sawyer and Mr Ayton relating to the meeting.

3.5.21 It is, I think, unnecessary to narrate any further detail of Mr Grant's recollection. Not only is Mr Grant's version of events inherently implausible, unconvincing and self-serving but it does not accord with the chronology as I have found it to be on independent, reliable evidence. Mr Lawrence did not receive any information from Clive until 15 June, one day after the meeting occurred. Secondly, Mr Lawrence did not receive any information from Clive that would have been of interest to either Mr Grant, Mr McKechnie or the IAU. Thirdly, Mr Grant did not meet with Mr McKechnie until after 21 June because that meeting occurred after Mr Lawrence had met with Mr King. Mr Lawrence met with Mr King on 21 June. Fourthly, his account is in clear contradiction in substance and tone to the meeting recorded contemporaneously in writing by both Mr McLeod and Mr Ayton. The stories are too far apart to be reconciled as a misunderstanding. It has been submitted on behalf of Mr Grant that a number of officers of the Ministry of Justice belonging to "the purple circle" were hostile to him and gave deliberately false evidence against him before the Commission. I note that on this issue the two witnesses whose evidence flatly contradicts Mr Grant are not alleged to be part of or connected with that group. I have no doubt that Mr Grant's evidence as to the meeting on 14 June 1994 is, in all material respects, a fabrication designed to mislead this Commission. That finding, of course, has consequences for Mr Grant's credibility generally.

3.5.22 Mr Lawrence's account, though more vague, was essentially supportive of Mr Grant's. It was, if anything, even less convincing. Mr Lawrence said that at the time "the situation with ... Wanneroo Inc was unfolding". When pressed Mr Lawrence said that meant he had received the information he claimed to have been given by Clive. At that point in his evidence Mr Lawrence was asserting that he had written the Information Report on 15 June but spoken to Clive at some earlier time. It was only when he returned to give evidence on the second occasion that he accepted he had, in fact, spoke to Clive on 15 June. That subsequent concession, of course, removed Mr Lawrence's whole explanation for the meeting on 14 June. Even on Mr Lawrence's own story the explanation was threadbare. He had received no allegations, no names and no detail of any wrongdoing from Clive - only a broad assertion that Mr King might be in some kind of danger. On its face, that is a very flimsy basis for the chief executive officer of the Ministry of Justice to call a meeting between himself and his intelligence chief and the head of the IAU and one of his investigators. The lack of connection was put to Mr Lawrence and elicited the following extraordinary reply:

"Why, then, would there be a meeting called in that context between you, Mr Grant and two officers from the Internal Affairs Unit?---My understanding was the DPP had said to David Grant - - had more or less said, 'Well look, I'll be very interested to see what you can uncover or what you can - - what information you can obtain'."

3.5.23 Mr Lawrence said that Mr Grant had said to him "I've spoken to John McKechnie. I think we need to have a word with Internals in case, down the track, we need to exchange information and we might need some officers that we can trust to give us a hand". Mr Lawrence agreed that the exchange of information was usually but not always the function of the Bureau of Criminal Intelligence and not IAU. There was no suggestion of police corruption in any of the information Mr Lawrence held. Mr Lawrence then said Mr Grant told him to "(G)et somebody. Who do you know who we can really trust?".

3.5.24 Mr Lawrence said he rang Mr Sawyer. He described the following exchange:

"What did you say to Mr Sawyer?---I think I just said, "There's something we need to discuss. My boss wants to have a word with you. Can you come over?". Mr Sawyer said, you know, "What's it about?"

How urgent is it", sort of thing and I said, "Well, it's fairly important. I don't want to talk too much on the phone but there's a suggestion of corruption", and that Mr Grant had some information that there might be a bid by the Government to take over - - the Ministry of Justice to take over the Police Force."

Mr Lawrence said he did not know what the connection was between the corruption allegations and the need to exchange information "down the track" on the one hand and the Ministry of Justice taking over the police force on the other. He said he did not know what Mr Grant had in mind and did not ask. He did not ask Mr Grant why he wanted to discuss this rumour with someone Mr Lawrence trusted from the IAU. Mr Lawrence said he did not mention Operation Mudguard to Mr Sawyer and in fact did not know of it at that time. He said he had not been told anything about the operation by Mr Sawyer or any other police officer.

3.5.25 Mr Lawrence recalls that Mr Sawyer attended with Mr McLeod and, he thought, another officer. Mr Lawrence said Mr Grant opened the meeting by saying they had a good working relationship and he and Mr Lawrence wanted to improve that. He asked whether the IAU officers had any problems and was there anything the Ministry was doing that they could do better. Mr Lawrence described this as a "PR exercise" by Mr Grant. Mr Lawrence agreed that there were no problems with the relationship at that time. According to Mr Lawrence, Mr Grant then said, "(L)ets get into the reason why you're here. I want to talk about some matters of corruption". Mr Grant was referring to a piece of paper in front of him. At that point, said Mr Lawrence, he was called outside to answer a telephone call. When he returned he said they were still talking about the corruption and Mr McLeod was trying to get hold of Mr Grant's piece of paper by grabbing at it. Mr Lawrence thinks the takeover bid was also discussed but he was interrupted by another telephone call and did not hear it all. He recalls one of the police officers asking where the idea came from and Mr Grant saying that it had been raised by the Attorney General and was similar to the situation that operates in Victoria. There was no other discussion.

3.5.26 Mr Lawrence said to his recollection there was no discussion of the tape rumour. Mr Lawrence did not recall telling the Kyle inquiry on 24 January 1996 that the tape was discussed at the meeting. Counsel Assisting then read to Mr Lawrence, from the transcript of his interview with

Mr Kyle, what he had said about the meeting:

"As I said to you at the time as well, hopefully it was discussed, and I'm sure the impression I gained from the day that Kim Sawyer and McLeod came to see Grant was that if there any tape in existence, it would have phew - gotten rid of. Just to see the look on their faces when Grant mentioned it.

Mentioned it to who?---To Sawyer and McLeod. There is a scuttlebutt going around about this tape, you know. You guys are aware of it.

I mean, you could just see body language. What are you talking about? I thought after that, well that tape has gone".

3.5.27 When he was offered the tape recording of that interview Mr Lawrence accepted he had said those words to Mr Kyle. He could not point to anything that would have caused his memory to fail on the point over the last six months. He stood by his previous evidence that he could not recall any discussion of a tape but conceded that, "judged on what was said in here, my memory at this time would have been better than it is now".

3.5.28 Thus, in addition to all the same problems of conflicting chronology to which Mr Grant's evidence was prone, Mr Lawrence also suffered from an inability to keep his account consistent over a period of six months. In my opinion Mr Lawrence's evidence on the issue was generally evasive, contradictory and at times nonsensical. Further, his detailed recollection of body language and his thoughts at the time, expressed in January 1996, is materially consistent with the version of events as recalled by the police officers. I have no doubt the evidence Mr Lawrence gave the Commission in relation to the meeting on 14 June 1994 was, apart from a substratum of truth as to such matters as location and time, in all material respects a fabrication. There is also, in my view, sufficient similarity between the evidence of Mr Grant and Mr Lawrence to raise a high probability that the two witnesses colluded in fabricating the false account.

3.5.29 I accept the evidence of the police officers - Mr McLeod, Mr Sawyer and Mr Ayton - as to the events of 14 June 1994. The approach and the meeting they describe are extraordinary and clearly call for explanation if that is possible in the absence of believable assistance from Mr Grant and Mr Lawrence. Before any attempt can be made to determine why Mr Grant and Mr Lawrence acted as they did the incident must be placed in the context of the other, equally strange, behaviour on the part of those

officers I have described in chapter 2.

3.5.30 Mr Lawrence's misuse of the information he received by embellishing and disseminating the tape rumour was, in my view, indefensible. The Commission has heard evidence of Mr Lawrence's capacity to embellish the story he says he heard from unidentified police officers back in 1990-91. If, as I have concluded, the story probably originated in a leak from the IAU, it probably did not include a reference to the tape recording of a discussion of sums of money or of a bribe. Any officer of the IAU would have known that and would have been unlikely to make it up. It is probable that the fictional, titillating and damaging aspects of the rumour were added by Mr Lawrence. Mr Lawrence was clearly attempting to project himself to Dr McCotter and Mr MacColl as a man who possessed a great deal of important information. Accuracy in the relaying of the rumour clearly suffered in Mr Lawrence's pursuit of that end. In that regard he was no better than Mr Corse, a man whose activities he roundly condemned before the Commission.

3.5.31 It is clear that both Mr Lawrence and Mr Grant received and dealt with the rumour of the existence of a tape as something to be used for their own purposes and not as information to be dealt with in an official and proper manner. They had, on their account, received information that suggested their minister might be corrupt. The minister's husband was Mr Grant's executive officer. Mr Grant's response to that situation was to summon the police officers he believes would have the incriminating tape and attempt to persuade those officers to give him a copy or, at least, allow him to hear it. The linking of advice as to a possible takeover of the Police Force, or at least the IAU, by the ministry appears to have been the leverage Mr Grant believed might persuade Mr McLeod and Mr Sawyer to co-operate. The police officers were asked not to tell a soul of the request, not even their own superior.

3.5.32 I can ultimately only speculate as to Mr Grant's motives. It appears clear that, whatever they were, Mr Lawrence was a willing accomplice. I do not accept he was simply a subordinate carrying out the directions of his superior. I am satisfied on the evidence that Mr Grant and Mr Lawrence were acting in concert. It also appears clear that Mr Grant's motives were in some way underhand. He did not intend to take the

information he was trying to obtain from Mr McLeod and Mr Sawyer to the proper authorities to be used in accordance with the law because he was talking to them at the time. Mr Grant and Mr Lawrence were trying to subvert the proper authorities.

3.5.33 Mr Grant's denial of the reasons for the meeting also strongly suggests that he did not have a legitimate official use for the tape in mind. Mr McLeod recalls and noted in his diary that Mr Grant wanted "insurance in form of copy of rumoured tape which incriminates". With all respect to Mr McLeod, that information derives ultimately from Mr Grant himself and consequently cannot be relied upon. Another unreliable source, Mr Corse's chronology, also suggests that Mr Grant may have believed he was under some kind of threat. I have noted the entry for 15 June 1994, which Mr Corse said related to the proposed visit to Mr King, as including the words "DG needs help the heat is on him - AGs plan to replace him".

3.5.34 It appears likely from those notations and from the nature of the approach to the police officers, that Mr Grant and Mr Lawrence were attempting to obtain information which incriminated their minister in order to in some way improve Mr Grant's own position in the ministry. The benefits of such a result to Mr Lawrence are clear. The fact that Mr Lawrence, after discussion with Mr Grant, was so concerned about the presence of Mr Edwardes and people with links to Mr and Mrs Edwardes that he would keep no hard copies of any report and erased all reports from his computer, reflects a deeply suspicious and mistrustful environment. I am, however, unable to make a definite finding to that effect. In my view there is insufficient evidence. I find as a fact that Mr Grant and Mr Lawrence called and conducted the meeting with Mr McLeod and Mr Sawyer for their own purposes and not in pursuit of any official objective. I consider the conduct of both Mr Lawrence and Mr Grant to have been disgraceful.

3.5.35 Finally, I have commented adversely on the credit of Mr Lawrence and Mr Grant on a number of occasions in the course of both chapter 2 and this chapter. I have noted the submission for Mr Grant that a number of witnesses were members of a group of officers within the Ministry of Justice who were and remain hostile to Mr Grant and would commit perjury to damage him and his reputation. I wish to make it quite clear that the conclusion I have reached with respect to the credibility of

Mr Grant is primarily the result of his own evidence. Even if I accepted the submission made on behalf of Mr Grant it would make no difference to my finding as to Mr Grant's credibility. While it is true that a number of other witnesses contradicted Mr Grant's evidence on important matters, the fact remains that he was quite unable to maintain a plausible account nor to reconcile his own evidence with the documentary, objectively established, facts. Mr Grant is not a believable witness, not because of what others have said but because of what he himself has said. In the result, the evidence of others has been preferred. The same is true of Mr Lawrence.

3.6. Summary of Findings

3.6.1 In relation to the matters investigated in this chapter I record the following findings:

- (a) There were audio tapes recorded by the IAU on which the voice of Mrs Cheryl Edwardes could be heard. Those tapes were erased on or about 5 June 1991.
- (b) No police officer holds or has ever held an audio tape on which could be heard the voice of Mrs Edwardes engaged in a discussion in which a sum of money was discussed in an improper context.
- (c) The fact that Mr McLeod was acquainted with Mr and Mrs Edwardes did not create a conflict of interest nor did it influence Mr McLeod in the conduct of his investigation into Mr Wayde Smith.
- (d) The audio tapes recorded by the IAU in the course of its investigation into the affairs of Mr Wayde Smith, together with the monitoring sheets and most of the transcriptions, were properly erased or destroyed by Mr McLeod and members of his staff on or about 5 June 1991. None of the remaining transcription contains any reference to Mr or Mrs Edwardes.
- (e) The rumour to the effect that an audio tape existed on which the voice of Mrs Edwardes could be heard engaged in a discussion in which a sum of money was discussed in an improper context had its genesis in an unauthorised leak from the IAU.

- (f) Mr Lawrence was responsible for introducing and substantially disseminating the rumour within the Ministry of Justice. His conduct in so doing was indefensible.
- (g) Mr Lawrence and Mr Grant received and dealt with the rumour of the existence of a tape as information to be used for their own purposes.
- (h) Mr Grant and Mr Lawrence called and conducted the meeting with Mr McLeod and Mr Sawyer on 14 June 1994 for their own purposes and not in pursuit of any official objective. Their conduct in doing so was disgraceful.

CHAPTER 4

MR AND MRS EDWARDES' HOUSE EXTENSIONS

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4.1. The Allegations

4.1.1 One of the allegations raised by Mr King in his interview with Mr Bates on 26 September 1994 related to house extensions said by him to have been carried out by Mr and Mrs Edwardes at around the end of 1989. While not spelled out explicitly, Mr King clearly suggested that the extensions were funded in some improper way. The allegation was known to the growing number of people who had seen the transcript of the Bates interview. Mr King also repeated the allegation to Mr Marlborough. It was first raised publicly on 15 May 1996 by Counsel Assisting in her opening submissions on this portion of the Commission's hearings.

4.1.2 Mr King raised the allegation in the Bates interview in the following terms:

"Around about this same time, because I'm a finance broker - it would have been the end of '89. Colin came to me and - I think she'd had a baby. Cheryl had had a baby. I don't know how old it was then, but it wasn't very old, and they decided that they wanted to do some extensions to their house in Greenwood. He came to me with how I would suggest he did it.

I told him the simplest way would be just to refinance his house and take out a new first mortgage. He said: "Look, can you do it for me?" I said: "Yes. I can do it; no problem. You get back to me and I'll do it all." He subsequently had the extension, but he never came to me to let me do the mortgage for him. This was all around about the same time that the business was happening with the service station; the Woodvale development for Hooker Projects, and various other things that were happening at the time.

Mr Bates: Right. Where was the house at the time?

Mr King: In Greenwood. They lived in Greenwood. I suggested to Brian (Lawrence) that ...

Mr Bates: Do you know if the extensions were subsequently built on?

Mr King: They were subsequently done. Yes. It would be quite simple to check through the Wanneroo City Council building department to see when they were done, who was the builder who put in the plans, and find out from the builder how it was paid for.

You haven't got to be Einstein to do that. I'd have made a good copper you know."

4.1.3 Mr King was questioned at some length on that allegation. His evidence was generally unsatisfactory. Mr King agreed the point of the Bates interview was to raise matters of possible corruption. He was then asked what it was about the conversation he had with Mr Edwardes that made him raise it in that context. He replied:

"Well, I raised it because *it seemed strange to me that Colin hadn't come back to me to -- to get his finance. ... I just found it strange that he never said to me where he got the money from. ... I thought he was a so and so for not -- maybe telling me that -- where he got the money.*" (italics added)

4.1.4 On this explanation the significant feature was that Mr Edwardes had not returned to Mr King for assistance in arranging finance. However, that omission would only be significant if Mr Edwardes had actually requested Mr King's assistance. Mr King has given conflicting accounts concerning whether Mr Edwardes asked him for assistance or merely made an inquiry.

4.1.5 Mr King told the Commission that, in response to the suggestion that they might re-finance, Mr Edwardes said "(L)ook, I'll get back to you" or "I'll let you know", or words to that effect. He said Mr Edwardes never actually asked him to arrange a loan. This was in contradiction to his account to Mr Bates, although Mr King could not recall what he had told Mr Bates. When Mr King was reminded, he changed his evidence accordingly:

"Did he ask you to actually do it for him?---No, he did not.

You told Mr Bates he did, didn't you?---No, I didn't.

The relevant portion of the Bates interview was then read to him as follows:

"I told him the simplest way would be just to refinance his house and take out a new first mortgage. He said, 'Look, can you do it for me?'---Yes, that's right, but he never - - he never blooming did. He never asked me to do it for him, so I didn't do it...

... but did he in fact ask you to arrange a refinancing of his mortgage on that first occasion?---He would have said to me can I do it for - -

No. Don't worry about what he would have - -?---Well - -

Please stick to what he did say?---"Can you do it for me?" and I said, "Yes".

And then what did he say?---"I'll get back to you," or words to that effect."

Thus, Mr King told Mr Bates that Mr Edwardes made a specific request

for his assistance to arrange re-financing. He told the Commission that Mr Edwardes made a mere inquiry. When the contradiction was pointed out to him Mr King retreated to his earlier position of a request for assistance.

4.1.6 Significantly, Mr King said he found nothing unusual or suspicious about the inquiry. He said he had not himself raised the matter again with Mr Edwardes. In those circumstances there could have been nothing untoward about hearing no more about the matter. Mr King's stated reason for raising it in the context of an interview dealing with possible corruption therefore has no substance.

4.1.7 At first Mr King said to the Commission, as he had to Mr Bates, that he believed the planned extensions referred to by Mr Edwardes were in fact carried out. There are two ways in which Mr King could have learned that extensions were done. He could have seen for himself or he could have been told. On his account, at best he only saw the house from the street on one occasion after his conversation with Mr Edwardes. Mr King could not remember whether he had had a conversation with Mr Edwardes about the extensions after the first discussion. At a private hearing of the Commission on 8 May 1996 Mr King was asked how he knew the extensions were later done. There then followed this exchange with Counsel Assisting:

"--- Because at a later date I'd asked Colin and he told me.

When was that? --- I don't know, 2 or 3 months later.

What did he say? --- That he had -- that he had them done and I just left it at that."

Thus, on 8 May 1996, Mr King could remember there had been a subsequent conversation, when it occurred in relation to the first conversation and what was said. By 28 May he could not even remember a conversation had taken place. The highest he could put it was that he believed he "would have" had such a conversation.

4.1.8 Mr King ultimately admitted he had no way of knowing from his own knowledge that the extensions he discussed with Mr Edwardes had been carried out. At one point he expressed the view that the alterations had been to the garage. He was then asked why he had never mentioned that before and he said "... it just came to my mind. ... (j)ust popped into my head." He was unable to elaborate.

4.1.9 Mr King was also asked whether Mr Edwardes mentioned the amount of re-financing that would be required. He said he believed it was between \$12,000.00 and \$15,000.00. In answer to a question put to him at the private hearing on 8 May 1996, only three weeks earlier, he had stated on oath that the figure was \$15,000.00 to \$20,000.00. He had not mentioned a figure at all to Mr Bates in September 1994. He explained the discrepancy by pointing out that \$15,000.00 was the common denominator in the latter two accounts and that he was telling the Commission what his "memory banks" were telling him.

4.1.10 Mr King's inability to maintain a consistent account of his discussions with Mr Edwardes would be sufficient to conclude that his evidence on this issue should not be accepted. There are, however, other factors which lead to the same conclusion.

4.1.11 In the Bates interview Mr King establishes the timing of his conversation with Mr Edwardes in the following ways:

- it took place at "the end of 1989"
- Mr King and Mr Edwardes were both on Council
- Mrs Edwardes had just had a child
- the extensions were to the Patonga Way, Greenwood house
- it was "around the time that the business was happening with the service station"
- it was at the time of "the Woodvale development for Hooker Projects"

4.1.12 There is an added significance to Mr King's mention of the two developments. There is an implication that they could be the source of the funds required to carry out the extensions. Mr King denied he suggested to Mr Bates that Mr and Mrs Edwardes had paid for their extensions in that way. He did say that when he spoke to Mr Bates he thought "there was, maybe, a connection". When it was put to him by Counsel for Mr and Mrs Edwardes, that the Edwardes were known to be opponents of both developments and publicly voiced disapproval of them, Mr King agreed.

4.1.13 There were a number of difficulties with Mr King's timing. Mr King agreed he told Mr Bates the conversation over finance occurred in 1989. Before the Commission he insisted it occurred in 1988 and pointed to three points of reference which made him confident of that assertion. Mr King

was fairly vague about the timing of two of his points of reference, namely a controversy over the approval of Shell service stations in Ocean Reef and Kingsley and the election to Parliament of Mrs Edwardes. In fact, Mrs Edwardes was elected on 4 February 1989. The third, the Woodvale development, which is presently sub judice, Mr King fixed at having arisen in November-December 1988. Again, Mr King believed that Mr and Mrs Edwardes wanted the extensions carried out to accommodate a new baby who he guessed to be 6 to 9 months old at the time of the conversation. In fact, the Edwardes' younger child was born on 26 November 1986. When pressed Mr King said the birth of the child was not mentioned in the course of the conversation.

4.1.14 Mr Edwardes was adamant the conversation alleged by Mr King did not take place. He said he did not like Mr King and certainly did not at the time regard him as a friend. He denied discussing financial matters with Mr King or telling him that he had carried out house extensions. In any event, his wife handled all the finances for the family and he would have had no occasion to do so. Further, had he and Mrs Edwardes needed financial advice they would have obtained it from their bank, with which they had a longstanding good relationship. The only time he and his wife had ever considered extensions was in 1991. The evidence of Mrs Edwardes was, where material, to the same effect.

4.1.15 It appears that no one associated with the City of Wanneroo will admit to any degree of friendship or association with Mr King. The evidence suggests that he was closer to a number of councillors during his time on Council than the councillors are now willing to concede. Consequently I do not have regard in determining whether or not the conversation took place to Mr and Mrs Edwardes evidence with respect to their relationship with Mr King.

4.1.16 Mr King rejected the proposition, put to him by Counsel for Mr and Mrs Edwardes, that he had "made up these stories to save (his) skin". He did, however, accept he had no evidence to support the allegation he had made against Mr and Mrs Edwardes. He agreed there were many perfectly innocent explanations for why Mr Edwardes never followed up on his initial inquiry such as, for example, having changed his mind about proceeding. At the conclusion of his evidence on this issue Mr King was questioned as follows:

"And despite the fact that you thought it was strange, and

despite the fact that you liked to know these things, you never, yourself, asked Mr Edwardes about it? --- No.

And despite having absolutely no information as to whether or not Mr Edwardes had proceeded with these extensions, and if so, how he had financed them, you raised that in an interview with Mr Bates dealing with potential corruption. Is that correct? --- That is correct."

4.2. The House Extensions

4.2.1 In most contexts and for most purposes once the initiator or maker of an allegation concedes he has no evidence to support his position then that would be an end to the matter. While the allegation has always appeared to rest on flimsy foundations, the Commission has taken the view that it is a serious allegation which should be dealt with exhaustively. Consequently, in relation to the house extension allegation I have heard and received evidence which has resulted from an investigation by the Commission into all possible variations on Mr King's allegation. Those investigations were conducted on the assumption that while the allegation may be demonstrably wrong in detail it may be accurate in substance. Mr King may, for example, have recalled the wrong date or the wrong residence. He may have incorrectly described the work done as house "extensions". This has necessitated a detailed examination of all alterations to the two residences owned and occupied by Mr and Mrs Edwardes and their family since before Mr Edwardes became involved in the council of the City of Wanneroo. There was no significant conflict between the evidence of the witnesses who gave evidence on this issue. The evidence is summarised as follows.

4.2.2 Mr Moshe Gilovitz is the Manager of Building Services with the Department of Local Government. He is an architect by profession. Mr Gilovitz was requested by the Commission to inspect both houses owned by Mr and Mrs Edwardes during the time when Mr King's allegations could apply. The purpose of his inspection was to check compliance with the building plans provided by the City of Wanneroo. Apart from specific matters mentioned below, both houses were in compliance with the original building plans for the houses with subsequent council approved alterations.

4.2.3 Both Mr and Mrs Edwardes said Mrs Edwardes assumed responsibility for controlling the family's finances. Consistent with

that evidence, Mrs Edwardes displayed a fairly detailed knowledge and Mr Edwardes a considerable ignorance of the family's financial affairs and transactions over the material time. With respect to work done on their houses it is consequently the corroborated evidence of Mrs Edwardes that was of most assistance to the Commission.

4.2.4 Mr and Mrs Edwardes purchased 52 Patonga Way, Greenwood, in September 1983 for \$61,000.00. The offer and acceptance was signed on 21 August 1983. Included in the list of chattels purchased with the property was a shed and "shelving in bedroom". After Mr and Mrs Edwardes moved in they had a number of alterations carried out "over a couple of years". The first, fairly soon after they moved in, was the purchase of a larger shed which Mrs Edwardes believed was paid for out of wages.

4.2.5 Mrs Edwardes produced a National Australia Bank passbook for an account she said was opened specially for the purpose of paying for the initial alterations. While she was unable to swear that all the money from that account was spent on the alterations, the passbook shows an opening deposit of \$4,924.65 on 15 March 1985 and further deposits totalling \$795.30. The account was progressively reduced by withdrawals to a nil balance on 29 July 1985. Mrs Edwardes said she has tried unsuccessfully to accurately establish the source of the initial deposit but believes it came from the settlement of a Motor Vehicle Insurance Trust claim arising out of a motor vehicle accident in which she and Mr Edwardes were involved. In the settlement Mrs Edwardes received about \$5,000.00 and Mr Edwardes about \$7-800.00. I accept that the money probably came from that source.

4.2.6 Mr Hendrikus (Hank) Uyen, a builder, performed various building works for the family over the years. During 1985 he constructed a brick pillar and small pergola at the front of the property, along with an en suite and a brick gas barbecue. Further, additional work was done to the existing pergola at the rear of the property. Mr Uyen confirmed having carried out this work and being duly paid. The council building licence, dated 9 May 1985, shows an estimated value for the works of \$3,500.00. Mr Gilovitz advised the Commission that \$3,500.00 represents a reasonable value for the work carried out. Some extra shelving was added to bedrooms at around the same time. Some of the shelving was built by Mr Edwardes himself. The works by Mr Uyen were paid for out of the funds deposited into the National Australia Bank passbook.

4.2.7 In 1984-85 the Edwardes put a roof and some lattice work on an existing pergola. The work was paid for from their salaries.

4.2.8 All of the work so far described was carried out without the need for Mr and Mrs Edwardes to borrow money.

4.2.9 As already noted, Mr and Mrs Edwardes' second son was born on 26 November 1986. Mr Edwardes was elected a councillor of the City of Wanneroo in May 1987 for an initial term of three years. At the beginning of 1991 they looked at the possibility of extending the house. With one boy in his late teens and the other about to start school they felt the need for more space. In the event they decided to sell and buy a larger house. Mrs Edwardes explained their decision in these terms:

"At the beginning of '91 we actually did look at extending Patonga Way and we looked at perhaps putting a bedroom or so upstairs. We did actually go to the point of getting some drawings done and costings done, but it was obviously going to be over-capitalising on the property and we didn't proceed with it."

Neither Mr nor Mrs Edwardes could recall who did the drawings or the costings and they were unable to produce them to the Commission. Mr Edwardes said that the job was too large for Mr Uyen and recalls the quote they received being somewhere between \$30,000.00 and \$40,000.00. Mrs Edwardes does not recall seeking any financial advice but stated that if they did speak to anyone about financing the extension it would have been their bank. Mr Edwardes is sure he did not make any inquiries as to finance with either the bank or Mr King.

4.2.10 On 15 November 1991 Mr and Mrs Edwardes signed a contract of sale for the Patonga Way property. The description of chattels being sold with the property at that time included two garden sheds. On 18 November 1991 they signed a contract to purchase a house and land at 8 Nadine Place, Woodvale. The contract of sale included a garden shed. Both transactions were duly settled, the sale of 52 Patonga Way for a net price of \$133,243.10 and the purchase of 8 Nadine Place for a gross outlay of \$154,049.00. The purchase was financed through the National Australia Bank. After rationalisation of a number of accounts Mr and Mrs Edwardes required and were granted a loan of \$122,800.00 to complete the purchase of 8 Nadine Place. It was a condition of the loan granted to Mr and Mrs Edwardes that they reduce their overdraft to \$8,000.00. Mrs Edwardes

described the position on the sale of the Patonga Way property as follows:

"Mrs Edwardes, is it the case from those documents that the proceeds of the Patonga Way sale were partly used to reduce overdraft facilities in existence?---Yes.

And that, in fact, on the purchase of Nadine Place you had increased your mortgage in order to purchase it?---That's correct.

In order to purchase the Nadine Place property, did you pay a cash deposit?---I drew a cheque on the general account.

Was that part of the moneys that were reduced once settlement was effected?---Yes.

Was there any other cash contribution to the purchase of the Nadine Place property?---No."

It is apparent that all expenditure by Mr and Mrs Edwardes in relation to the purchase of the Nadine Place property can be accounted for.

4.2.11 A number of alterations have been made to 8 Nadine Place since Mr and Mrs Edwardes purchased the property. Mr Uyen carried out work in January 1992 which included the completion of a gazebo, a pergola and a post and rail fence. Mr Edwardes submitted a building application with the City of Wanneroo with respect to the pergola. The estimated value of the work shown on the application was \$2,000.00. Mr Gilovitz, who inspected the property, considered the value of the entire pergola exceeded \$2,000.00 but Mr Uyen did not construct the whole pergola. Mrs Edwardes said there was a basic pergola structure in place when they purchased the property. Mr Uyen carried out the work required to complete the structure.

4.2.12 Mr Uyen produced a copy of his undated invoice for this work in the sum of \$3,900.00 and confirmed his receipt of payment. Mrs Edwardes produced a copy of the presented cheque, signed by herself, dated 15 January 1992 and a copy of her bank statement showing a debit from her account on 16 January 1992 in the sum of \$3,900.00. The resulting debit balance of \$20,340.62 was reduced by a deposit of \$11,540.45 later in that month, bringing the debit balance to \$8,800.17, as agreed with the bank at the time the loan for the purchase of Nadine Place was negotiated. The deposit was from Mr and Mrs Edwardes' tax refund cheques for that year. The deposit slip indicated the drawer of the deposited cheque to be W Hicks & Associates, which firm was Mr and Mrs Edwardes' accountant.

4.2.13 Mr Uyen also recalls building a fence along the east side of the

block at Nadine Place about 12 months after carrying out the work for which he was paid \$3,900.00. His rough work book indicates the cost of such work as \$2005.00. Mrs Edwardes has told the Commission that this work was carried out in early 1993. An invoice for \$2,325.00 was produced which indicates that the cost of the fence was \$2,000.00 and that additional work totalling \$325.00 was done to the trellis and existing fence. Mr Uyen was paid for this work by cheque dated 28 April 1993. Mrs Edwardes has said that the funds to pay for this work came from her and her husband's salaries.

4.2.14 In November 1995 Mr Uyen built another pergola at Nadine Place for Mr and Mrs Edwardes. It appears they failed to seek or obtain building approval for this work as required by the City of Wanneroo and as they had done for the earlier pergola. Mr Uyen produced his invoice for this work in the sum of \$1,364.00, marked "PAID". Mrs Edwardes confirmed payment was made by cheque but a copy was not produced. I note this work was carried out after Mr King made his allegation in September 1994.

4.2.15 Earlier, in 1993 when Mrs Edwardes was appointed a minister of the Crown, a number of alterations were made to the house at 8 Nadine Place by the Building Management Authority ("the BMA"). These alterations were for security purposes and involved the installation of external doors and shutters. Full details of the work carried out were provided to the Commission by Mr Bruce Hoar, a Project Leader with the BMA. Details of the cost and payment for the work were provided by Mr Malcolm Wauchope, the Chief Executive of the Office of State Administration in the Ministry of Premier and Cabinet. For evident security reasons I directed that access to the statements and annexures from these two witnesses tendered in evidence be restricted to Commission staff. I am satisfied the work was carried out, by or under the direction of the BMA and paid for by the Government. Mr and Mrs Edwardes did not contribute any money towards the cost of the work carried out at 8 Nadine Place by or for the BMA.

4.2.16 Finally, Mrs Edwardes told the Commission of a proposal that she and Mr Edwardes investigated in early 1986 concerning the purchase of a business, the Coolibah Newsagency. Mr and Mrs Edwardes investigated the business in some detail and approached the National Australia Bank with respect to finance. A bank document headed "Line of Credit - Schedule of Securities" contains some details of the Patonga Way property and includes the words "extra bedroom, bathroom, outside improvements recently

completed". I have already noted the evidence with respect to an added bathroom and outside improvements. Mrs Edwardes was asked to explain the reference to an extra bedroom. She was unable to do so and stated that the house had four bedrooms when they bought it and four when it was sold. The drawings attached to the original building application for 52 Patonga Way were annexed to a statement sworn by the City Building Surveyor for the City of Wanneroo, Mr Raymond Fischer. They show the house had four bedrooms when built. Mr Uyen identified the same drawing as the general floor plan layout for the house as he remembered it.

4.2.17 Mr Gilovitz inspected the house at 52 Patonga Way on 24 April 1996. Apart from the minor alterations referred to earlier, Mr Gilovitz found the building was substantially consistent with the plans. According to Mr Gilovitz there is no evidence of any major building extension. I am satisfied Mr and Mrs Edwardes did not add a bedroom to 52 Patonga Way during the time they owned the property.

4.2.18 Mr Gilovitz inspected 8 Nadine Place on 7 May 1996 for the same purpose. Again, apart from a number of minor variations which he lists, Mr Gilovitz found the house to be essentially as shown on the building plans as approved by the Council.

4.2.19 On the basis of this evidence I have no doubt that the allegation made by Mr King on 26 September 1994, as set out in paragraph 4.1.2, lacks any substance or foundation whatever. For all intents and purposes there have been no house extensions carried out to Mr and Mrs Edwardes' homes that meet Mr King's description. Those minor alterations effected have been accounted for as fully as the passage of time and the resultant availability of records allow. The only possible criticism that could be levelled against Mr or Mrs Edwardes from the evidence before this Commission is the entirely irrelevant disclosure that in late 1995 they appear to have failed to obtain council approval before constructing a pergola. When that situation is coupled with the concession on the part of Mr King that he made the allegation to Mr Bates without knowledge of any evidence to support it, a conclusion that Mr and Mrs Edwardes have no case to answer is inevitable.

4.2.20 As Mr Edwardes said in evidence, if the conversation alleged by Mr King took place at all it could only have been in relation to the proposed extensions to 52 Patonga Way in 1991. If Mr King obtained the idea from something said by Mr Edwardes at around that time, there is very little

in his account of the incident that coincides with the facts.

4.3. Conclusion

4.3.1 I find the allegation made by Mr King in the Bates interview that Mr and Mrs Edwardes had extensions carried out to their home which were paid for by others in some improper manner has no foundation whatever. Further, I conclude that in making the allegation in the context and circumstances he did, Mr King acted irresponsibly and reprehensibly. Mr King denied he made the allegations simply to add apparent substance to his statement to Mr Bates in order to improve his bargaining position with the DPP. However, apart from sheer malice, it is difficult to discern any other possible motive.

4.4. Summary of Conclusions

4.4.1 In relation to the matters investigated in this chapter of the report I record the following finding:

- (a) The allegation that Mr and Mrs Edwardes had extensions carried out to their home which were paid for by others in some improper manner has no foundation.

CHAPTER 5

SINAGRA

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5.1. Introduction

5.1.1 Term of Reference 1(g) requires this Commission to investigate:

“(g) whether any expenditure by Council on Councillor personal expenses, travelling expenses, or entertainment expenses for Councillors or their guests was either not approved by Council resolution or exceeded what might be considered normal in local government in Western Australia;”

Term 1(j) empowers the Commission to investigate, “such other matters in respect of the exercise in performance of powers, functions and duties under the Local Government Act or other relevant statutes as may arise out of or be consequent upon or incidental to the inquiry into...” the more specific terms of reference.

5.1.2 In this chapter I have used the term “ratepayers” to collectively describe all persons to whom the Council of the City of Wanneroo are responsible and accountable. It includes the electors and taxpayers who contribute to the City’s funds through government grants.

5.1.3 There has been a great deal of publicity concerning a trip taken in 1990 at the expense of the ratepayers of the City of Wanneroo by Dr Bradshaw, Mr King, Mrs Freame, Mr Edwardes and Mrs Edwardes, the Town Clerk and his wife. The party visited Sinagra in Italy and other places in Europe. For ease of reference I will refer to this trip as “the Sinagra trip” throughout this chapter. The incident caused considerable embarrassment to the councillors concerned and to the Council as a whole. It also gave rise to a number of allegations of corrupt activity, all originating from Mr King, against Mr and Mrs Edwardes. The Sinagra trip was touched upon by Mr Kyle in his 1992 report in chapter 6.3. In its consideration of the evidence the Commission has attempted to deal with the Sinagra trip not in isolation but in the context of the broader questions raised by the terms of reference. Investigation of the circumstances in which the trip was authorised and paid for by the Council has revealed a number of ongoing problems of accountability and procedure in the Council which appear to require attention.

5.1.4 In the course of investigating term of reference 1(g), with particular reference to the Sinagra trip, the Commission has taken

evidence from the councillors who held office over the relevant years, 1989/90 and 1990/91. It has also heard from a number of council staff members at the time, notably: the Town Clerk, Mr Ronald Coffey; the Deputy Town Clerk, Mr Anthony Robson; the City Treasurer, Mr John Turkington and others not directly involved who attended meetings of Council where travel and related matters were considered. Evidence was also taken from those who were involved in making the travel arrangements for the party.

5.2. The Factual Framework

5.2.1 A detailed consideration of events which occurred some six years ago as required by the investigation of this term of reference naturally severely tested the memory of witnesses. On the other hand, the publicity which attended the incident at the time and the subsequent Kyle inquiry in 1992 must have caused participants to activate and consider their recall of the events to some degree. Even allowing for the passage of time, however, the witnesses recall of how and why decisions and actions were taken was poor. The Commission was consequently required to place great reliance on the documentary evidence.

5.2.2 Although no witness was entirely sure on the dates, a letter provided by Mr Coffey to the Kyle inquiry in October 1992 states that the notion of a sister city relationship with the city of Sinagra in Italy was first considered by the Council of the City of Wanneroo in September 1983. Wanneroo was home to some 3,600 people of Sinagrese descent and those people were anxious to create a link between the two communities. A report to Council in June 1989 recites that in October 1983 Council resolved to establish a sister city relationship with Sinagra. One of the oldest Wanneroo residents of Sinagrese descent, Mr Antonio Villanova, visited Sinagra in May 1986 bearing messages of goodwill and a gift from the people of Wanneroo. In November-December 1987 a delegation from Sinagra visited Wanneroo. Mr Brian Cooper was mayor at the time. Estimates of the number in the visiting party varied widely between witnesses but it appears to have been in the order of 13 people, certainly a substantial number. The number of those persons in the party who were councillors could not be established accurately. The sister city relationship between the two communities was formalised in the course of that visit.

5.2.3 While he no longer recalls any contact with the Council in connection with a return visit by Wanneroo residents to Sinagra, a number of witnesses remember the impetus for such a trip coming from Mr Villanova. In May 1989 Mr Villanova wrote to the Mayor and after referring to preliminary discussions on the proposed visit to "our sister city of Sinagra" suggested that "we put the wheels in motion and budget to undertake the trip between May and August of 1990".

5.2.4 After some consideration by the Council of the merits of sister city relationships, Mr Coffey recommended in a report dated 15 June 1989 that Council "nominates a Councillor and partner and authorises the Town Clerk, to visit Council's Sister City of Sinagra in Italy in 1990". Mr Coffey estimated the cost for each delegate at \$5,000.00 and recommended a provision of \$15,000.00 in the 1989/90 budget. At its meeting on 28 June 1989 the Council resolved to nominate a councillor and the Town Clerk to visit Sinagra in 1990 and that appropriate provision be made in the budget for 1989/90. The rejection of the recommendation that the spouse of the councillor also be included in the travel party is significant. The 1989/90 budget allocation for that expected item of expenditure reflects the decision - \$5,000.00 was provided under the heading of "Overseas Conference Expenses" for each category of councillors and staff. The budget dealt with conference and travel expenses for councillors and staff separately.

5.2.5 The minutes of the meeting of Council for 27 September 1989, with Mr Cooper as mayor, include an item headed "Visit to Sister City Sinagra". The item recites the visit by the Sinagrans in 1987 and the fact that Mr Villanova had advised that "in discussions with the Council of Sinagra, a visit during May/June 1990 would be appropriate". The item continues:

"In June Council authorised a Councillor and the Town Clerk to visit Sinagra with members of the Sinagrese community of Wanneroo and to this end it is now appropriate to nominate a Councillor to permit sufficient time for arrangements, etc, to be made.

Cr Bradshaw declared an interest in this matter and abstained from voting.

MOVED Cr Waters, SECONDED Cr Edwardes that Council nominates Councillor Bradshaw and the mayor elected after the May 1990 elections to visit the Council's Sister City of Sinagra in Italy during May/June 1990. CARRIED"

On the assumption that it was intended the Town Clerk was still to join the party, which on all the evidence appears to have been the case, the party to travel had consequently increased from two to three. The minutes do not record how or why that increase occurred. I note there is nothing in the minutes to disclose whether or not there was any discussion on the resolution. There is still no mention in the minutes of spouses or partners joining the party.

5.2.6 Mr Cooper did not seek re-election in May 1990 and Dr Bradshaw was elected mayor of Wanneroo in his place. Since the councillor named to travel to Sinagra and the mayor were then the same person, pursuant to the resolution of September 1989 the party was reduced again to two. An alternative view of the situation was that Dr Bradshaw's election as mayor created a vacancy in the party. And there the matter rested until mid-June 1990.

5.2.7 At some time prior to 13 June 1990 Dr Bradshaw called a special meeting of Council for the evening of that day. It was explained in evidence that in practice a special meeting of Council is called when there is business for the Council to attend to which is urgent and cannot wait until the next scheduled full meeting of Council or which requires more time for deliberation than can be allocated at a regular meeting. Council By-laws Relating to Standing Orders ("Standing Orders") provide that a special meeting can be called by the mayor or any three councillors: SO 7, 8 and 13. For this meeting there were two matters considered of which one was headed "Sister City Relationships - Sinagra" and the other "Attendances at Interstate Conferences". Quite why these matters were thought to require the calling of a special meeting is considered later in this chapter.

5.2.8 The minutes for the Sinagra item recite the resolution of September 1989 and stated that "(A)rrangements for this visit will need to be made in the near future". Further, "Cr Major advised that Cr Bradshaw had requested that consideration of this matter be deferred until he was in attendance". The minutes record that the meeting started at 4.55 pm and that the mayor, Dr Bradshaw, attended from 5.07 pm. The other councillors recorded as being in attendance were Mr Major, Mr Duffy, Mr Dammers, Mr Carstairs, Mr Wayde Smith, Mr King, Mrs Freame, Mrs Waters and Ms Rundle. Apologies were recorded for Mrs Moloney.

Mr Edwardes did not attend the meeting. The minutes record the following resolution:

"Crs Bradshaw, King and Freame declared an interest in this item.

RESOLVED UNANIMOUSLY that the party to visit Sinagra (Sicily), Sorrento (Italy), and Kastoria (Greece), during the period 10-14 August 1990 comprise the Mayor, Cr Bradshaw, Councillors D King, F Freame and C Edwardes and the Town Clerk, Mr R Coffey.

Crs Bradshaw, King and Freame abstained from voting."

The travel party had increased in size from either two, or possibly three, to five. There was still no authority recorded for any spouse or partner to travel at Council expense. There is also no record of any reference to the class of travel.

5.2.9 Mr and Mrs Edwardes, travelling business class, left Australia on 1 August and returned on 28 August 1990. The remainder of the party left on 10 August, travelling first class. They returned at various times.

The Public Controversy

5.2.10 While the travel party was away a controversy arose which was primarily concerned with the class of air travel. It was the fact that the travel party, with the exception of Mr and Mrs Edwardes, flew first class that attracted the most publicity and condemnation from ratepayers once it became known. Mrs Nola Bradshaw, who was involved in matrimonial proceedings with her husband Dr Bradshaw at the time, said she wished to find out where Dr Bradshaw was going. To that end she said she rang a friend in British Airways. While Mrs Bradshaw said she did not ask what class the party was travelling, when she was given the information she was told they were flying first class. Mrs Bradshaw denied she then released that information to the media but named the brother of her friend in British Airways as the person responsible. On 18 August 1990 a front page article appeared in a local Wanneroo newspaper, *The News*, headlined "Councillors on 1st Class Trip". Thereafter the matter became increasingly controversial as other newspapers and media outlets took up the story. The Acting Town Clerk, Mr Robson, said he came under considerable media pressure to provide

answers as spokesman for the Council in the absence of Mr Coffey.

5.2.11 A number of councillors made critical public comments in relation to the class of travel. I have noted the fact that the resolution by Council to send the party overseas and to select its members was carried unanimously. It is also generally agreed that at the meeting there was no mention of the fact that the party was, with the exception of Mr and Mrs Edwardes, flying first class. Significantly, Mr Dammers said he knew at the time the party would be flying first class and said that fact did not concern him. As far as Mr Dammers was aware there was no council policy on the class of air fare. His concern was with the number travelling but he added that it was "not earth shattering for (him)". He did not feel strongly enough about it to raise the matter at a subsequent meeting before the travel party left.

5.2.12 Mr Wayde Smith said he was not aware of a policy on the class of air fare and only became aware the party was flying first class after they left. Mr Marwick said he understood Council had made a decision to allow the Deputy Town Clerk to make travel arrangements and that was the only policy concerning travel. He too said he only became aware the Sinagra party was travelling first class after they left. Mr Major believed there was a policy, which dated from before he became a councillor, that councillors were to fly economy within Australia and business class overseas. Mr Major said he was aware it was the practice that the mayor could choose to travel first class and those travelling with him similarly but he did not expect the Sinagra party to travel first class because of the number travelling.

5.2.13 Mrs Freame believed a "councillor only" meeting in October 1989 had decided the mayor, and whoever accompanied him or her, should travel first class. She accepted that the decision had never been considered at a full council meeting but believed the Mayor had communicated the decision to the Town Clerk to be implemented. Mrs Freame said she became aware she was to fly first class when she was given her ticket. She said she was uncomfortable with travelling first class and raised the matter with the Town Clerk. She said she was not concerned with the fact that the question had not gone before Council but was concerned with the expense. Mrs Freame said Mr Coffey convinced her of the merits of keeping the party

together.

5.2.14 Mrs Moloney said she understood the policy was for councillors to travel business class and that only senior councillors travelled overseas. She said she only became aware the party was flying first class after they left. She had no knowledge of how the policy on air travel was introduced. Ms Rundle said she was not aware of a policy on travel but was aware that the mayor would normally travel first class. However, Ms Rundle said the thought that this party might all travel first class did not cross her mind. She said she found out it had done so after it had left and the knowledge came as a shock.

5.2.15 Ms Waters was not aware of a policy but thought everyone travelled economy class. She said she found out the Sinagra party had flown first class after it left. Mr Carstairs said his understanding was there was no policy but he had flown business class on council business on one occasion and understood the mayor and councillors generally travelled business or first class. He became aware the party to Sinagra was travelling first class at about the time they left. He said that knowledge caused him no concern whatever. Mr Carstairs said the first inkling he had there was a problem was when he read the first article on the subject in the press.

5.2.16 Mr Duffy had no recollection of a policy or when he became aware the party was flying first class.

5.2.17 Mr Major was acting mayor in the absence of Dr Bradshaw on the Sinagra trip and was approached by the media for comment on a number of occasions. He appears to have been reasonably restrained in his comments while expressing a personal view that he would not travel first class out of respect for ratepayers' funds. The same cannot be said of Mr Dammers.

5.2.18 On 22 August 1990 a regular council meeting was held in the absence of those travelling overseas. The minutes record that 85 members of the public and three members of the press were present. The minutes also record the following motions:

"MOVED Cr Marwick, SECONDED Cr Rundle that no Councillors or staff of the City of Wanneroo undertake any first class air travel. LOST

A Division was called, with the following result: In Favour of the Motion: Crs Dammers, Rundle, Marwick Against the motion: Crs Major, Moloney, Smith, Waters The Deputy Mayor declared the Motion LOST ON DIVISION

MOVED Cr Smith, SECONDED Cr Moloney that consideration of air travel arrangements for Councillors and staff be referred to the next meeting of the Policy and Resources Committee."

5.2.19 Mr Dammers was reported in *The West Australian* the following day, 23 August, as saying at the meeting he was not aware the air fares were going to be first class until he read it in a newspaper. He was further quoted as saying "I think its disgusting. In this place everything is done behind closed doors, and in the 15 months that I have been a councillor I am not happy with the way some of the things are carried out". The hypocrisy inherent in that statement was put to Mr Dammers. His answers are instructive as to his credibility generally:

"Mr Dammers, 2 minutes ago you just agreed that you were well aware that they were to travel first-class; even if you didn't agree with it, you were aware that that was the case. Now, was that the truth?---The discussion that's always taken place is how the mayor should travel.

No. I asked you a specific question, and on oath, not 2 minutes ago, you just said that you were aware that all travellers would be travelling first-class. Do you agree that you said that?---Yes.

You are attempting to tell us the truth?---I'm telling you the truth.

Would you agree that that evidence you've just given is inconsistent with what you told the journalist, which was that you were not aware the airfares were going to be first-class until you read it in a newspaper?---That's a clear contradiction, isn't it?---That's correct.

Now, when were you lying? To the journalist in 1990 or to this Commission in 1996?---I don't believe I was lying.

On either occasion? You don't believe you were lying on either occasion?---Yeah. It's depending on the - - no; well, I don't believe I was lying. I may have mistaken, but I am not lying."

5.2.20 Mr Dammers agreed that what he said to the journalist was incorrect but still maintained he was merely mistaken. Mr Dammers' position is clearly untenable. He agreed he could have described the travel

arrangements as disgusting. In view of his evidence as to his participation in the special meeting on 13 June, his position as expressed to the press can only be fairly described as hypocritical in the extreme. The comment also demonstrates a willingness on the part of Mr Dammers to mislead the media and therefore the public when it suits him.

5.2.21 Ms Rundle said she had been contacted by the press for comment while the party was away. She also told the press that, in her view, it was unacceptable for the party to have travelled first class. She said it did not cross her mind to add that she too had to take responsibility for that decision. Ms Rundle believed she was entitled to criticise because they had made a decision without being given all the facts. This explanation neglects the fact that, on the evidence of all councillors, none of them asked for details of cost prior to making the decision. After the party returned Ms Rundle made some attempt to elicit from council staff detailed information as to the cost of the trip. Apart from a tardy response with interim global figures, she was unsuccessful in that attempt.

5.2.22 After the party returned to Australia Dr Bradshaw announced his intention to repay to the Council the difference between a first class and business class air fare. He told the Commission that by doing so he hoped to satisfy the critics of the Sinagra trip. Mrs Freame, to her credit, did the same thing, causing herself considerable financial hardship. Mr King and Mr Coffey did not feel obliged to follow suit.

5.2.23 After consideration of the issue by the Policy and Resources Committee, at a council meeting on 24 October 1990 it was resolved that a policy be adopted to permit the mayor, councillors, the Town Clerk and department heads to fly business class henceforward. Other staff members were to fly economy. The Policy Manual was to be amended accordingly.

5.3. Dr Bradshaw's Involvement

5.3.1 There have been a number of allegations raised against Dr Bradshaw in relation to the Sinagra trip. Mr King has alleged that Dr Bradshaw manipulated the situation to ensure that the size of the party and the identity of the people who went on the trip suited his personal

purposes. Some of these allegations are specific. The circumstances and manner in which the decision was made raise the question of motive.

Mr King's Allegations

5.3.2 In the course of the Bates interview Mr King alleged that Dr Bradshaw was involved in "a bloody conspiracy to get Colin Edwardes on that trip". Mr King said in the interview that Dr Bradshaw had come to him and said Mr Edwardes wanted to go on the trip. He said Dr Bradshaw told him Mrs Edwardes wanted to go to London to look at the politics and they wanted to have a holiday there. He said Dr Bradshaw said further he would have to "work a bit of a shifty here" to get him on the trip. Dr Bradshaw then said he proposed to soften Mr Dammers, Ms Rundle and Mr Marwick by suggesting that Mrs Freame join the party. The increase in numbers was to be justified as necessary because of the size of the delegation that had come from Sinagra. Mr King said that when Mr Edwardes' name was mentioned at the special meeting "there was all hell let loose" with councillors asking why Mr Edwardes should go since he had only been on Council a short time. Mr King said Dr Bradshaw put up a brilliant argument and raised the fact that, as Mr Dammers and Mr Marwick had each had a trip to Europe, it was Mrs Freame's turn to go next and "this and that". Mr King thought the motion was carried unanimously because Mr Dammers, Mr Marwick and Ms Rundle did not want to see Mrs Freame miss out on the trip.

5.3.3 That was Mr King's allegation. He repeated it in similar, reasonably consistent, terms in his oral evidence before the Commission and added that when Dr Bradshaw suggested Mr Edwardes should go he thought at first he meant instead of himself. Mr King said his reaction to that was "get stuffed". If the evidence is true it means that Dr Bradshaw manipulated the Council to obtain an increase in the size of the party to travel to Sinagra and to fill the party with people he wished to go and he did so for his own purposes. It is implicit in Mr King's allegation that those purposes were unrelated to the interests of the City of Wanneroo or the Council.

5.3.4 Dr Bradshaw's evidence on the whole issue was seriously at odds with the documentary evidence and the recollection of all other councillors. First, he said he was chosen to be on the trip at a "councillor only" or special meeting called by the then mayor, Mr Cooper, at some

time prior to the council meeting in September 1989. He did not himself attend the meeting. He said he was subsequently told, he does not recall by whom, that the meeting had decided he, his partner, the Town Clerk and his wife and whoever was the mayor at the time and his or her partner, should go on the trip. His understanding, therefore, was that at that time the plan was for six people to travel to Sinagra. He said this decision was consistent with the travel policy for the City of Perth which Mr Coffey had told him about. According to the policy of the City of Perth, when the mayor travelled, his spouse or partner did too as did those of all councillors travelling with the mayor. Dr Bradshaw said he was not married at the time of this decision but said he thought it was intended he should take a partner with him no matter how long they had been together. He does not recall why he was nominated.

5.3.5 When Dr Bradshaw was shown the minutes of the meetings of Council for 28 June 1989 and 27 September 1989, neither of which contained any mention of spouses or partners being authorised to travel, his response was to assert they were inaccurate. He said Council minutes were not commonly wrong but they frequently left out matters of detail. I note that those two documents are linked by the recital in the latter set of minutes referring to the decision taken in June. There is no reference in the minutes of the meeting of 27 September to a "councillor only" meeting between June and September 1989 at which decisions were taken inconsistent with those recorded on both occasions. It is, in fact, apparent on the face of the two sets of minutes that there had been no intervening decision taken in relation to the Sinagra trip.

5.3.6 When it was pointed out to Dr Bradshaw that there is no record of any decision such as he asserts ever having been taken he said he would not expect such a record since the meeting was for councillors only. He later said he did not know how the meeting was conducted, as a special or "councillor only" meeting. Dr Bradshaw thought there may have been a record prepared by Mr Coffey on information "given to him by the mayor". He did not recall ever receiving a written record of the decision but said he was given a "verbal one by Mr Cooper and Mr Coffey". Dr Bradshaw believed that binding decisions were taken at "councillor only" meetings. While Dr Bradshaw is quite clearly wrong in that belief a number of councillors agreed, at least at some point in their evidence, that decisions were made at "councillor only" meetings.

5.3.7 Dr Bradshaw admitted he knew there had been no budget provision for six people to travel in accordance with the decision he said had been made. He could not explain why that had not occurred.

5.3.8 Dr Bradshaw said he called the special meeting in June 1990 to discuss the trip as a whole. One of the main requirements was to decide who Council would send. Dr Bradshaw said Mr King was the only person who had expressed a prior interest in going on the trip. He said Mr King had harassed him to make sure he was included. Dr Bradshaw said he put the situation to the meeting in these terms:

"What did you say?---I basically declared the meeting open; said it's a special meeting of council; and it was called to discuss the Sinagra trip, because things had changed; that as I was now the mayor - - originally, there were myself and my wife or partner, the mayor and his partner, or wife, and the clerk and his wife were to go; did they want to make - - as - - certainly, I wouldn't be taking a wife or a partner; did they want to put someone in their place and do they want to replace me? And I gave the councillors the option to send myself alone or alternatives.

Does it bother you that that recollection accords with absolutely no other councillor who has given evidence to date?---No. Not at all."

5.3.9 Dr Bradshaw insisted that his version of what happened at the special meeting is the accurate one. He said he considered there were three empty places to be filled; his partner, the extra councillor and his or her partner. He said he did not recommend anyone for inclusion but merely listed the most senior councillors' names in order of seniority. Dr Bradshaw did concede he mentioned that Mr Villanova had been pressing the Council to have as large a delegation as possible but insisted he merely posed the question as to how many should be nominated. He said there was no discussion of the added cost of sending more people and the financial implications of Council's decision were not presented to councillors. Dr Bradshaw said he did no more than "present some facts and ... left it to them to make their decision." Mr Edwardes and Mr King were on the list he put forward but Mrs Freame was not. Dr Bradshaw said Mrs Freame suggested herself but he had no problem with her inclusion. He said the consequence of the decision to fill all available places with councillors was that there were no remaining places for spouses or partners. Dr Bradshaw said he did not give them the alternative of four people plus

spouses, believing that to involve an excessive cost increase.

5.3.10 As put to Dr Bradshaw, the recollection of all other councillors of the conduct of the special meeting on 13 June 1990 differs from his version significantly. Mr Dammers said Dr Bradshaw laid out "the whole scenario" as to who should go and why the number should be increased. He said there was no real objection or debate, the councillors simply accepted what Dr Bradshaw laid in front of them. Mr Major said he moved for Mr Edwardes' inclusion on the basis that the costs would be borne out of Mrs Edwardes' imprest account. He said Dr Bradshaw suggested Mr King and Mrs Freame. Mrs Freame recalls the nominations being chosen on the basis of seniority. Ms Rundle and Mr Carstairs said Mr King and Mr Edwardes were selected on seniority and Mrs Freame was suggested by Dr Bradshaw. They could not say why Mrs Freame was selected. Ms Rundle said Dr Bradshaw was very forceful. Ms Waters and Mr Duffy attended but did not know the basis on which the party was selected. In relation to Dr Bradshaw himself, the consensus was that it was always intended he should go or he had an automatic place in the party as mayor.

5.3.11 In general the councillors believed the size of the party was increased because the Sinagra delegation to Wanneroo had been large and Council felt it necessary to send a reasonable sized party in return out of respect for the Sinagrese. It appears all councillors except Mr Dammers may have accepted Dr Bradshaw's argument on this point. Mr Duffy could not remember why the numbers were increased.

5.3.12 Mr Dammers said he was concerned at the time that too many people were going. He was not concerned about the class of air travel even though he said he knew they would be flying first class. He said he was concerned about the expense of sending so many people. As Mr Dammers recalled it, the whole meeting took about 10 to 15 minutes and he had little time to consider the matters raised. Mr Dammers said he did advise the meeting that he was not impressed but because he thought it was a committee meeting he decided to take the matter further when it came up at a full council meeting. When asked why he voted for a resolution with which he disagreed, Mr Dammers said he did not know and could only put it down to lack of experience, despite the fact he had been on Council for over a year at the time. Mr Dammers said that after the meeting he entered the lift

with Mr Turkington who commented that he did not look happy. Mr Dammers said he replied to the effect that he was not happy but he would debate the matter at the full council meeting. Mr Turkington then told him the meeting he had just left was a full council meeting. Once again, Mr Dammers took his concerns no further at the time.

5.3.13 Mr Turkington confirmed the substance of Mr Dammers' account of their conversation in the lift.

5.3.14 Dr Bradshaw said he called a special meeting because he expected discussion of the Sinagra trip to be protracted and considered there would have been insufficient time to permit full consideration of the issue at a regular council meeting. He said councillors were given 24 hours notice of the special meeting, as required by Council's standing orders. He did not know whether the meeting was advertised and said he left that to the administration. Mr Coffey said special meetings were generally not advertised but, if there was time they were sometimes advertised in the *Wanneroo Times*. He thought the meeting for 13 June 1990 would not have been advertised. All witnesses accept, and the minutes record, that the meeting was held not in the council chambers as usual but in committee room 1. According to Mr Coffey committee room 1 did not have recording facilities but Mrs Freame said she believed portable recording equipment was available for use in any room. In any event, the meeting was not taped. Dr Bradshaw agreed that no member of the public attended the meeting, though it was not closed.

5.3.15 It appears fairly clear that if Dr Bradshaw did not intend to keep the meeting from the public the arrangements certainly had that effect. Dr Bradshaw denies having that intention but I do not accept his explanation for calling a special meeting. From the minutes it appears the meeting lasted a mere 30 minutes. From the way in which it was evidently handled, that is not surprising. Council meetings generally commenced at 7.30 pm. This special meeting commenced at 4.55 pm. It was held in an unaccustomed and inconspicuous location at an unusual time for council meetings. The public and media were not alerted to the fact that the meeting was to take place or had ever taken place. The consequence of these factors was that unless a ratepayer was particularly assiduous it was unlikely in the normal course that the decision taken would ever have been known beyond councillors and

staff present at the meeting. Certainly no-one would have known until it was too late for anyone with a point of view on the issue to influence the outcome. In his written submissions Dr Bradshaw submitted there was nothing secretive about the special meeting, "even though it may look that way with hindsight". I am unable to accept that submission.

5.3.16 Few of the councillors who attended the special meeting were clear on precisely what it was they had to decide. It was not clear from the evidence whether the meeting was considering simply the nomination of people to join the party or an increase in the size of the party or both. No agenda for the meeting was retained. Had an agenda been available it may well have been possible to determine the question put before Council. The Commission did not have that assistance.

5.3.17 Further, the evidence of all councillors also makes it clear that none of them considered the matter before them in terms of cost and benefit. Perhaps one could not expect a structured decision making process at such a meeting but the fundamental question of value for money does not appear to have been addressed. Even if the benefits of adding to the party were entirely intangible, it would still have been possible and appropriate to consider whether those benefits warranted the additional cost. Since the extent of the additional cost involved was neither made available nor called for such an analysis was impossible.

5.3.18 In my opinion Dr Bradshaw's evidence as to the decisions which led up to the special meeting in June 1990 and the meeting itself is neither plausible nor convincing. There was clearly ample time for the normal processes of Council to be followed. The next council meeting was scheduled for 27 June 1990. Sufficient bookings were already in place to ensure the party would be able to secure tickets. Those bookings also provided a sufficient basis for budget allocation. In my view Dr Bradshaw has deliberately misrepresented the whole decision making process. I find there was no "councillor only" meeting at which it was decided Dr Bradshaw should travel to Sinagra with his partner. The relevant decisions prior to June 1990 were made in open meetings of Council on 28 June and 27 September 1989. There was no authority given by Council for any person to take a spouse or partner along at council expense. Dr Bradshaw's evidence is so far out of accord with the documentation and the recollection of all other

councillors as to leave little room for doubt that his version is a fabrication. I am satisfied Dr Bradshaw manipulated the situation to secure places on the party for himself, Mr King and Mr Edwardes. He accepted the inclusion of Mrs Freame as the price he had to pay to get what he wanted. I am also satisfied that Dr Bradshaw took the actions he did for his own purposes.

5.3.19 There is, of course, nothing inherently improper in the mayor or a councillor attempting to secure his own way at a council meeting, so long as he is motivated by the best interests of the City and the Council or, at the very least, not attempting to pursue a matter contrary to those interests. It is significant that the Council voted unanimously in their choice of the party to travel to Sinagra. There was no division along factional lines on this occasion. There was evidence of some opposition to Dr Bradshaw's manipulation but that opposition does not appear to have been strong or sustained. If, as I have found, Dr Bradshaw was pursuing his own interests in filling the places it would appear that, in the opinion of the other councillors, the result coincided with the interests of the City. This was not a trip that required any technical or specific expertise or experience. It was a goodwill visit that required members to represent the City of Wanneroo in a socially appropriate and friendly manner. While councillors expressed some reservations as to Mr King's suitability in that role, at the end of the day they all voted for his inclusion without apparent pressure.

5.3.20 Dr Bradshaw's duty was to act in the interests of the City without regard to his own interests. By manipulating the Council to achieve his own ends and for his personal purposes, he failed in that duty. His action was improper. It was not, however, one of the more serious improprieties considered by the Commission in this sittings.

5.3.21 There is evidence from both Mr King and Dr Bradshaw to establish Mr King's awareness of Dr Bradshaw's actions. That complicity is consistent with Mr King's demonstrated cynical approach to all council matters.

5.3.22 As for Mr Edwardes' position, there is only the evidence of Mr King to suggest Mr Edwardes knew what Dr Bradshaw was doing, and even that is hearsay. Dr Bradshaw himself denies having any discussion on the subject with Mr Edwardes before the meeting on 13 June.

Mr Edwardes did not attend the meeting. Both he and Mrs Edwardes gave evidence of first hearing about the possibility of Mr Edwardes being included in the party when Mr Edwardes received a telephone call, Mrs Edwardes believes the next day. It is a little puzzling why Dr Bradshaw should put Mr Edwardes name forward without first checking whether he was available to go if chosen but that anomaly is not sufficient to provide the necessary corroboration for Mr King. There is no reliable evidence that Mr Edwardes had any knowledge that Dr Bradshaw was attempting to secure him a place on the travel party at the meeting on 13 June 1990.

Mr Dammers' Claim

5.3.23 Mr Dammers was elected to the Council in May 1989. He stated that it came to his knowledge on the first night he was on the Council that trips were viewed as a reward for "certain things". He said that after the swearing in ceremony there was a break for about 20 minutes before the commencement of the special meeting of council which elects the mayor. He was in the bar with a number of other people who he named as Mr Edwardes, Dr Bradshaw, Mr Duffy and Mrs Waters. Dr Bradshaw was intending to run for mayor and Mr Dammers said there was concern in the group because Mr King had indicated his intention to also run. Mr Dammers said the group was collectively concerned that Mr King would take votes away from Dr Bradshaw and it might cost him the election. Mr Dammers said that, to the best of his recollection, it was Mr Edwardes who said that "Kingy" was going to run for mayor. Mr Dammers said Mr Edwardes then said to Mr Duffy "offer him an overseas trip if he votes for Wayne Bradshaw". According to Mr Dammers, Mr Duffy then said "I'll go and talk to him" and walked out of the lounge into the council chambers.

5.3.24 It was put to Mr Dammers that less than one month before he gave that evidence he had told Commission investigators that "Bradshaw then instructed or asked Duffy to go and talk to King". When pressed on the point Mr Dammers eventually said he could not recall whether Dr Bradshaw had given any such instruction or made any such request. He said he was curious and followed Mr Duffy to the doorway where he watched Mr Duffy speak to Mr King for two or three minutes. He said he was standing in the doorway but was too far away to hear what was being said. He said Mr Duffy then returned to the lounge and told the group that Mr King had agreed to

accept the offer of a trip. According to Mr Dammers, Mr Duffy said Mr King still intended to run for mayor to confuse the voting pattern but would be voting for Dr Bradshaw.

5.3.25 Mr Dammers agreed he regarded that conduct as inappropriate, outrageous, entirely unacceptable for elected representatives and corrupt. Notwithstanding that reaction he did nothing about it for 18 months or two years until he "started going to the police". He said he went to see the police about another, council related, matter and the incident came out in the course of his interview. Mr Dammers said he did not voice any objection to the group in the bar at the time and did not go to the media. He said he was totally bewildered. He was unable to explain why he waited 18 months to two years to speak out except to say he did not believe it would achieve anything.

5.3.26 Mr Dammers rejected a suggestion by Counsel Assisting that he did not raise the incident earlier because it had not occurred. One would think when the question of Mr King joining the party travelling to Sinagra arose that Mr Dammers would have been immediately suspicious that the time for Dr Bradshaw to payout had arrived. He was very reluctant to concede this possibility occurred to him at the time. He said he did not raise any concerns in Council or even with councillors privately.

5.3.27 Dr Bradshaw disputed any such exchange between Mr Edwardes and Mr Duffy ever took place. He said he would not have allowed a proposition of that kind to be put to Mr King. In any event, said Dr Bradshaw, he had not influenced the selection of who was to travel to Sinagra in any way.

5.3.28 Mr Edwardes similarly denied that any such incident occurred. Like Dr Bradshaw, Mr Edwardes agreed that Mr King did stand for mayor and there may have been a conversation which included a reference to that fact and to the possible consequences. He denied emphatically that he ever suggested Mr King be offered an overseas trip in exchange for his support for Dr Bradshaw. Mr Duffy also denied Mr Dammers' account as "totally untrue" and expressed the view that the whole situation was unrealistic in any event. He said Mr King was the most unpopular person on the Council and there was no possibility of him being elected mayor. Mrs Waters denied ever being present at, or party to, a conversation when it was suggested

Mr King should be offered an overseas trip in exchange for his support for Dr Bradshaw as mayor. Mrs Waters also thought the notion of anyone voting for Mr King was unrealistic. Dr Bradshaw, Mr Edwardes and Mr Duffy each expressed the view that Mr Dammers is not to be believed, in any event.

5.3.29 I am consequently left with a situation where Mr Dammers' evidence is uncorroborated except for a passing reference by Mr King. Mr King was asked why he thought he had been included in the travel party and, *inter alia*, gave the following answers:

"Yes. I'm asking you why---Because I was the longest serving councillor and I hadn't been - - I hadn't been on an overseas trip.

You took turns in these things, did you?---Basically,yeah.

And that was the only criteria that applied as to who went?---Because - - and I'd supported him for being mayor.

Was that one of the reasons you got on the trip?---Well - - I have no idea, but the thing is, I was the one -"

I do not consider the essentially incidental comment by Mr King provides any significant corroboration for Mr Dammers' account. In the course of the Bates interview Mr King was asked about the selection of travellers. He said he was selected "because I was the longest serving councillor and because I'd been a good boy, I got the guernsey to go". There was no mention of a prior agreement at that time. Further, Mr Dammers' account is contradicted by all the other people he named as being present. Each of those people deny the incident occurred.

5.3.30 It must, of course, be kept in mind that all the people said by Mr Dammers to have been present during the exchange between Mr Edwardes and Mr Duffy were later to be in the opposite factional camp from Mr Dammers. However, except for his claim to have reported the incident to police some 18 months or two years later, Mr Dammers' contemporaneous and subsequent conduct is in all respects inconsistent with the incident having occurred. The report to police after such a delay and after he had "started going to the police" is equally consistent with a desire at that time to make trouble for his opponents on Council. Not one of the councillors said by Mr Dammers to have been in the group in the council lounge at the time support Mr Dammers' recollection of events. While that fact itself does not necessitate a conclusion that Mr Dammers

recollection is wrong, Mr Dammers was generally not an impressive witness. He displayed a high level of animus to Dr Bradshaw and his associates on Council and clearly demonstrated a willingness to tell lies in order to score points against them. I am not to be taken as suggesting Mr Dammers was alone in that propensity. I am not satisfied the incident described by Mr Dammers took place. More specifically I find the allegation made by Mr Dammers that Mr Edwardes and Mr Duffy between them, with or without direction or encouragement from Dr Bradshaw, attempted to influence Mr King's actions in a mayoral election in exchange for an overseas trip has not been substantiated.

5.3.31 In the course of his examination in relation to the Sinagra issue Mr Dammers also raised another allegation against Dr Bradshaw, namely that Dr Bradshaw had threatened to influence a subdivision application he had before Council if Mr Dammers did not give Dr Bradshaw his support. Mr Dammers said that after the special meeting of 13 June but before the party left for Sinagra in early August 1990 he saw Dr Bradshaw and expressed concern at the number of people who were going on the Sinagra trip. Mr Dammers said Dr Bradshaw called him into his office and told him if he wanted to get his sub-division through he would have to "start playing the game". At the same time Mr Dammers said Dr Bradshaw was reminding him he had helped Mr Dammers get onto Council by arranging for someone to man Mr Dammers' polling booth on election day. Dr Bradshaw denies he made any such threat to Mr Dammers.

5.3.32 If that conversation occurred it was clearly a serious threat, possibly criminal conduct, and certainly deserving of condemnation. Once again, however, Mr Dammers told the Commission he said and did nothing contemporaneously and only raised the matter later with members of parliament and the Ministers for Planning and Local Government. He said those gentlemen took no notice of him. In evidence Mr Dammers said he thought he saw Mr Ian Taylor MLA in his capacity of Minister for Planning. He later clarified that evidence and said he thought it was not Mr Taylor he saw but Mr Gordon Hill MLA and Mr David Smith MLA.

5.3.33 It is not necessary in the present context to make a finding on Mr Dammers' allegation. As noted, Mr Dammers said the threat occurred after he was called upon to vote on the Sinagra resolutions on 13 June

1990. The alleged threat consequently did not and could not have influenced Mr Dammers' vote. I am, however, reluctant to leave it unresolved because, on the view I take of Mr Dammers' credibility, it can be shortly dealt with.

5.3.34 In the result, the allegation falls into the same category as Mr Dammers' allegation of the offer of an overseas trip to Mr King. The Commission is asked by Mr Dammers to accept his word that the threat was made without any of the evidence one would normally expect to support such an allegation. There was no contemporaneous complaint to anyone, no motion of censure in council, not even an informal complaint to fellow councillors. There is no documentation whatsoever to corroborate Mr Dammers' version of events. In all these circumstances, I am unable to accept the threat was ever made.

5.4. First Class Air Travel

5.4.1 Establishing just how the party came to travel first class some six years ago has involved the people concerned in a serious test of memory. The Commission is conscious of the difficulties the lapse of time raises for witnesses. The situation is exacerbated by a lack of helpful documentation on the issue. It has, however, been possible to establish with some clarity when and how the much criticised decision came to be made. The evidence comes largely from the Town Clerk at the time, Mr Coffey.

5.4.2 Mr Coffey said that at some point after the council meeting in September 1989 there was a "councillor only" meeting after which he was told councillors considered the possibility of upgrading their travel arrangements. According to Mr Coffey, until then councillors and staff had always travelled economy. Mr Coffey was himself strongly in favour of all councillors travelling first class. He said his own experience travelling with local government associations had been to fly first class. He recounted an experience of flying economy class with Mr Cooper in 1986 when a young man vomited nearby. While he was unable to say that such a thing would be any less likely to happen in business or first class, the incident apparently made a big impression on Mr Coffey and left him with a firm view that first class was the only appropriate mode of travel for City of Wanneroo councillors.

5.4.3 Mr Coffey said that after the "councillor only" meeting Mr Cooper approached him to discuss the question. He said Mr Cooper told him he did not need to ask what Mr Coffey thought because he already knew. Mr Coffey had worked at the City of Perth for many years and believed the policy adopted there was the correct policy, namely the mayor and whoever travels with the mayor fly first class as does the mayor's spouse. All other councillors fly business class. Mr Coffey said he obtained a copy of the City of Perth policy and showed it to Mr Cooper. His account continues as follows:

"You imparted your personal belief to Mr Cooper?---Correct.

You were well aware that it wasn't a matter for you to decide?---Correct.

It was a matter for council?---That's right.

And you would anticipate that a decision of that nature would be agreed upon by council?---Yes.

And recorded?---Not necessarily.

Why not?---Because in the policy of the council when I arrived there it was that the deputy town clerk make arrangements for travel for attendances at conferences, etcetera. There was no talk of, or no suggestion of, what mode of travel or what level of travel, and I, at that time when Mr Cooper saw me - - I suggested to him, as I've said before, that I believed that the City of Perth policy was the one to adopt. I got it. I showed it to him. Then he said to me, "How do you think we should handle it?" I said, "There are two ways we could handle it. We can put it up through the Finance Committee and the council for adoption of a policy, or alternatively if it's the councillors' wish that I organise travel by first class, or whatever arrangements you want, in accordance with the existing policy, then I will make the arrangements," and that's what we did."

Mr Coffey said he did not confirm with any other councillor that he or she agreed with that decision nor did he discuss it with any other councillor. He agreed, with hindsight, that the decision was not one to be made by anyone other than Council. He would not accept he knew it was inappropriate at the time, despite having had about 30 years experience in local government. Mr Coffey agreed it was his role to advise and make recommendations, not to decide such matters; it was a matter for Council to decide.

5.4.4 In February 1990 Mr Coffey had his secretary, Ms Kay Deal, make reservations for the anticipated international flights for

seven people: Mr and Mrs Coffey, Mr and Mrs Cooper, Dr Bradshaw and "2 names to be advised". Mr Coffey said Mr Cooper had expressed to him his intention of joining the party with his wife whether or not he remained as mayor or on Council after the next election in May 1990. If he was not re-elected, he and his wife intended to join the party at their own expense. As for his own wife, Mr Coffey agreed that at that point there had been no decision made that Mrs Coffey should join the party at Council's expense. He explained the booking by saying that he and his wife had intended to travel overseas at about that time in any event and he had intended to pay for his wife's fare. Mr Coffey said the booking for "2 names to be advised" was made for the mayor to be elected in May and his or her spouse. The bookings were for first class tickets.

5.4.5 After the Sinagra party returned and the question of the class of air fares had received considerable attention, it was raised at a council meeting on 26 September 1990. At that meeting the minutes record that Mr Edwardes posed a number of questions for the Town Clerk concerning the adoption of the policy of first class travel. Mr Coffey's answer is recorded as follows:

"Towards the end of last year, a Councillor only meeting was held, at which I was not present. Following that meeting, the then Mayor, Cr Cooper, saw me about several issues, one of which he indicated was a suggestion which had been agreed to by all Councillors that the mode of travel Interstate, etc, should be upgraded for City of Wanneroo Councillors. He asked me my opinion. I cannot give you the exact date, but it was to the end of last year, or the middle of the last half of the year.

I indicated to him that I felt the policy relating to the City of Perth was the most appropriate for this Council, as the second biggest local authority in Perth. That policy was that the Mayor and whoever travels with him would travel First Class. All other travel would be business class. That was the only investigation made.

As a result of that statement to the then Mayor, it was agreed by him and in conjunction with myself, that that policy pertain to the City of Wanneroo."

5.4.6 Mr Cooper said he was not sure whether there was a policy on the class of air travel but said "we certainly changed it". He recalls there was a "councillor only" meeting which he said he probably instigated where the class of air fare issue was discussed. Mr Cooper explained the nature of

"councillor only" meetings. He said at that time there were one or two such meetings a year. They were meetings held in the absence of staff or any outsiders and generally concerned ways in which councillors could work better together and avoid public conflicts. A meeting to discuss council policy on airfares clearly falls outside the purposes outlined by Mr Cooper. He also said they were not official meetings and no decisions were made. Mr Cooper said policy could not be decided but it could be discussed. If anything needed to be done or looked at as a result of a "councillor only" meeting the mayor would advise the Town Clerk.

5.4.7 Mr Cooper recalled that the question of the class of air fare was raised several times, once by the Town Clerk at a Policy Committee meeting. He said it was decided at that time to obtain copies of the policies of other councils to see how they operated. Mr Cooper said the policy "we came up with" was that the mayor and those travelling with him would fly first class and councillors would otherwise fly business class. Mr Cooper could not remember whether the policy was decided at a policy meeting and its implementation delegated to the Town Clerk or whether the decision and its implementation was delegated to the Town Clerk. Having left the Council before the Sinagra publicity broke, Mr Cooper had no pressing reason to bring the circumstances of the decision to mind as did the other councillors. Mr Coffey's recollection is much clearer on the issue.

5.4.8 Dr Bradshaw said that when he became mayor in May 1990 the question of air fares was raised by Mr Coffey in connection with the impending Sinagra trip as follows:

"And what did you become aware of because of the (planned) Sinagra trip?---Well, when I became the mayor in May 1990 I - - I spoke - - oh, Ron Coffey came into the office one day and said he wanted to talk about the Sinagra trip because he was about to book the tickets and out of that conversation he mentioned that he was going to book first class tickets, so I expressed my disquiet at why he would be booking first class tickets and asked him what the policy was and his reply was, well, we didn't have a set policy for the mayor to travel in first class but, based on other local authorities of similar standards to the City of Wanneroo; for example, City of Perth - - their policy was that the mayor always travelled first class and so he felt that the mayor of Wanneroo should travel first class. So we didn't have a policy for that and it was only based on similar local authorities.

So your understanding prior to that discussion in May of 1990 was that the practice in place was that staff would travel business class and councillors would travel economy class?---Yes."

Dr Bradshaw said further that Mr Coffey told him he could "stand up anywhere and justify the mayor and the councillors on this trip travelling first class". He said he gave in to Mr Coffey and agreed to the first class bookings because he always seemed to be in dispute with him and if he did not give in sometimes they would have been at loggerheads every day. He said, with hindsight, he should have pushed harder on the issue and denied he was thinking of his own comfort when he gave in to Mr Coffey. Dr Bradshaw believed Mr Coffey was only discussing the Sinagra trip and not attempting to establish a policy for all occasions. Dr Bradshaw said he did not discuss the issue with other councillors but told Mr Coffey in the course of the discussion that he wanted to call a special meeting to discuss the trip.

5.4.9 Mr Coffey could not recall a discussion with Dr Bradshaw about the Sinagra trip bookings but agreed it could well have occurred. He said Dr Bradshaw certainly did not express his disquiet about first class fares. He could not recall saying anything about being able to stand up anywhere and justify the decision. Mr Coffey said if Dr Bradshaw had expressed any disquiet or concern about the first class fares he would have changed it because Dr Bradshaw was the mayor. He expressed the opinion that Dr Bradshaw had been on Council long enough to know that councillors make decisions and staff make recommendations.

5.4.10 I have already noted the evidence of the participants to the special council meeting on 13 June. Mr Coffey attended but recalls little about it. Specifically, he does not recall any mention of first class air travel. Mr Coffey said there was no mention in the agenda of the fact that the party, with the exception of Mr and Mrs Edwardes, was to travel first class. Certainly there is no mention of it in the minutes. Mr Coffey said there was no mention of that fact in any document which predated the departure of the travellers. That statement encompasses the minutes of any council meeting or meeting of any committee of council. The agendas for council and committee meetings were not retained by the City and consequently were not available to the Commission.

5.4.11 It was submitted by Counsel for Mr Coffey and

Mr Cooper that the decision to change the previous policy on the class of air travel was known to all councillors. As evidence of that proposition Counsel referred the Commission to the minutes of a council meeting on 28 February 1990 and part of the transcript from a recording of that meeting. At that meeting Council was considering a trip to the United Kingdom by Mr Dammers and staff members to attend a training course run by the company who supplied the Council's computer system. There was oral evidence of that trip before the Commission also. The minute of the resolution which approved the trip and the nomination of Mr Dammers and three staff members to attend makes no mention of the class of air fare. The transcript indicates that the issue was briefly raised in the course of discussion on the motion. On one reading of the transcript it would seem that Council has passed an unminuted resolution that the party to travel to the UK should fly first class.

5.4.12 The tape recording of the meeting is in evidence and I have listened to and considered the material segment. It does not support the interpretation urged upon the Commission by Counsel. In my opinion the reference to first class travel establishes no more than a belief on the part of Mr Coffey and Dr Bradshaw that a policy had been set. It does not establish that other councillors knew of that policy. Mr Edwardes' comment to the effect that "we were reviewing (the issue), weren't we?" and Mrs Waters' agreement in fact suggests quite the contrary. The only time the words "first class" appear in the transcript is when Mr Duffy said "(Y)ou should fly first class". On the tape that comment is clearly no more than an interjection. The tape recording also makes it clear that the resolution purportedly passed did not concern first class travel and was no more than an ineffective attempt, without mover or seconder and without the necessary abstentions, to resolve the main issue. I do not accept that the minutes or part transcript of the Council meeting of 28 February 1990 have the effect contended for by Counsel.

5.4.13 I note also that the meeting occurred on 28 February, some two weeks after Mr Coffey made the reservations for the Sinagra trip for first class tickets. Mr Coffey is listed in the minutes as being present at the Council meeting on 28 February 1990. There is nothing in the transcript to indicate that Mr Coffey spoke up to point out that he and the mayor, Mr Cooper, had decided to implement the Perth City Council policy for council related air

travel and on that basis the party should travel business class. Dr Bradshaw said "Council policy covers that" and Mr Coffey said "Yes". That exchange is consistent with Dr Bradshaw and Mr Coffey at least believing or acting upon the proposition that there was a policy. Mr Coffey has told the Commission that the policy he had agreed with Mr Cooper was the policy followed by the City of Perth. There is nothing in the minutes or transcript of that meeting which is inconsistent with Mr Coffey's evidence. At the same time there is nothing in those documents to suggest that the other councillors were aware of what he and Mr Cooper had done, quite the contrary in fact. Mr Coffey admitted he had no basis for believing that councillors, other than Mr Cooper and Dr Bradshaw, had approved the fact that the Sinagra party was flying first class. He said he thought they were aware of it from the meeting on 28 February 1990. There would appear to be no basis for that belief either.

5.4.14 Mr Dammers and Mr Turkington, who also travelled to the UK, recall quite definitely that the party travelled business class. That is in accordance with the policy of the City of Perth.

5.4.15 I find that the decision that the party to travel on the Sinagra trip should fly first class was made by Mr Cooper and Mr Coffey at some time between 27 September 1989 and when Mr Coffey made his preliminary reservations on 13 February 1990. The decision was not ratified or approved by any committee of Council nor by a full meeting of Council. I further find that the previous policy of Council was that all councillors and council staff should travel economy class and that any decision to change that policy had significant financial implications for the City. In those circumstances any decision to change the policy, whether to accord with the policy of another council comparable in size and status or not, should have been approved by Council. That requirement was the same whether it was intended to alter the policy for all occasions or only with respect to the Sinagra trip.

5.4.16 Furthermore, I have no doubt that Mr Coffey knew the decision was not one for the mayor alone, or he and the mayor together, to make. Mr Coffey readily agreed that he now knows that what he did was inappropriate. He became very defensive and petulant when pressed by Counsel Assisting to acknowledge that he knew it was wrong at the time. In my opinion Mr Coffey would not have presented Mr Cooper with two alternative means to achieve their objective, one of them the proper

and correct means, if he was not aware of what proper practice required. From all the evidence I believe it is most likely that Mr Coffey was attempting to introduce a potentially contentious change in policy he personally wished to see implemented in a way that would not attract public or even full Council attention.

5.4.17 I am fortified in that conclusion by the following evidence from Mr Coffey.

"It would have been approximately six weeks before we left, because Dr Bradshaw was in New Zealand and I either rang or asked Councillor King, who was the Chairman of the Finance Committee, to see me. I either rang him or I saw him in my office and suggested to him that there might be a problem with the first class airfare, etcetera, etcetera, and if he wished, because Dr Bradshaw was away, I would see if I could convert it back to business. His indication was to me to leave it as it was, which I did.

Where had these concerns come from?---Oh, I can't recall. At the time you get a feeling that - - I think as I said to the investigators, car and travel conferences are the - - the ideal thing for the ratepayers to get at you.

So, you're aware of that?---Of course I am.

Yes. Your experience would tell you that that's the sort of things that ratepayers take a fairly dim view of?--- Yes.

If you're going to expose yourself to criticism then class of airfare - - and obviously the higher the class, the greater the criticism - - is one of the weak points for councils?---Certainly.

Yes. You were so aware of that that you, in fact, raised it with Mr King?---I don't know that I was so aware of it.

Well, it must have been of sufficient concern to you to raise it with the Chairman of the Finance Committee - - ?- --Correct."

I have little doubt Mr Coffey knew he was doing the wrong thing. Obtaining the approval of Mr King did not improve the situation. In my opinion Mr Coffey's conduct in failing to ensure that the decision to fly first class was approved by the Council was improper.

5.4.18 It was, of course, Mr Coffey's role to present to councillors the legal and proper alternative ways of achieving a desired objective. As Mr Coffey himself reiterated on a number of occasions, it was for him to make

recommendations, it was for councillors to decide. In the scheme of things, the Town Clerk had the greatest knowledge of the Local Government Act. He also had an obligation to advise councillors to seek legal advice when it was required. There is consequently a superficial attraction in the proposition that Mr Coffey was entirely to blame and that Mr Cooper and Dr Bradshaw were duped by his advice. I am, however, unable to accept that such was the case. In my view it would be obvious to anyone who had any familiarity with the system that a change of policy which involved a significant increase in expenditure (albeit not involving a large proportion of the Council budget as was stressed by a number of witnesses) should be considered and approved by Council and not decided administratively. The issue is not a subtle point of practice or procedure, it is a fundamental matter of accountability. Both Mr Cooper and Dr Bradshaw had been on Council for a number of years and knew how the system worked. They could not have been unaware that the proposal to proceed with booking first class travel without Council approval was inappropriate and wrong. Both Mr Cooper and Dr Bradshaw acted improperly and they both knew it at the time.

5.5. Accompanying Spouses

5.5.1 The issue of spouses or partners of councillors or council staff travelling at council expense appears not to have been the subject of any recorded discussion by councillors before the Sinagra trip. I have already noted Dr Bradshaw's evidence on the question. That evidence accords with neither the documentary record of Council decisions nor the recollection of his colleagues on the Council. I am unable to take seriously Dr Bradshaw's evidence on the issue. At that point I do not believe he was attempting to assist the Commission.

5.5.2 I have also noted the fact that on 13 February 1990 Mr Coffey reserved seven seats for the international legs of the Sinagra trip. Mr Coffey said those seats were for himself and his wife, Mr Cooper and his wife, Dr Bradshaw and two "names to be advised". Mr Coffey said the last two were for the mayor to be elected in May and his or her spouse. Mr Coffey agreed that at the time, February 1990, there had been no decision made for either his wife or the spouse of the new mayor to travel with the party at council expense. I have noted his explanation with respect to the booking for Mrs Coffey. Mr Coffey said he booked for the new mayor's wife just in case

the new mayor wished to take his spouse. They were, he said, no more than preliminary arrangements. Mr Coffey made it clear that he did not at that time believe there was any authority in place for spouses to accompany either councillors or the Town Clerk, at council expense, on the Sinagra trip or elsewhere for that matter.

5.5.3 In the event, Mrs Coffey travelled with the official party on the Sinagra trip, in the first instance at council expense. She was the only spouse to do so. Mrs Cheryl Edwardes accompanied her husband but, with a qualification which is discussed below, her fares and expenses were not paid for by the City of Wanneroo. After the trip was exposed to intense media scrutiny Mr Coffey repaid his wife's fare and accommodation expenses. The Commission has been concerned to establish why it was that Mrs Coffey travelled at council expense in the first place. Mr Coffey was given every opportunity to explain how that situation came about. For reasons I elaborate, in my opinion his explanation is unsatisfactory.

5.5.4 Mr Coffey said that when he obtained the travel policy of the City of Perth in connection with his inquiries as to the appropriate class of air fare, he noticed the policy had changed since he had worked for that council. The policy by then made provision for the Town Clerk's spouse to accompany the Town Clerk at the expense of the council. Mr Coffey said he recalled a meeting in the mayor's office where Mr Cooper and Dr Bradshaw were present when he showed them the City of Perth policy and drew their attention to the provisions with respect to the Town Clerk's spouse. Mr Coffey said he told them he had previously been unaware of the change and advised them if they wished him to abide by it "that was okay by me". If not, he said he told Mr Cooper and Dr Bradshaw that he and his wife intended to go to England anyway and he would pay for Mrs Coffey. Mr Coffey said both councillors told him if his wife went the Council would pay the costs. Mr Coffey then gave the following answers:

"What happened then about that?---I just made the bookings.

You were well aware that it was not the sole province of either the ex-mayor or the current mayor to make such a decision, weren't you?---Yes.

Why then did you go ahead and make a booking without the matter being referred to council?---Because it had been agreed

that whatever the policy of the City of Perth was by the mayor - -

It hadn't been agreed by Council - - ?---Well - - - - had it?---But I've said that a dozen times. Council had not agreed to it. It was agreed to - - now, whether it was acceptable or not, what I did I did and I can't change that.

No. Mr Coffey, it's a very simple process. I ask you a question and you answer it. You knew Council had not voted on this?---Yes.

You knew that it was not a matter for Dr Bradshaw or Mr Cooper alone to make such a decision?---Yes.

Why then would you go ahead and book to the council an air fare for your wife without at least suggesting to either of those gentlemen that the matter should go before full Council?---I can't answer that.

Is it because you were more interested in getting your wife's fare paid for by Council than observing the appropriate procedures - - ?---No."

Mr Coffey said it was agreed between the three of them that they would not put the policy to Council.

5.5.5 I have noted above the memorandum Mr Coffey wrote to the City Treasurer, Mr Turkington, on 15 June 1990. The purpose of the memorandum was to request Mr Turkington to draw a cheque to pay a deposit for the travel expenses to the City's travel agent, Jetset Travel, in the sum of \$700.00. It includes the following notation:

"NOTE: Council will be reimbursed by Cr Edwardes and Mr Coffey respectively for all travel and accommodation expenses incurred by their wives during this tour."

It would seem that as at 15 June 1990 Mr Coffey was still intending to pay his wife's travel expenses.

5.5.6 The Commission received in evidence the faxed copies of the accounts for the travel expenses of each official member of the Sinagra party which were sent to the Council by Jetset Travel. The front page of the account for Mr and Mrs Coffey has handwritten upon it in ink "Approved. W Bradshaw. 30/7/90". None of the other accounts bear any such notation. Mr Coffey said he believed it was Dr Bradshaw's signature and he had seen

Dr Bradshaw sign the document. Mr Coffey then gave the following answers:

"How did that come about?---Because I asked him to sign it to ensure that the arrangements that had been made for me and - - my wife and I had been approved by the mayor of the City of Wanneroo.

Why would you do that?---Just to cover myself.

You could have covered yourself an awful lot better by raising it in any council meeting?---Could have done, yes.

But you elected not to?---That's correct.

But you still felt the need to get Dr Bradshaw to sign it?---Yes.

And did you raise the matter again with him at that time?---At this time?

At the time you asked him to sign it?---No.

Was it because you didn't, in fact, believe that you were entitled to have your wife paid for by the council?---Certainly not.

And that you wanted to have some support in the event that somebody found out?---No, certainly not. ...

COMMISSIONER: Would you accept now, Mr Coffey, that you were not entitled to have your wife paid for by the council?---because there hadn't been a council - - specific council resolution adopting a policy similar to the City of Perth, that - - I would accept that, yes, sir."

5.5.7 As I have noted, Mr Turkington as City Treasurer was anxious to establish the numbers who would be travelling to Sinagra to enable him to make provision for the expenditure in the budget. After the special Council meeting on 13 June 1990 Mr Turkington said he spoke to Mr Coffey to determine the appropriate amount. He said he was told by Mr Coffey the party would be travelling first class and that his wife would be included at Council expense. Mr Turkington then made a budgetary provision of \$70,000.00 for councillors and \$25,000.00 under the appropriate head of "town clerk's executive" for Mr Coffey. It is clear that the sum of \$25,000.00 was a provision for two people. Mr Turkington then gave the following answers:

"You would have been aware, would you not, that there was no decision of full council to support the inclusion of a spouse?---Yes.

You said that the decision as to first class was made by Mr Coffey?---In conjunction with the mayor.

In conjunction with the mayor?---Yes.

You would also know that that is not a matter for them to decide.

Isn't that right?---Yeah. Council should have done that.

Yes. You knew that at the time?---Subsequent.

Assuming that you knew that no-one other than the mayor and the town clerk had decided this, from your experience in government you knew that that wasn't the appropriate way for a decision of that nature to be made, didn't you?--Yes.

Yes; and similarly the inclusion of a spouse, unauthorised by full council, would again not be an appropriate thing, would it?---No.

No; and you knew that at the time, didn't you?---Yes.

What action did you take when you were instructed to draw funds to pay first class travel and to include the cost of Mr Coffey's spouse travelling?---I said to Ron, "Is this right?" and he said, "I've talked it over with the man and generally it's accepted."

By the mayor?---By the mayor. Yeah, sure.

But again, you knew that that wasn't the appropriate procedure?--
-Yes."

5.5.8 I have no doubt Mr Coffey was well aware that Council had not agreed his wife's travel costs should be paid by Council. On 13 June 1990 a special meeting of Council, attended by Mr Coffey, had resolved that a number of people should travel to Sinagra at Council expense. The Town Clerk's wife was not on that list. If it was necessary for the councillors who were to travel to be approved by Council there would be no doubt in Mr Coffey's mind that it was necessary for Council to approve payment of travel expenses for his wife. His attempt to "cover himself" by obtaining Dr Bradshaw's signature on the account for himself and his wife was transparent and futile. There was no need for Mr Coffey to cover himself if the situation was above reproach. In my opinion Mr Coffey knew the situation was not above reproach but expected it would never be called into question. It was only when the whole trip came under intense public scrutiny that Mr Coffey's deception came to light and he agreed to repay the money outlaid by the Council for his wife's expenses.

5.5.9 Mr Coffey's action is much more than administrative oversight or a failure to follow proper procedures. This was a situation in which he himself was receiving a substantial financial benefit. Mr Coffey conceded he had no reason to expect that Council would have approved payment of his wife's

expenses had it been put to them in formal meeting. He also knew that a specific recommendation of his to Council on 15 June 1989 to authorise payment for a spouse to accompany the councillor who was to travel to Sinagra had been rejected. It had never even been suggested that Council should authorise payment for the Town Clerk's wife to travel to Sinagra. In my opinion his action was deceitful, dishonest and deserving of strong condemnation. I have no hesitation in categorising it as improper. It may also be illegal. Such an assessment is more properly the province of the prosecuting authority. I intend to refer the matter to the DPP for consideration.

5.5.10 I have no doubt that Dr Bradshaw was aware he had no authority to approve payment by Council of travel expenses for Mr Coffey's wife. As with his purported approval for Mr Coffey to book first class air fares, he had at the time been involved in local government for too long not to know that in the absence of a policy on the matter, such expenditure by the Council needed to be approved by full Council. I reject completely Dr Bradshaw's explanation that Mr Coffey was somehow entitled to such a benefit by virtue of his senior status and the degree of responsibility he bore as chief executive of the City. If Dr Bradshaw felt Mr Coffey deserved a bonus in the form of a tax free payment of approximately \$12,000.00 for an overseas trip for his wife then I have no doubt he knew the proposition should have been put to Council for consideration and approval. By joining with Mr Coffey in attempting to improperly obtain payment by the Council of Mrs Coffey's travel expenses Dr Bradshaw himself acted improperly.

5.5.11 It is regrettable that Mr Turkington did not speak out in some way. He knew, from his position as City Treasurer, that all expenditure was to be approved by Council, either prospectively or retrospectively. He knew also that important requirement was being flouted by Mr Coffey. I appreciate, however, the extremely difficult position in which Mr Turkington was placed in relation to both the first class air fares and the payment of travel costs for Mr Coffey's wife. Mr Coffey was his superior in the Council and the chief executive officer. There was no-one in the administrative hierarchy to whom Mr Turkington could turn. Mr Coffey had made his wishes very clear in both cases. He had also made it clear to Mr Turkington that he had the approval of the Mayor for what he was doing, at least in relation to the inclusion in the party of his wife. Mr Coffey was a very powerful man in the context of the City

of Wanneroo. It is, on one view, understandable that Mr Turkington should decide not to push the matter, say nothing and do as he was told. On the other hand, his duty was to protect the City and promote its honest financial management. In this case the duty required of him hard decisions. In my view he made the wrong decision.

5.5.12 I have refrained from categorising Mr Turkington's conduct at this time. The possibility of an adverse finding against Mr Turkington arose after Counsel Assisting made her closing submissions. Mr Turkington has consequently not had a sufficient opportunity to address the possibility of such a finding. In the interests of procedural fairness I propose to defer a finding on Mr Turkington's role until he has had that opportunity.

5.6. Travelling Allowances

5.6.1 There was little disagreement amongst witnesses on the question of travel allowances. Council policy from some time before the Sinagra trip had been for councillors to be paid while travelling on council business the sum of \$50 per day when interstate and \$100 per day while overseas to cover incidental expenses. Mr Coffey said the allowance was not intended to cover accommodation or meals but only out of pocket expenses such as taxis, laundry and such like. The statutory basis at the time for payment of the allowance was section 513 of the Local Government Act, which read as follows:

"(1) A council in accordance with the provisions of this Act may -

(g) subject to subsection (2) of this section, pay ...

(ii) reasonable expenses necessarily incurred by a member in carrying out a duty or performing an act under express authority of the council;

"

A member for present purposes is the mayor and councillors. Subsection (2) prohibits payment of expenses incurred outside the State unless the duty or act being performed by the member has been expressly authorised by an absolute majority of the council.

5.6.2 In fact the witnesses were generally unable to extend the list of appropriate uses for the travelling allowance much beyond taxis and

laundry because they were also given a credit card on which they could book allowable expenses such as meals, fares and accomodation. Lunches away from their hotel or the hire of a bus, for example, could be booked on the credit card. On the evidence of the councillors who were in the party and Mr Coffey the extent to which the credit cards were used varied widely.

5.6.3 There was on the other hand, with one exception, a general acceptance that the travel allowance of \$100 per day was there to be spent and did not need to be accounted for on return. Council practice did not require that councillors and staff account for expenditure of travel allowance. Both Mr Coffey and Mr Turkington agreed they were aware people travelling on council business were only entitled to reasonable expenses. Mr Turkington agreed that, in those circumstances, proper accounting practice required that returning travellers account for the way in which the travelling allowance had been spent. In fact, consistent with Council policy, he only required the returning travellers to sign a form stating that the funds had been spent. To his recollection not one of the travellers produced receipts. Mr Turkington's recollection may be faulty on that point because Mrs Freame claims to have produced receipts to acquit her expenditure in full. While there is no documentary evidence to support Mrs Freame's claim it must be said that the financial documentation of council related travel is anything but complete. There is insufficient documentation to establish that on other occasions Mrs Freame produced receipts for her expenditure.

5.6.4 In response to some scepticism on the part of Counsel Assisting as to the appropriateness of his acquittal practice, Mr Turkington elaborated the position as follows:

"But you would agree that it is not a bonus and it is not a gift to the councillors?--- Absolutely.

They must at least make their best efforts to account for it?---
Some do more so than others. Some are meticulous absolutely to the point of being - -

Your responsibility is to ensure that as far as reasonably possible the money is accounted for?---Yes.

That may be a receipt for every item but at the very least it would be an indication of what the money was spent on, wouldn't it?---
We entrust our councillors to - if they go away like that - sign that they have expended the funds on the purpose, they personally - -

Without even indicating what it was they spent it on?--- Yes. As I said, that is an area which I am not entirely comfortable with.

Well, neither should you be, Mr Turkington, should you? ---No.

Whose idea was that process?---As I said, I mentioned to the town clerk several times and he suggested that to get receipts for everything is impossible.

Yes. They're the two extremes you have just described, aren't they: receipts for everything - -?---Yes.

- - or a little note saying, "It's all gone. I spent it"?---And signed.

.....

Whose suggestion was that procedure?---A combination of my own and Ron Coffey's.

You're an accountant?---I certainly am.

Would you consider that to be standard accounting procedure?---

No. As I said, I am not comfortable with - -

Why would you recommend, even if it's in conjunction with someone else, some procedure that is not a standard accounting procedure?---It was a compromise between getting receipts and full acquittance of the total payment.

It's not a compromise at all. It's the other extreme, isn't it?---I wouldn't say - -"

Mr Turkington also said "I personally would expect everybody to fully acquit the allowance" and "after today, when I go back I certainly will (take steps to ensure that is done)".

5.6.5 There has quite clearly been a failure on the part of Mr Turkington, with the agreement of Mr Coffey, to insist on proper accounting procedures with respect to travel allowances. As Mrs Edwardes pointed out in relation to the comparable procedures for members of parliament, the problem of obtaining receipts for every little item while travelling for the purposes of later acquittal is sometimes overcome by the authority making a global estimate of likely expenses and either fixing the allowance at that level or giving the traveller the choice of accepting that sum or acquitting in full. The fixing of a reasonable pre-estimation of costs is a "swings and roundabouts" approach which no doubt works well in many cases. It can only work where it covers all expenses and is not, as here, coupled with the issue of a credit card to also cover part or all of the expenses of travel. In any event that approach was not provided for by the

Local Government Act.

5.6.6 The difficulty with the hybrid approach hitherto adopted by the Council and followed for the Sinagra trip is that it leads to differing results depending upon how keenly each of the claimants manipulates the system. On the one extreme you have Mr Edwardes who said he never used his credit card. It is not difficult to imagine in that case, unless others were using their credit cards for his benefit, that \$100 per day would not go very far. At the other extreme, while there was no evidence of the extent to which the other councillors used their credit cards, where a traveller uses his card to the maximum extent there would be little legitimate use left for \$100 per day. For example, laundry could very easily be put on the hotel bill. Mr Coffey said he paid for many meals for the entire group on his credit card. It is also likely that only one person would pay for and charge the hire of a bus. No doubt, since members of the party were travelling together, they shared taxis. Despite the lack of supporting documentary evidence I have no reason to reject Mrs Freame's statement that she produced receipts for almost every cent of her allowance she spent and repaid the unspent remainder. No-one else did that. The result was an unfair, unevenly applied policy.

5.6.7 While the result may have been that a number of people were paid more in travelling allowance than they were entitled to, the evidence does not support a finding that there has been a systematic, or even ad hoc, and deliberate attempt to overcharge the Council. In my view the policy was and remains obviously unsatisfactory. It would seem also that the policy may well have been in breach of the Local Government Act. I would prefer to reserve any finding or conclusion on the legality or propriety of the policy until I have had an opportunity to consider the question in the wider context of term of reference 1(g). In the meantime, Mr Turkington has expressed an intention to more rigorously apply proper standards. I do not believe more needs to be said on the subject at this time.

5.7. Allegations of Corruption Against Mr and Mrs Edwardes

The Allegations

5.7.1 I have noted already that the first newspaper article to appear on the subject in *The News* after the party departed for Sinagra was on

18 August 1990. The article concentrated on the fact that the party had flown first class. On 25 August 1990 the same newspaper ran another article on the Sinagra visit, again on the front page, but this time not a headline. The article was headed "\$95,000 set aside for trip". The newspaper quoted the Acting Town Clerk, Mr Robson, as stating the Council had budgetted \$95,000.00 for the trip and went on to correct its previous report to the effect that all four councillors and the Town Clerk had travelled first class. The report continued and concluded:

"... we would now like to correct that and point out that Cr Edwardes actually flew Business Class, along with his wife Kingsley MLA Cheryl.

He still used all of his first class allowance though... (italics added)

The somewhat enigmatic report appears to be suggesting that Mr Edwardes flew business class but was paid in some way for a first class fare.

5.7.2 On page 3 of Mr Corse's memorandum to Mr Grant dated 6 July 1994 (Annexure 3) Mr Corse alleges that "Cheryl Edwardes travel expenses were refunded to Wanneroo after the stink began and she was very angry about having to use her (government funds) for these expenses" (sic). That appears to be an allegation that Mrs Edwardes' expenses were first paid for by the council but later repaid, with Mrs Edwardes then claiming on the government for reimbursement. The allegation had originated with Mr King. Mr Corse was purporting to do no more than relay what had been said to him by Mr King. Mr Corse's memorandum was, of course, given wide publicity following its release to Mr McGinty in July-August 1994.

5.7.3 In the first of his two memoranda to Mr Grant, dated 11 July 1994, Mr Lawrence said that in the course of his conversation with Mr King, Mr King claimed to have told the police:

"That Wanneroo Council paid for Cheryl EDWARDES to accompany her husband Colin on the trip overseas, but she had to refund the money when people started to ask questions. KING alleges that there was some double dipping, with Cheryl EDWARDES using her imprest account, knowing full well that Wanneroo Council was also paying for the trip.

Colin EDWARDES is alleged to have changed his first class seat for an economy class seat and then pocketed the thousand

dollars difference. Colin is believed to have repaid the money when people began asking questions."

The first of these allegations would appear to be a repeat of the allegation conveyed by Mr Corse.

5.7.4 Finally, in the course of the Bates interview, Mr King made a number of not very coherent allegations concerning Mrs Edwardes and the Sinagra trip. Mr King suggested that Mrs Edwardes may have claimed for her husband's travel expenses on her government imprest account and "then used the bloody money as a form of spending money". He also said that Mr Edwardes had received a first class ticket and "changed them for business and then pocketed \$1000". Mr Marlborough said a variant of the last allegation had been conveyed to him by Mr King also.

5.7.5 Those allegations, with one exception, emanated from Mr King. They can be summarised as follows:

- a) That Mrs Edwardes' travel expenses were initially paid for by the Wanneroo council and she was forced to repay the amount paid, thereafter making a claim on her government imprest account: (from King via Corse).
- b) That Mrs Edwardes' travel expenses were initially paid for by the Wanneroo council and she also claimed on her imprest account, later being forced to refund the amount paid by the council: (King via Lawrence).
- c) That Mr Edwardes was given a first class ticket by the Wanneroo council and cashed it in for a business class ticket, using the difference for his own purposes: (King via Lawrence).
- d) That Mr Edwardes received a business class ticket from the Wanneroo council but in some way received the benefit of his "first class allowance": (*The News*).

5.7.6 Before the Commission Mr King denied having suggested to Mr Corse that Mrs Edwardes had in any way improperly used her imprest account. Mr King was asked whether it was suggested to him by Mr Corse that such a thing had happened. Mr King said he could not recall. It was then put to him that on 8 May 1996 he had told the Commission on oath

that Mr Corse had raised the matter. Mr King appears to suggest that Counsel Assisting had put the words in his mouth on that occasion or otherwise confused him. Mr King then gave the following answers:

"You were then asked the question (on 8 May): "What was it that made you consider that Cheryl Edwardes may have used her imprest account in relation to this trip?" That question did not put an assertion to you about the source of it, did it?

And in response to that question, you said: "I believe it was from something that Barry Corse said to me." Now, was that the truth, Mr King, or is what you've told us now the truth?---I can't remember, honestly. I can't; I'm sorry. I can't.

You have no explanation as to why your memory has failed you since the 8th of May?---Well, the thing is I'm - - the thing is, I cannot - - I cannot - - I know I came to see you on the 8th of May, whenever it was, and I know the imprest account was mentioned by - - by me and by you, but to say to you that - - whether I said it to Mr Corse or Mr Corse said it to me that Cheryl had double-dipped - - I'm sorry, I just - -

You can't now say?---I can't. I'm sorry.

On the 8th of May you were prepared to say it on oath, weren't you?---Yes, I was, but I can't remember. I'm sorry."

I am consequently unable to determine whether the allegation originated with Mr King or Mr Corse.

5.7.7 As for allegation (b), said by Mr Lawrence to have been conveyed to him by Mr King, Mr King said he did not know whether he had said that to Mr Lawrence but it is incorrect. He said what he meant was that Mr Edwardes' fare was paid for by both the government through his wife's imprest account and the Council, the same basic idea but in relation to Mr Edwardes and not Mrs Edwardes. Mr King gave the following explanation for making the allegation to Mr Lawrence:

"So you were making an assertion that Mr Edwardes's fares had been paid both by the council and by the government through the imprest account?---Something like that, yeah.

Yes. What did you base that on?---On Colin getting his - - the way that the trip all came about and the way that the first class ticket was cashed in for a business class ticket and that the money - - the difference was refunded to him, and that when he came back from overseas, there was a massive, big stink and he paid the - - that money back.

How do you get from that to his fare also being paid from the imprest account?---I don't know. The thing is it's just - - just something that - - that came about with the conversation with Brian and that I think he said to me that "She's double dipping", or "He's double dipping".

So Mr Lawrence put that idea in your head, did he?---I certainly said he'd told him about Colin and how Colin's part of the trip was paid for.

Yes. I think you, at least at one stage in evidence here, indicated that what you, in fact, told him was that Colin Edwardes' fare may have been paid out of the imprest account. You told him that?---I think I did; yes."

In relation to what he told Mr Bates, Mr King gave the following answers:

"The allegation was made by you to Mr Bates, wasn't it?---I told Mr Bates the total scenario of how the trip came about.

No. We're not talking about that. We're talking about whether or not you told Mr Bates that Mrs Edwardes may have used her imprest account improperly?---The thing is for all I know, yes, but at the time, the thought has been put into my head - - whether it was from Barry Corse or from Brian Lawrence, but the thought has been put there and I took - -

And you just pass it on, do you? --- Well, I - - the thing was, it seemed a feasible explanation.

Why did it seem feasible when you knew nothing about it?--- Because it would have been maybe suggested to me by - -

So if it's suggested to you, you pass it on regardless of whether it's the truth or not. Is that - -?---No.

-- how it works, Mr King?---The thing is, I did not know. Right?

You didn't know?---I didn't know.

But you were still prepared to pass it on?---Well, the thing was the suggestion was put there, and I didn't know until such time it was investigated, it may have been fact."

The only possible conclusion open to me on this evidence is that Mr King had absolutely no basis for making his allegation that Mrs Edwardes may have misused her imprest account. I shall return shortly to the question of whether she did so in fact.

5.7.8 Mr King refined his allegation regarding Mr Edwardes cashing in his first class ticket, allegation (c), as follows:

"What about Mr Edwardes? Do you know what sort of ticket he actually received?---I don't know for certain but the way that I - - the way that I remember it was that he was - - he decided to fly business class for the reasons of flying with Cheryl and that he received the difference in the form of cash or a cheque or whatever from the town clerk."

5.7.9 Mr King was pressed by Counsel Assisting to provide his reasons for making that allegation. Mr King said his knowledge came from two conversations he had with Mr Edwardes. In the course of the first conversation, which took place before the party left, he said Mr Edwardes told him he was going to change his ticket from first class to business class so that he could be with his wife, who would be travelling business class. There was no mention of money or the difference in cost between the two classes on that occasion. Mr King said the second conversation occurred after the party had returned and the trip had received all the adverse publicity. In the course of that conversation Mr King said Mr Edwardes told him he had refunded the money he had received in lieu of the first class ticket. Again, there was no discussion of the amount involved but Mr King said he learned from Mrs Freame that the value of the difference in fare was \$1,000.00. Mr King himself extrapolated from those facts that Mr Edwardes had been paid the difference in the two fares by cash or cheque prior to leaving. Mr King said Mr Edwardes had never told him he had received the money, just that he had paid it back. Mr Edwardes denies the second conversation, or anything like it, took place.

Mrs Edwardes' Use of Her Imprest Account

5.7.10 In June 1990 Mrs Edwardes was an opposition member of the Legislative Assembly. She said she had not considered going overseas at that time until she learned, on the morning after the decision was made by Council, that her husband had been chosen to join the party to Sinagra. At that time she and Mr Edwardes decided she would join the official party but they would leave earlier than the rest of the party to enable her to attend to some parliamentary business in Singapore and the United Kingdom. Apart from those additional purposes, Mrs Edwardes also could see benefit in accompanying Mr Edwardes on the Sinagra visit. She said many of her constituents had an interest in the visit and she had a long, close association with the Greek community in particular. Mrs Edwardes said there was never any suggestion the Council would pay any part of her expenses and

was sure she had discussed the matter in those terms with the Town Clerk.

5.7.11 Mrs Edwardes said the Council made the travel arrangements for both her and Mr Edwardes for its own convenience and advised her in due course how much she was to pay for her contribution to fares and accomodation. That arrangement is confirmed by the memorandum from the Town Clerk to the City Treasurer dated 15 June 1990 requesting that a cheque for the deposit on the tickets be drawn. Mr Coffey noted in the memorandum that "Council will be reimbursed by Cr Edwardes and Mr Coffey respectively for all travel and accommodation expenses incurred by their wives during this tour". I have already referred to that document in the context of the payment by Council of the travel costs of Mr Coffey's wife. Mrs Edwardes recalls having several discussions with the Town Clerk about the arrangements and dealt separately with the same travel agents with respect to the parts of the trip that were not council related.

5.7.12 On 16 July 1990 Mrs Edwardes wrote to the Premier for approval to use funds from her imprest account for the Sinagra trip. Approval was duly given and after a minor, irrelevant, misunderstanding concerning the amount of funds available to her and the number of days travel for which she could claim, Mrs Edwardes was issued a cheque in the sum of \$9,822.00. All documentation for these actions was tendered. Mrs Edwardes said she would have been entitled to claim for Mr Edwardes' travel expenses on her imprest account had she wished to do so. While that statement may well be correct in principle it is clear from the documentation that Mrs Edwardes did not have sufficient funds in her imprest account to make such a claim in July 1990. I note also that the amount of money available in Mrs Edwardes' imprest account of \$9,958.00 was insufficient to cover the full air fare in addition to her daily travel allowance for the number of days she claimed.

5.7.13 Under government policy at the time and still, all members of parliament, including ministers of the Crown and the Premier, were expected to travel business class. Under the policy members and ministers were not permitted to upgrade to first class. Mrs Edwardes said there was no suggestion she should travel at a different class from her husband and they did not consider paying for an upgrade. Both accepted they would travel business class. Mr Edwardes said, since they were not travelling with the rest of the party for most of the way, the fact that he as a councillor was

not flying in the same class as the rest of the party was of no consequence to him.

5.7.14 Mrs Edwardes said Mr Coffey told her how much she had to pay before she and Mr Edwardes left. She was asked to pay \$6,031.00 and did so by cheque dated 1 July 1990. A memorandum by which Mr Coffey forwarded the cheque to Mr Turkington was received in evidence as was the Council's official receipt for that amount. Mrs Edwardes said she understood the amount she was asked to pay and did pay was the entire cost of her travel as outlaid by the Council. She said she had not been advised of the cost by the travel agent. She was, however, advised she was required to pay the travel agent \$1,931.60 for accomodation overseas unassociated with the Council portion of the trip. Mrs Edwardes said she paid that amount to Jetset Travel. The copy cheque is dated 30 July 1990. Mrs Edwardes could not recall why she paid the two sums separately or whether or not she was given the two figures at the same time.

5.7.15 The imprest accounts for members of parliament are administered by the Office of State Administration in the Ministry of Premier and Cabinet. Mr Wauchope has been the Chief Executive of that office since December 1990 on either an acting or permanent basis. Mr Wauchope has produced to the Commission a statement to which he annexes the documentation held by his office concerned with Mrs Edwardes' application for funds from her imprest account in July 1990. The statement and documentation confirm the substance of Mrs Edwardes' evidence in relation to the use of her imprest account as noted above. There is no evidence to the contrary before the Commission. I am left in no doubt that Mrs Edwardes did not apply for or receive funds from her imprest account to pay for any part of her husband's travel costs associated with the Sinagra trip.

Subsidy of Mrs Edwardes' Air Fare

5.7.16 As I have indicated, Mrs Edwardes paid to the Council the sum of \$6,031.00 prior to departure. Mrs Edwardes said that neither she nor Mr Edwardes ever received a first class ticket and the evidence of Mr Coffey and Mr Turkington supports that recollection. Both Mr and Mrs Edwardes said they travelled business class. There is no evidence and indeed no suggestion from any witness that Mr Edwardes was paid by the

Council the difference between his business class ticket and a first class ticket in cash or by cheque, as alleged by Mr King. Mr Edwardes was, however, given credit for that amount. The situation arose in the following way. Unless otherwise indicated the narrative is the evidence of Mrs Edwardes.

5.7.17 Mrs Edwardes first became aware she may not have paid the entire cost of her travel costs to the council when on 24 August 1990 she received a fax from her office with a copy of the article in *The News* dated 25 August 1990 to which I have already referred. The article was headed "\$95,000 set aside for trip". The party, including Mrs Edwardes, was in Kastoria in Greece at the time. She was unable to explain the time discrepancy but Ms Katherine Davies, who was editor of *The News* at the time, said the date shown on the newspaper, Saturday 25 August, was the day on which it was delivered to households. It would have been available for collection on the day before, Friday 24 August. It would appear Mrs Edwardes' office obtained a copy on the Friday and faxed the article to her on the same day.

5.7.18 It is worth digressing to note how Ms Davies came to write the concluding comment in the article " (Mr Edwardes) still used all of his first class allowance though ...". Ms Davies said that after receiving advice that the party had travelled first class, she telephoned the Acting Town Clerk, Mr Robson, for confirmation. Mr Robson confirmed that advice. She said she then wrote her first piece on the subject headed "Councillors on 1st Class Trip" which was published as a headline article on 18 August. Ms Davies said she then received a fax from people associated with Mrs Edwardes, she thought probably her legal advisors, advising that Mr and Mrs Edwardes had flown business class and demanding an apology. She was then asked what happened next:

"All right. Having received that communication, what did you do?--I called Tony Robson back.

And what was said?---And I would have said to him, "I thought you told me that so much - - that they'd each received a first-class allowance," and he said, "They did." I said, "Well, the Edwardes claim that Colin didn't use all of his," and Tony said something to the effect of, "As far as I can tell from these books he has and he did use his first-class ticket allowance."

As far as he can tell from these books?---I don't know what papers he was looking at, and this is where I get - - this is where I'm prepared to accept that Mr Robson was having to check his facts, having to go and find - -

Was it your understanding from speaking to Mr Robson on that particular occasion - - that is following the fax on behalf of the Edwardes - - that he was referring to some documents?---Yes. Also from the first conversation I had with him.

"First class allowance"; was that an expression used by you or by Mr Robson?---I think it would have come from him."

Later in her evidence Ms Davies was uncertain who it was first used the expression "first class allowance". Ms Davies said that on the basis of the advice she was given by Mr Robson she made the additional, concluding, comment to her retraction in the article of 25 August.

5.7.19 Mrs Edwardes said she was at breakfast when she received the fax and she immediately raised the question with Mr Coffey who was at another table. She said she asked Mr Coffey what was going on and he said "Council had approved Colin to go first class and as such then they used the difference to subsidise my fare". She then told Mr Coffey that was not acceptable and she would be paying the subsidy back. After Mr Coffey had given evidence Mrs Edwardes was recalled and elaborated her evidence as follows:

"What did you do when you received that?---I was at breakfast, and I immediately raised it with Ron Coffey, who was sitting at another table.

What was said?---I said to him, "Did you know about this and is this correct?" And he said, "Yes," that Colin's - - the difference between Colin's first-class airfare was used to subsidise my fare.

That is what you said on the previous occasion when you were asked?---Yes.

Are you quite sure that that is what Mr Coffey said to you?---Absolutely.

Mr Coffey has said in his evidence that he made a mere mistake in his calculation. --- Well, that's for Mr Coffey to advise this Commission.

Being now aware that Mr Coffey has said that he made a mere mistake, do you have any recollection of him telling you that he had made a mere mistake?---No. And also, too, the letter, when I

got back, that I wrote to Mr Turkington confirms basically that conversation.

Your understanding then, when you spoke to Mr Coffey, was that the council had paid for part of your airfare?---Yes.

And your reaction?---I was very embarrassed and angry that that had happened because it was always on the understanding that for me to go on the delegation that I would be paying my own way. Council would not be paying for it. ...

You spoke to your husband about that?---Yes. I asked him did he know about that, and he said no."

Mrs Edwardes said she did not recall Mr Coffey ever mentioning a mistake or miscalculation as the explanation for the subsidy of her fare.

5.7.20 Mrs Edwardes returned to Perth on 28 August 1990 while Mr Coffey was still overseas. She said she immediately contacted Mr Turkington, told him what Mr Coffey had told her and asked him the amount owing. She then drove to the City of Wanneroo offices to hand over a cheque. The Commission received in evidence a copy of Mrs Edwardes' covering letter, a copy of her cheque in the sum of \$761.00 dated 29 August 1990 and a copy of the Council's official receipt in that sum. The substance of Mrs Edwardes letter read as follows:

"Councillor Edwardes and I travelled business class, on the above trip, because I was paying for my fare. Prior to leaving the Town Clerk advised me of the cost of my airfare being \$6,031, which I paid immediately.

Whilst travelling with the council delegation it was brought to my attention through various media reports, *that the City of Wanneroo subsidised a portion of my airfare. This was confirmed by the Town Clerk, who was travelling with us, when I raised it with him.*

I do not believe that the City of Wanneroo ought to subsidise any part of my airfare and accordingly, I enclose my cheque for that portion." (italics added).

Mr Turkington confirms Mrs Edwardes' repayment of the \$761.00. I am satisfied the money was paid.

5.7.21 Mr Coffey said he simply made an error in calculating the sum required to be repaid by Mrs Edwardes prior to departure. He said he

remembers events in Kastoria differently from Mrs Edwardes as follows:

"When was it first drawn to your attention that you made an error?---I believe it was in the mayor's office in Kastoria.

And who was it drawn to your attention by?---I think Tony Robson rang me, but I can't be sure of that. Someone rang me and said there was an item in the paper that council had subsidised Mrs Edwardes' trip and I can't recall what it was - - how it all worked out, but I said, "Leave it and I'll fix it when I get home," or I must have done something, because in the meantime - - and I went over and said to Colin Edwardes, "Colin, I've made an error in your calculation. There's apparently some sort of press release or press item indicating that the council had subsidised Mrs Edwardes' fare. Leave it with me. I'll fix it up when I get back."

Are you quite sure that that was the information you were given by Mr Robson?---Well, I - - that's to the best of my recollection, but if it was from some other source then I'll go along with it."

Mr Coffey does not recall seeing *The News* article of 25 August.

5.7.22 The Commission spent some time testing Mr Coffey's claim that he had made a simple error. Unfortunately, as at other points in his evidence when Counsel Assisting was quite properly testing his explanation or recollection, Mr Coffey became somewhat petulant when giving his answers on this topic. It was clear to me that some of his answers were not fully considered but rather given in angry reaction to being asked the question. He said he made a handwritten calculation on the Jetset Travel account for Mr and Mrs Edwardes. The notated document was received in evidence and discloses that Mr Coffey appears to have taken the amount of the total airfare charged for the couple and deducted the cost of a first class fare to arrive at the amount owing by Mrs Edwardes of \$6,031.00. Mr Coffey confirmed his calculation of the figure to be repaid by Mrs Edwardes was made in that way. He said he did not know how he came to make the mistake. Mr Coffey denied he thought Mr Edwardes had an entitlement to the difference in cost between the two classes of air fares.

5.7.23 From the document it is extremely difficult to see how Mr Coffey could have made such a mistake. After recitation of the route to be flown, the total charge for Mr and Mrs Edwardes is set out in the account as follows:

"Which is Business Class.

TOTAL: \$6792.00 Per Person x 2 = \$13,584.00"

It would seem obvious and unavoidable, when the cost is set out in that fashion, that the way to calculate the fare for one person would be to either halve the total or, even easier, take the amount per person shown in the account as the figure he needed. Instead, Mr Coffey ascertained the cost of a first class fare from another page, the account for one of the other councillors, and deducted that amount, namely \$7,553.00, from the total of \$13,584.00. In my view Mr Coffey would need to have been either badly lacking in concentration or obtuse to make the error he claimed.

5.7.24 Mr Turkington was shown a memorandum from the Town Clerk requesting him to raise a cheque for \$60,373.00 to pay Jetset Travel for the airfares and accomodation for the travel party. Mrs Edwardes' cheque for her portion in the sum of \$6,031.00 was said to be enclosed with the memorandum. Mr Turkington was also shown the account from Jetset Travel on which Mr Coffey made his calculations and said he would expect that document to have been appended to the cheque voucher. He then gave the following evidence:

"Do you recall seeing that document with that handwriting on it - the handwritten numbers on it?---Yes. That would have been the calculation for the refund for Cheryl Edwardes.

For the refund?---Yes; being that figure here of \$6031, being the amount which Cheryl Edwardes was to pay the city prior to departure.

If you're simply working out the refund, you would have subtracted 6031 from the 6792 figure in the body, wouldn't you?--

-Yeah. The calculation here is 13,584.

Yes?---Less the first class airfare of 7553.

Were you aware that that had occurred?---Undoubtedly if I'd signed the cheque. Yes.

So at the time you signed the cheque to Jetset Travel - - ?---Right.

- - you would have been aware that Mrs Edwardes' proportion of the airfare was calculated on the basis of subtracting a first-class airfare from the total for both travellers?---I thought that strange at the time.

Did you raise it with anybody?---I mentioned it to Ron Coffey and he said, "Yes, that's the first- class airfare 7553 for

Colin Edwardes", leaving the remainder. In hindsight obviously that was an error, because subsequent to the cheque for 6031 being paid in early August there was a further refund come in from Cheryl Edwardes on return from Sinagra of \$761."

Mr Turkington said he could not recall whether he asked Mr Coffey why he subtracted a first class fare but presumed he "may have done, given the scenario here". He said he would not have thought a first class fare would have been treated as an entitlement but could see no other explanation for Mr Coffey's action. If Mr Turkington's evidence is correct, Mr Coffey knew he was deducting a first class fare. Mr Coffey also knew Mr Edwardes was travelling business class. Mr Turkington impressed as a witness generally prepared to face up to and answer truthfully questions which might cause him embarrassment. I have no reason to doubt his evidence on this issue.

5.7.25 Mr Robson had a number of telephone conversations with Mr Coffey while he was overseas. Mr Robson recalls Mr Coffey mentioning in the course of one of those conversations that the amount paid by Mrs Edwardes was incorrect. He was unable to recall whether Mr Coffey said that was because he had used a wrong figure or he had used a figure which gave an incorrect amount.

5.7.26 There is an unfortunate divergence in the evidence of Mr and Mrs Edwardes as to just what happened in Kastoria. Mr Edwardes recalled there was a fax received and identified the *The News* article as being part of the fax. He said Mrs Edwardes discussed the matter with him and told him she was going to speak to Mr Coffey. When she returned she said something to the effect that "it's all been fixed". Mr Edwardes cannot recall Mr Coffey speaking to him about it. He said he gained the impression from Mr Coffey, whether at the time or later he was not sure, that it was a genuine mistake. He then gave the following answers:

"Why would you think it was a mistake?---Because that's just the general impression I seem to recall in what was going on.

Do you talk to your wife at all?---Sometimes.

Well, her recollection of the explanation given to her was that a deliberate act of crediting the balance of your first-class entitlement to her air fare was carried out by the clerk. That was her evidence as to what she was told when she broached the subject to Mr Coffey?---Well, that was a discussion between her

and Mr Coffey, not between me and Mr Coffey.

Well, what, she didn't pass it on to you?---No, she didn't.

At no stage did your wife ever tell you that Mr Coffey had told her that it was an act on his part, not an error or mistake that had caused this problem?---Not that I can remember, no. ...

No. I'm asking you, do you not accept what your wife says when she tells you that Mr Coffey told her it was a deliberate act?---

Well, I can see it's going to be a good weekend - - but the facts of the matter is, Mrs Johnson, the discussion between Mr Coffey and Mrs Edwards may well have occurred. I just got the general impression that it was a mistake."

5.7.27 Mrs Edwardes believes she would have repeated her conversation with Mr Coffey to Mr Edwardes but cannot specifically recall doing so. Her recollection of what she told Mr Edwardes is as follows:

"There is no uncertainty in your mind that you told your husband that Mr Coffey had told you that they had in fact subsidised you?---

--No. My clear recollection is that when I received the fax I immediately showed it to Colin. I said, "Do you know about this?" He said, "No." I went over to the other table and I can very clearly picture the room and Mr Coffey was at another table. I went over there and I asked him immediately about this, showing him the fax. I don't remember sort of conversations after that point in terms of coming back.

Can you think of any reason why you wouldn't - -?---No.

- - have spoken to your husband about it who was there at the time?---No. I would have - -"

5.7.28 I have very little doubt Mrs Edwardes told Mr Edwardes what Mr Coffey had said to her. She was understandably concerned at the fact that the media were running a story that her air fare had been subsidised by the Council. After raising the matter with Mr Coffey and, on her account, learning that these reports were correct, it is to my mind highly unlikely that she would resume first her breakfast and then her travels in the company of Mr Edwardes without telling him what she had been told. If I am correct in that conclusion and Mrs Edwardes did tell Mr Edwardes what Mr Coffey had told her, there is no room for a belief on Mr Edwardes' part that Mr Coffey's action was a genuine mistake unless he did not accept Mrs Edwardes' account of the conversation. The Sinagra trip was dealt with by Mr Kyle in 1992. It has been raised frequently in the media in the interim. While the possibility cannot be entirely excluded, it is consequently difficult to accept

that Mr Edwardes' recollection would have failed him. The other alternative is that, for whatever reason, Mr Edwardes has been less than candid with the Commission on the point.

5.7.29 I find that Mrs Edwardes was told by Mr Coffey in Kastoria that the difference in cost between a first class and business class ticket had been used to subsidise her ticket. Mrs Edwardes' letter to Mr Turkington of 29 August 1990 strongly supports her version of her conversation with Mr Coffey. The letter is inconsistent with Mrs Edwardes having been told the subsidy was the result of a mistake or miscalculation. There is no benefit to Mrs Edwardes in representing the situation in her letter as a subsidy rather than a simple error. In fact, the reverse is the case. Further, I do not believe Mr Coffey when he says he made a genuine mistake. For a person in Mr Coffey's position and with his seniority and experience, the likelihood of him making such a mistake is insignificant. That finding is supported by Mr Turkington's recollection that he queried the situation with Mr Coffey and was told by Mr Coffey that he had deducted a first class air fare. I am left in no doubt that Mr Coffey knew precisely what he was doing. When calculating the amount to be repaid by Mrs Edwardes he deliberately took into account the difference between what he saw as Mr Edwardes' entitlement to a first class ticket and the cost of a business class ticket.

5.7.30 It is, of course, obvious that Mr Edwardes had no such entitlement to the value of a first class air fare, even though the rest of the party were flying first class. If he, for his own purposes, chose to downgrade there could be no justification in doing as Mr Coffey did and effectively pay to him the difference. While on this occasion there was no element of personal gain for Mr Coffey, his action is unfortunately consistent with the attitude he displayed with respect to first class fares for the party and to payment by Council of his wife's expenses. In my opinion Mr Coffey's attempt to subsidise Mrs Edwardes' fare with the amount of \$761.00, which he saw as an entitlement of Mr Edwardes, was improper.

5.7.31 There is nothing in the evidence of any of the people involved to suggest that either Mrs Edwardes or Mr Edwardes knew of, encouraged or condoned the action taken by Mr Coffey.

5.8. Policy Matters

5.8.1 The submissions made on behalf of the City of Wanneroo address a number of policy issues raised by Counsel Assisting in her closing address. Counsel for the City expressed his client's concern that the Commission might make recommendations in these areas without having a full understanding of the practices and procedures normal in local government in this State and without permitting councils which might be affected by a recommendation to be heard. I accept the force of that submission for all but obvious cases of faulty or undesirable practices. Several of these have become apparent in the course of this sittings of the Commission. With one exception they relate to record keeping by councils.

Council Records

5.8.2 The Commission has been hampered in its investigation by the paucity of information concerning the decision making process of the Council of the City of Wanneroo. First there is the question of the agendas of council meetings. These are not retained by the administration. I believe they should be. The Commission has ascertained that the City of Perth and the City of Stirling, for example, both retain council meeting agendas as important council records. A number of councillors of the City of Wanneroo and the City Treasurer erroneously believed agendas were and are still retained. Mr Coffey said that agendas for council meetings include all supporting documentation supplied to councillors in preparation for meetings. The agendas were not retained for any period of concern to this Commission and are still not retained. The annexed reports can generally be found on other council files but there is no record kept of the documentation supplied to councillors for any particular meeting or, more specifically, for any particular resolution.

5.8.3 The desirability of retaining agendas is, I believe, fairly obvious once the question is addressed. It is one thing to be able to consult the minutes of a council meeting years after the event to determine how Council voted on a particular matter but those minutes do not reflect what information the Council was given, what committee recommendations were presented to it nor how the resolution was packaged. Any regulatory body attempting to recreate the history of a matter needs to know what it was the

council and individual councillors were being asked to consider. That cannot be done if agendas are not retained. The rate payers of the City have a right to this information also. While mindful of the submission as to local government practice by Counsel for the City of Wanneroo I am confident that retention of agendas would impose very little inconvenience on council staff and the accountability benefits would be significant. It is not too much trouble and is thought to be worthwhile for the Cities of Perth and Stirling. Agendas for meetings are formal documents. In my view all councils should be required to retain as a council record agendas for all council meetings, together with attached reports or other documentation supplied to councillors. It goes without saying that agendas, like the minutes, should be available for inspection by the public after the meetings.

5.8.4 Secondly, there is the question of the adequacy of minutes of council meetings. The minutes of meetings with which this Commission has been concerned have been bare indeed. The Commission has noted three principal deficiencies from a regulatory or accountability perspective. First, there is no record made of what is said by councillors in the course of debate or discussion. Counsel for the City submits that a requirement on staff to interpret and summarise debate in minutes would be a "recipe for disaster". I accept that this Commission is not in a position to make any recommendation on this perceived deficiency on the strength of the evidence it has heard to date. I simply note at this time that it would have been useful to have a note of what was said by councillors for and against the resolutions of interest to the investigation but I appreciate there may be good reasons for not imposing any requirement on staff to record the substance of debate. I do note, however, that the lack of a written record of discussion could only ever be justified where the meeting is tape recorded. The Commission may be in a position to revisit this question after hearing further evidence on other matters.

5.8.5 A remedy for the second deficiency in council minutes, however, does not require any subjective assessment on the part by council staff when preparing the minutes. In many cases where it is clear there has been debate or discussion on a resolution that fact itself is not noted. It is sometimes extremely useful to know whether or not a measure was passed without dissent or discussion. Even if there is no record of what was said in the course of discussion or debate, the fact that it took place is at times

significant for investigators. No doubt members of the public attempting to trace the history of a matter or the conduct of councillors would also have an interest in knowing whether or not a matter was discussed.

5.8.6 Thirdly and most importantly, unless a division is called, no record is kept in the minutes of the names of councillors who vote for and against a particular issue. There is not even a record of the number of councillors who vote for and against a resolution. There was evidence before the Commission that the bulk of matters considered by the Council go through as a package, having been fairly well or completely resolved in committee beforehand. Alternatively, the matters are uncontentious and attract no debate or dispute. There are, however, matters that are the subject of debate, dispute and contention. Often those matters are the ones which attract the attention of regulatory bodies at some later time. They are also frequently matters of particular interest to the community. Interested ratepayers should be able to determine by reference to council records who voted for or against any issue that has been dealt with by Council. This Commission has heard evidence of a number of instances of factional manoeuvring, personal posturing and hypocrisy on the part of councillors which would, in some cases, be exposed by a clear picture of the voting record of the councillor concerned.

5.8.7 Obviously, where the vote is unanimous it would not be necessary to record the names of councillors voting but in all other cases it would be of great assistance to know the name of councillors who vote for, against or abstain from voting on each resolution. In its larger task this Commission would benefit greatly from data enabling it to analyse how individual councillors voted over time on issues involving particular categories of resolution or involving particular entities. Such a facility would provide basic information to any anti-corruption inquiry, well worth the small inconvenience it may cause to the chairman of meetings and council staff to record. The same considerations apply to minutes of committee meetings, particularly committees such as Planning, Finance and Policy.

5.8.8 Accordingly, I recommend that consideration be given to introducing a legal requirement that local government authorities record in their minutes of council meetings and committee meetings, wherever a vote is other than unanimous, the names of councillors who vote for and against

each resolution and those who abstain from voting.

"Councillor only" Meetings

5.8.9 The Commission has been concerned with the evidence it has heard on the subject of "councillor only" meetings. On a number of occasions when councillors were asked about a policy or decision for which there appeared to be no formal or other written record the councillor would reply that the policy or decision was made at a "councillor only" meeting. This Commission, the Department of Local Government in its supervisory capacity and, most importantly, the public were thus completely shut out from any objective *ex post facto* scrutiny of the decision under examination. Furthermore, such a meeting completely shuts out the public from participation in the first place. The use of "councillor only" meetings as a "shield" in this way invites consideration of the role and place of these meetings in local government. Such consideration very quickly brings other vices of the practice to mind.

5.8.10 There was no unanimity amongst councillors as to the purposes and nature of "councillor only" meetings. As I have noted, Mr Cooper believed they were called to enable councillors to resolve differences and to enable them to work better together. In his view policy matters could be discussed at such meetings but no decision could be reached. Other councillors believed that policy matters could or should not be discussed at such meetings. Others thought that binding decisions could be taken at "councillor only" meetings. There was consensus that they were fairly seldom called, possibly once or twice a year. The common factors in the evidence were that at such meetings all people except councillors were excluded, including council staff, and the proceedings were not recorded either on tape or in writing.

5.8.11 Part VII of the Local Government Act 1960-1982, as it was in 1990, set out the legal requirements relating to proceedings of councils. Section 172 of the Act provides that the council is to meet for the transaction of business as often as council appoints, but in any case at least once every three months. Section 173 sets out the requirements relating to quorums, voting, vacancies and other matters. Section 188 requires minutes of the proceedings of the council to be kept, while section 182(8) requires

minutes of committee meetings to be kept. There is provision in the Act and the Standing Orders for council, special meetings of council, committee, elector and advisory meetings. The Act makes no provision for "councillor only" meetings.

5.8.12 I take it as beyond question that the deliberations and decision making process of local government bodies should be accountable and open to the public except where privacy or other countervailing considerations dictate a need for confidentiality. The need for openness and accountability is as great at the local government level as it is at the State or Federal level. In many cases the greater possibilities for concealment at a local government level make the need greater. As Justice Deane observed in *Theophanous v. Herald and Weekly Times Limited* (1993-94) 182 CLR 104 at 183:

"... there are legitimate reasons why the claims of the holders of high office in a representative government must be subordinated to the need for open and effective scrutiny and discussion of their official conduct and suitability. As has been said, all powers of government ultimately belong to, and are derived from, the people. It is not unreasonable that those who undertake the exercise of those powers, ordinarily for remuneration from the public purse, should be required to bear the burden of whatever is necessary ensure full accountability to, and open scrutiny by, those whom they represent and whose powers they exercise. It is true that this argument can be pushed too far. Its essential validity seems to me, however, to be manifest."

While the High Court was dealing with the duties and responsibilities of members of parliament, in my opinion the same principles apply to elected members of local councils. Nor do I believe the fact that at the time councillors were not remunerated has any bearing on the applicability of the principles.

5.8.13 The dangers to the principles of accountability inherent in "councillor only" meetings became apparent from the evidence of councillors. Few of them could see any difficulty in meeting together, with staff and public excluded, to discuss matters of council business or policy. As I have noted, a number thought they could legitimately make decisions on such matters. Of these some thought such decisions would be binding while others thought it would be necessary to take the decisions to full Council for approval or ratification. In either case, of course, it would be possible for councillors to

meet in private, consider and deliberate on a matter in private and reach a de facto decision in private. They could then take that decision before an open council meeting and, with no discussion or debate, simply put and pass the decision as a council resolution. There need not even be any disclosure of the fact that the matter had been previously raised or discussed. In such cases the decision, while appearing to be made in public has in fact been made entirely behind closed doors. Quite apart from the accountability considerations, such decisions would be made without the benefit of the substantive and procedural advice from council staff which would normally be available. The notion is so obviously undesirable that I do not need to explore it further.

5.8.14 There can be no reasonable objection to councillors getting together in the absence of staff or public for the reasons enunciated by Mr Cooper, namely to resolve personality clashes or personal differences between councillors to enable them to work better together. Such meetings should, however, be strictly confined to such matters and be expressly avoided wherever council business or policy is to be raised. If it takes statutory intervention to prevent such meetings occurring then I recommend that a requirement to that effect be introduced.

5.9. Summary of Findings

5.9.1 In relation to the matters investigated in this chapter I record the following findings:

- (a) The allegation by Mr Dammers that Mr Edwardes and Mr Duffy between them, with or without direction or encouragement from Dr Bradshaw, attempted to influence Mr King's actions in a mayoral election in exchange for an overseas trip has not been substantiated.
- (b) The allegation by Mr Dammers that Dr Bradshaw threatened to influence a sub-division application Mr Dammers had before Council if Mr Dammers did not give Dr Bradshaw his support on Council is without foundation.
- (c) Dr Bradshaw manipulated the special meeting of Council on 13 June 1990 to secure places on the party to travel to Sinagra for himself, Mr King and Mr Edwardes and he did so

- primarily for his own purposes. In doing so Dr Bradshaw acted improperly.
- (d) The decision that the party to travel to Sinagra should fly first class was made by Mr Cooper and Mr Coffey at some time between 27 September 1989 and 13 February 1990. The decision to change the previous policy of the Council had significant financial implications for the City but was not ratified or approved by any committee of Council nor by a full meeting of Council.
 - (e) Mr Coffey introduced a potentially contentious change in the travel policy which he personally wished to see implemented in a way that would not attract public or full Council attention. By failing to ensure that the decision which he and first Mr Cooper and later Dr Bradshaw made that the party to travel to Sinagra was to fly first class was approved by Council he acted improperly.
 - (f) Both Mr Cooper and Dr Bradshaw knew or ought to have known the decision to alter Council policy on the class of air travel required approval by full Council. By purporting to approve a change to that policy without obtaining the approval of Council they each acted improperly.
 - (g) Mr Coffey's action in obtaining payments by the City of his wife's travel expenses for the Sinagra trip in the absence of Council approval was deceitful, dishonest and improper.
 - (h) In purporting to approve payment of Mrs Coffey's travel expenses by the City, without first obtaining approval by Council, Dr Bradshaw acted improperly.
 - (i) Council's policy on travel allowances as administered by Mr Coffey and Mr Turkington was unsatisfactory. I have reserved consideration of the legality and propriety of that policy until the Commission has had an opportunity to examine the issue in its wider context.
 - (j) Mrs Edwardes did not apply for nor receive funds from her government imprest account to pay for any part of her husband's travel costs associated with the Sinagra trip. The allegation which originated with Mr King that Mrs Edwardes misused

her government imprest account in connection with the Sinagra trip is without foundation.

- (k) Mr Edwardes did not at any time receive from the Council payment by cash or cheque for the difference between a first class and a business class air fare. The allegation by Mr King to that effect is without foundation.
- (l) In calculating the amount to be paid to the Council by Mrs Edwardes in payment for her travel expenses to Sinagra Mr Coffey deliberately took into account the difference between what he saw as Mr Edwardes' entitlement to a first class air fare and the cost of a business class ticket. In so doing Mr Coffey acted improperly.
- (m) There is no evidence to suggest that either Mrs Edwardes or Mr Edwardes knew of, encouraged or condoned the action taken by Mr Coffey.
- (n) Mr Dammers made statements to the media in relation to the Council delegation to Sinagra while the party was absent from Australia which were calculated to mislead the press and public.

5.10. Recommendations

5.10.1 I make the following recommendations:

- (a) That consideration be given to introducing a legal requirement that local government authorities:
 - i) retain agendas for all council meetings, together with attached reports or other documentation supplied to councillors;
 - ii) record the fact of discussion or debate on council resolutions;

record in their minutes of council meetings and committee meetings, wherever a vote is other than unanimous, the names of councillors who vote for and

against each resolution and those who abstain from voting.

- (a) That "councillor only" meetings by local government councils where council business or policy is discussed not be held.

CHAPTER 6

THE DEATH OF ROBERT BADDOCK

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6.1. Introduction

6.1.1 On 13 July 1987 the body of a councillor of the City of Wanneroo, Mr Robert Baddock, was found in his motor vehicle on a lonely bush track in Yanchep. A subsequent coronial inquiry determined that Mr Baddock had taken his own life. The Coroner found the cause of death to be carbon monoxide poisoning.

6.1.2 After a time Mr Baddock's death became the subject of private rumour and public statements questioning the circumstances of his death, some even suggesting that others may have been responsible. The evidence before this Commission has established these allegations to be without foundation. There can be no doubt Mr Baddock committed suicide. The finding is supported by overwhelming evidence.

6.1.3 The nature of the allegations raised spans a number of terms of reference, in particular term 1(d), (h) and (i).

6.2. Factual Background

6.2.1 Before dealing with the medical evidence and the allegations themselves it will be helpful to briefly outline some of the circumstances in which Mr Baddock committed suicide. Mr Baddock was 37 years old at the time of his death. He had been married to Mrs Marion Baddock since 1970. The couple had two children, now young men aged 23 and 19. Mr Baddock left the matrimonial home in December 1985 and, apart from one brief attempt at reconciliation, did not return. He and his wife were never divorced. At the time of his death Mr Baddock was living in a de facto relationship with Ms Maxine Dawson who had moved to Western Australia from Queensland in April 1986 to live with him. There is evidence that he was also having a relationship with a third woman, Ms Michelle Anderson.

6.2.2 Mr Baddock was not employed at the time of his death, having retired from his job with Telecom in 1981 on medical grounds. In 1976 Mr Baddock was involved in an accident at work, suffering silicon grease damage to his eyes. By 1981 he was unable to continue in his employment. In mid 1986 he received compensation for his injury of approximately

\$100,000.00. The injury to his eyes caused Mr Baddock continuing problems after his retirement and from all accounts he suffered a great deal of pain.

6.2.3 Mr Baddock had been a councillor of the City of Wanneroo since May 1985. He was a member of the Planning Committee. On all the evidence it appears that Mr Baddock was an enthusiastic councillor and was engaged in a number of sporting and community activities in addition to his interest in martial arts. At the time of his death Mr Baddock had become embroiled in allegations of corruption relating to rezoning the Craigie Roller Rink over which Mr King was subsequently charged and convicted. He was a friend and associate of Mr Duffy whom he named as executor of his will. Mr Baddock was also associated on Council with Dr Bradshaw.

6.3. The Medical Evidence

6.3.1 The medical evidence is unequivocal. Professor John Hilton, who conducted the post mortem examination on Mr Baddock, is a forensic pathologist of impeccable credentials. On the basis of his examination, in conjunction with ancillary testing, Professor Hilton concluded that the cause of death was carbon monoxide poisoning. All the physical findings were consistent with that conclusion, such as the cherry pink discolouration of the body and the presence of vomitus around the mouth. Toxicological tests found fatal levels of carbon monoxide saturation. According to Professor Hilton there was nothing which would raise any concerns about the accuracy of the findings.

6.3.2 Professor Hilton explained to the Commission how carbon monoxide exposure causes death by competing for oxygen with the haemoglobin in the red blood cells, leading to a form of chemical asphyxiation. Carbon monoxide, being a gas, is absorbed into the system by breathing. It can therefore be absorbed if the person exposed is unconscious but not if he or she is already dead.

6.3.3 When considering the circumstances in which Mr Baddock died there are consequently only three possible options:

- (a) Mr Baddock entered the vehicle in a conscious state with the intention of taking his life, inhaled carbon monoxide until he lost consciousness and then died.

(b) Mr Baddock was conscious but restrained for the period of time it took him to absorb sufficient carbon monoxide to cause his death.

(c) Mr Baddock was unconscious but still alive when he was placed in the car.

6.3.4 The difficulty with option (b) is that there were no restraints found, no marks of any restraint and no signs of violence whatever on his body. The absence of any sign of restraint was confirmed by both Professor Hilton and the police officers who attended the scene. Either Mr Baddock wished to end his life, in which case restraint would be unnecessary, or he did not, in which case there would be some evidence of a struggle and some sign of the result of being restrained. Mr Baddock was a martial arts instructor. Some form of struggle could be expected if he was restrained while conscious.

6.3.5 Option (c) would overcome the problem of the absence of any evidence of restraint. However, the possibility is completely contradicted by other evidence. According to Professor Hilton there was no sign of external trauma which could have caused unconsciousness. In that case the only possible cause of unconsciousness would be drugs or alcohol. Toxicology testing was carried out by two separate organisations in two different laboratories, the Government Chemical Laboratories and the Queen Elizabeth II Medical Centre ("QEII"). The report from QEII shows a blood alcohol reading of .071 per cent which Professor Hilton equated to the ingestion of three standard drinks. The Government Chemical Laboratory's assessment was slightly lower.

6.3.6 The presence of a sub-therapeutic level of the anti-inflammatory drug, naprosyn, was noted in both reports. In the QEII report there is a reference to a trace of benzodiazepine, a minor tranquilliser commonly known as valium. The level is too minor to appear in the Government Chemical Laboratories report. No narcotics and no opiates such as morphine were detected by either laboratory.

6.3.7 In Professor Hilton's opinion there was nothing in either of the toxicology reports to indicate that Baddock received a fatal dose of any drug.

Nor did inspection of the body provide any support for such a theory since no needle puncture marks were found. Professor Hilton observed that there was no suggestion Mr Baddock had been given a drug to render him unconscious before exposing him to carbon monoxide. He said the blood screening was comprehensive and he would have expected it to pick up any drug of that nature.

6.3.8 Professor Hilton concluded his evidence as follows:

"From your examination, from the reports you received, are you able to comment upon a suggestion that Mr Baddock died other than by way of suicide?---From the history delivered to me and from my own examination, that would support suicide as being the manner of death."

The Coroner's finding was therefore entirely consistent with Professor Hilton's opinion.

6.4. The Allegations

6.4.1 In most circumstances the coronial and post-mortem information alone would be sufficient to dispose of any contrary view of the circumstances of Mr Baddock's death. However, the allegations surrounding the death have been so persistent and so widely publicised that the Commission adopted and acted upon the view that nothing short of an exhaustive analysis of the theories, the background and the surrounding circumstances would bring the conjecture about Mr Baddock to an end.

6.4.2 A number of the allegations surrounding Mr Baddock's death entered the public arena through the activities of Mr Marlborough both inside and outside Parliament. Mr Marlborough told the Commission the allegations he raised were largely based on information provided to him by Mrs Baddock. Others are contained in notes made by Ms Rundle which she said she passed to Mr Marwick, Mr Dammers and the then Minister for Local Government, Mr David Smith MLA. Those allegations are that:

- Dr Bradshaw often boasted he could have someone "dispatched" for \$2,000 or fatally injected with a substance that could not be detected.

- Death threats and a campaign of pressure from Dr Bradshaw led to the death of Mr Baddock.
- Dr Bradshaw took two of Mr Baddock's diaries from the offices of Mr Duffy, the executor of Mr Baddock's will.
- Mr Baddock visited Dr Bradshaw just hours before his suicide and the related assertion that Dr Bradshaw was never interviewed by police in connection with that visit.
- Dr Bradshaw rang Mrs Baddock on Monday 13 July, the day on which Mr Baddock's body was found, and told her to report Mr Baddock missing.
- Ms Dawson, formed a relationship with Dr Bradshaw and lived with him after Mr Baddock's death.
- Mr Wayde Smith was the first police officer on the scene after Baddock's death.
- Mr Baddock's body was found by Maxine Dawson.
- When Mr Baddock's body was found there was a pile of burnt papers next to the car.
- When Mr Baddock nominated for council in 1985 Dr Bradshaw and another councillor went to his home and offered him \$1,000 to withdraw.
- Dr Bradshaw then offered to pay for Mr Baddock's campaign if Mr Baddock would agree to allocate his preferences to Mr David King.
- Prior to his death Mr Baddock was suffering financial hardship and on Dr Bradshaw's instructions was allowed to work out of Mr Ronald Harman's real estate business.
- Shortly before his death there was a \$250,000.00 deposit into one of Mr Baddock's bank accounts.

- After Mr Baddock's death Ms Dawson paid \$20,000.00 cash for a car purchased from Mr Duffy, another Wanneroo Councillor, who owned a car yard and who was also the executor of Baddock's will.
- Ms Dawson nominated for council election and withdrew at the instigation of Dr Bradshaw and Mrs Rita Waters.

6.4.3 These allegations generally fall into two broad categories. First, there are those that suggest Dr Bradshaw and/or his associates had some involvement in Mr Baddock's death. The involvement was either direct, although that theory is not developed in any way, or there was an indirect involvement through threats and pressure. The allegation is linked to obscure references to lethal injections and drugs which cannot be traced. The second group of allegations imply that in the circumstances of his close association with Dr Bradshaw, Mr Baddock was involved in corrupt activities. In addition there are the ill-formed allegations concerning the circumstances of Mr Baddock's death and the involvement of Ms Dawson.

6.4.4 The Commission has dealt with the specific allegations in the course of these hearings but the question of Mr Baddock's involvement, if any, in corruption within the City of Wanneroo will be considered in more detail later when the broader issue of corrupt activities by councillors is addressed. The Commission has looked at the Craigie Roller Rink matter only in so far as it may have had an impact on Baddock's decision to take his own life.

6.5. The "Threats and Pressure" Theory

6.5.1 A useful starting point in considering the truth of the allegations is to look at the relationship between Dr Bradshaw and Mr Baddock. The two men were friends and were closely aligned on council. Their relationship began in 1985 when Dr Bradshaw offered campaign support to Mr Baddock and Mr Baddock accepted the offer. For present purposes it is unnecessary to decide whether the two men were aligned because Baddock was a follower who was easily influenced (as alleged by Mr Cooper), because they were simply like-minded or because they had some more sinister factor in common.

6.5.2 No witness before the Commission could assert any first hand knowledge that Dr Bradshaw ever threatened Mr Baddock with death, or with anything else for that matter. Nor is there any credible evidence that Dr Bradshaw pressured Mr Baddock in any way that could have contributed to Mr Baddock's death. Ms Waters, who was also considered to be aligned with Dr Bradshaw on the council, described Dr Bradshaw and Mr Baddock as good friends. She disputed any suggestion that Dr Bradshaw had ever threatened Mr Baddock and said she had never heard from anyone else that Bradshaw had threatened Baddock. Mr Duffy, who said he had considerable contact with Mr Baddock before his death, also said Mr Baddock never told him he had been threatened by Dr Bradshaw and he never heard any threat being made. Ms Dawson said she never heard Dr Bradshaw threaten anybody or say he could have people killed. Ms Dawson also said she had never heard Mr Baddock say he had been threatened by Dr Bradshaw.

6.5.3 Predictably, Dr Bradshaw denied ever putting any pressure on Mr Baddock other than pressuring him to get some help for his depression. Dr Bradshaw also denied ever threatening Mr Baddock.

6.5.4 Of course it might be expected that those people who were or are still closely aligned or connected with Dr Bradshaw would give evidence to the effect that Dr Bradshaw was blameless. On the other hand, there is very little support for the "threats and pressure theory" in the evidence of those on council who were not aligned with Dr Bradshaw, people who also had a great deal of contact with both Dr Bradshaw and Mr Baddock.

6.5.5 Mr Dammers gave evidence of a threat to him by Dr Bradshaw but not to Mr Baddock. While Mr Major put forward the view that Mr Baddock was someone who always did what Bradshaw wanted, he said he was not aware of any occasion on which Dr Bradshaw had threatened Mr Baddock. On the contrary, he said Dr Bradshaw advised and helped Mr Baddock with his eye problem. Mr Major even recounted an incident at a council meeting when Mr Baddock experienced some problem with his eyes and Dr Bradshaw went to his aid.

6.5.6 Ms Rundle's detailed notes on numerous Wanneroo related matters which were received into evidence make no reference to any pressure or threats when dealing with the circumstances of Mr Baddock's death.

6.5.7 Those who were once aligned or connected with Dr Bradshaw, but are no longer, were also asked for their observations on this subject. Mr Ronald Harman operated a real estate business for Dr Bradshaw. Mr Harman worked with Mr Baddock for some time prior to Mr Baddock's death. During that period Mr Baddock never said he was under pressure from Dr Bradshaw. Mr Baddock never said that Dr Bradshaw had threatened him in any way and Mr Harman never heard Dr Bradshaw make any threat to Mr Baddock. Mrs Nola Bradshaw said that while on occasions Dr Bradshaw and Mr Baddock had disagreements they got on reasonably well. She said she never heard her husband threaten Mr Baddock. Mrs Bradshaw had no apparent reason to mislead the Commission on this point; she was quite prepared to state that Dr Bradshaw had threatened her.

6.5.8 From the evidence before this Commission, there are two primary sources of the view that Mr Baddock was in some way under threat from Dr Bradshaw. First, Mr Marlborough recounted something allegedly said to him by Mrs Baddock in the course of a lengthy conversation he had with her on 28 July 1994. Mr Marlborough said he took notes of the conversation but they did not purport to be comprehensive. According to Mr Marlborough Mrs Baddock said to him:

"Although Rob was no longer living in the home - he physically lived over the back fence - and that he would be sat on that lounge, Norm, at 2 o'clock every afternoon, crying his eyes out, telling me how deeply he was involved in corrupt activities at Wanneroo, and how he didn't know how to get out of them; *that he was afraid of Dr Bradshaw, and that Dr Bradshaw would regularly threaten him with being able to be done away with.*" (italics added)

That part of the conversation was not referred to in Mr Marlborough's notes. If it were, I could be more confident in accepting it as an accurate recollection. Mr Marlborough said "it didn't have to be" in his notes because he would remember it. Mr Marlborough was clearly implying that the importance or significance of that part of the conversation would serve to imprint it on his memory.

6.5.9 The principal flaw in Mr Marlborough's explanation is his inability to recall other, equally significant, matters he failed to record. For example, Mr Marlborough said Mrs Baddock told him of a bank statement of Mr Baddock's showing a deposit of \$250,000.00 and a withdrawal of a like amount the following day. But Mr Marlborough could not remember whether

Mrs Baddock had shown him or provided him with a copy of the bank statement. Given Mr Marlborough's interest in the subject of corruption in the Wanneroo Council, the statement was a significant document by any measure. Indeed, Mr Marlborough agreed with that proposition:

"And would you not agree that, if you saw in the context of looking into corruption in Wanneroo a deposit of \$250,000 in an account of one of the councillors that that would be something that would be significant to you?---Yes.

And it would stick in your mind?---Yes."

But it did not. Mr Marlborough said his notes did not purport to record everything said in the course of his seven hour conversation with Mrs Baddock and one would not expect them to do so. However one would expect them to include matters of real significance such as an allegation that Dr Bradshaw had threatened to kill a fellow councillor.

6.5.10 Mrs Baddock's version of the conversation was different. She said Mr Marlborough told her Dr Bradshaw had threatened Mr Baddock and that Dr Bradshaw could kill someone with a lethal injection that could not be detected. Mrs Baddock was adamant that Mr Marlborough told her of these matters. She gave the following answers:

"And you said that Mr Marlborough told you that Wayne Bradshaw had threatened - -?---Yes; threatened Rob.

- - threatened Mr Baddock, and that he, that is Mr Bradshaw, could kill someone with lethal injections which couldn't be detected?---Yes.

That information, was that told to you by Mr Marlborough or was that told by you to Mr Marlborough?---No. Definitely not by me. He told me that because I wasn't aware of it."

Mr Marlborough denied supplying any information to Mrs Baddock. However if, as he said, he met with Mrs Baddock from 1.30 in the afternoon until around 8 o'clock that evening, it is unlikely the flow of information was all one way.

6.5.11 Mrs Baddock does admit telling Mr Marlborough that Mr Baddock had told her Dr Bradshaw had said he could have someone killed for \$2,000.00. She was, however, extremely vague about the

circumstances in which Mr Baddock gave her this information. Mrs Baddock said she did not recall Mr Baddock saying that to her in anger. She said it was not told to her in any threatening way and Mr Baddock could even have been joking. Despite being asked on several occasions about the circumstances in which she had been told this information she did not recount any event that accorded with Mr Marlborough's account as noted in paragraph 6.5.8.

6.5.12 Mr King said Dr Bradshaw never discussed the possibility of killing people by lethal injection. Ms Dawson and Mrs Bradshaw gave evidence to the same effect. Dr Bradshaw denied ever telling anybody he could kill a person in that way.

6.5.13 Another exponent of the threats and pressure theory is an ex-councillor of the City of Wanneroo, Mr Brian Smith. Mr Smith was a member of the council for three years from 1985 to 1988. He knew Mr Baddock but said they were not friends. Mr Smith considered Mr Baddock to be under the influence and power of Dr Bradshaw.

6.5.14 Mr Smith said he was convinced Mr Baddock was under a lot of pressure and strain. He was asked what he thought was the source of that pressure and strain and he replied, "(H)is family problems, the problems that were presented to him as a councillor and various other things." At a later point in his evidence he added that he thought Mr Baddock was under pressure from Dr Bradshaw. When asked to substantiate that opinion Mr Smith recounted an experience with Mr Baddock and Dr Bradshaw on the Town Planning Committee when Mr Baddock argued a view which was consistent with Dr Bradshaw's but contrary to Mr Smith's. Mr Smith also said Dr Bradshaw would "almost put questions into Mr Baddock's mouth". Mr Smith was unable to see any distinction between someone who cannot make up his own mind and therefore follows someone else and someone who is being pressured by the other person.

6.5.15 Mr Smith also recounted an incident when Mr Baddock appeared particularly distressed and asked him if a jump from the third floor of the council building would be enough to kill somebody. Without anything more, Mr Smith attributed Mr Baddock's manner on this occasion to pressure from Dr Bradshaw but he ultimately conceded that Mr Baddock could have been feeling under pressure from some other unsatisfactory aspect of his life.

In fact Mr Smith was aware that Mr Baddock had personal problems unrelated to council matters. Mr Smith said he never heard Dr Bradshaw threaten Mr Baddock, he never saw them arguing and there did not appear to be any animosity or aggravation between them.

6.5.16 The evidence of Mr Smith must be considered in the context of the factional divisions that existed at the time. In Mr Smith's view there was a caucus of councillors under the influence of Dr Bradshaw, of which Mr Baddock was one. He said that on occasions a number of those councillors would not know which way to vote and would look to Dr Bradshaw and put their hands up when and if Bradshaw raised his. He then said Dr Bradshaw's group would have meetings beforehand to get instructions on how to vote on matters. Mr Smith saw no contradiction in these observations. Nor did a number of other councillors who gave evidence to a similar effect. But there is some contradiction. If, as Mr Smith asserted, the decisions were orchestrated beforehand then the councillors would have known how to vote and would not have needed to follow Dr Bradshaw's lead.

6.5.17 The other proposition put forward by a number of councillors, including Mr Smith, is that Dr Bradshaw must have been influencing these fellow councillors in some inappropriate fashion because they always voted alike. Unfortunately the minutes of council meetings do not allow that proposition to be tested statistically because for resolutions where no division was called they do not record how individual councillors voted. The exponents of the pressure theory do not, however, appear to have considered the possibility that the councillors voted alike simply because they thought alike; they saw things in the same way.

6.5.18 Mr Smith was not able to point to any fact or circumstance which established or would even suggest that the voting pattern he said existed arose from undue influence by Dr Bradshaw. He expressed the unkind and broad generalisation that the councillors concerned lacked the intellectual ability to decide the issues for themselves. The readiness of Mr Smith to draw adverse inferences without considering less sinister alternatives is a matter for concern. It detracts from the force of his evidence on other matters. I conclude that the evidence of Mr Smith must be viewed with caution.

6.5.19 In the course of his evidence he manifested an intense dislike for Dr Bradshaw which he said arose from his dealings with Dr Bradshaw just

prior to his own election to council. For present purposes it does not matter whether his dislike is soundly based or not. It is clear to me that, despite Mr Smith's denial, it has coloured his perception of events to the extent that if there are two possible inferences to be drawn and one is adverse to Dr Bradshaw, he will draw the adverse inference.

6.5.20 Mr Smith was the only witness to give credence to the theory of death by untraceable lethal injection. He was asked about a statement he made to Mr Kyle that he would not be surprised if Mr Baddock's suicide was not suicide at all. When questioned on this statement Mr Smith was unwilling to alter his opinion even when the basis of his view was shown to be false. The issue arose in this way. Mr Smith said he considered it too coincidental that Ms Dawson found Mr Baddock's body so quickly amongst dozens and dozens of tracks in the Yanchep-Wanneroo area. Mr Smith formed that view in ignorance of the fact that Ms Dawson had made numerous attempts to find Mr Baddock at other locations before ultimately finding him at Yanchep. Mr Smith had no idea what attempts Ms Dawson had made to find Mr Baddock but he was not at all inhibited by a lack of basic facts in putting forward his view.

6.5.21 Mr Smith was then asked whether there were any other factors that contributed to the view he had expressed about Mr Baddock's death. It was at this point that Mr Smith stated, "it has been suggested via newspaper reports of people being able to get rid of other people by injection". Initially Mr Smith said he was not meaning to suggest that was the case with Mr Baddock's death. Mr Smith was then reminded of the forensic evidence and asked these questions:

"Now, being aware of that, would you still express the view that you expressed to Mr Kyle, that you wouldn't be surprised if suicide wasn't suicide at all?---Yes.

Based on what?---I believe that there does exist ways to either drug somebody or get rid of them permanently with no trace being left; no identifiable trace. I'm not a forensic person but I just - -

No, and where did you get that piece of information from?--It's just - - you know, I'm 53 years old. You learn these things."

6.5.22 The allegation that Dr Bradshaw pressured or threatened Mr Baddock to the point where the pressure or threats were a contributing factor or the cause of his death, is not substantiated by any credible and

reliable evidence. Nor is the death by lethal injection theory. Mr Smith's evidence on these points does not withstand scrutiny. Mr Marlborough relies on statements he claims were made to him by Mrs Baddock, statements she denies were said.

6.5.23 In any event, Mrs Baddock herself cannot be described as impartial in her view of these matters. Even Mr Marlborough conceded that Mrs Baddock's general demeanour at the time of his conversation with her was "that she was extremely nervous, extremely frightened ... It was very difficult to ask her questions in any detail about anything without her saying she had very little knowledge, or saying she didn't want to talk about it". Mr Marlborough was asked:

"Well, would that not caution you about the strength, the veracity of what she was telling you?---Yes. It would have."

If she wasn't able or prepared to back up her allegations, or her statements, with further information, would that not cause you some caution?---Yes.

And some concern?---Yes."

6.5.24 It was apparent from Mrs Baddock's evidence that she has a tendency to believe what she is told without question and to pass on the information as fact, not necessarily in the same terms. This unfortunate approach to the dissemination of information was not limited to Mrs Baddock. An example of Mrs Baddock's tendency to uncritically accept and distort information told to her is the notion of a lethal injection. Mrs Baddock told the Commission that apparently her husband had a lethal injection in his possession at the time of his death. When asked about this she said she was told this by a Commission investigator. When questioned further she confirmed that what she had in fact been told by the investigator was that the Police Missing Person Report on Mr Baddock's disappearance contained a statement that Mr Baddock was believed to be in possession of injections used for animal destruction. She said she did not give that information to the police. She agreed it was never suggested to her by the Commission investigator that any injection was actually found in his possession.

6.5.25 According to Mrs Baddock the mere fact she was told there was a reference to injections used for animal destruction in the Missing Persons Report caused her to panic until she was told no injection had been found. How she translated that into a positive statement to this Commission that a

lethal injection had been found in the possession of Mr Baddock is not clear. Her only explanation was that she tended to take people at their word and believe what people say to her. She said she could not imagine someone saying "that" if it was not true. Unfortunately, when Mrs Baddock's approach to information she receives is coupled with the inconsistencies in her evidence she must be viewed as an unreliable witness. That is not to say she is necessarily a dishonest witness.

6.5.26 Finally, on the question of pressure and threats, the assertion that Mr Baddock was suffering financial hardship and on Dr Bradshaw's instruction was allowed to work out of Mr Harman's real estate business is correct. Mr Harman confirmed this arrangement although he included Mr Baddock's personal and health problems as other contributing reasons for Dr Bradshaw's request. However, it is difficult to see how this situation could support an allegation that pressure or threats were being exerted or made by Dr Bradshaw against Mr Baddock. It really has no more effect than to support the other persuasive evidence of a reasonably close and friendly relationship between the two, or at least a desire on the part of Dr Bradshaw to help rather than harm Mr Baddock.

6.6. Allegations of Involvement in Corruption

The Craigie Roller Rink Matter

6.6.1 The allegation concerning the Craigie Roller Rink matter first came to light on Wednesday 8 July 1987 when Mr Pavlinovich's planning consultant, Mr Webb, contacted the then mayor, Mr Brian Cooper. Later on the same day as the initial contact there was a meeting between Mr Pavlinovich, the mayor and the Town Clerk, Mr Coffey, to discuss the allegation.

6.6.2 The circumstances in which the conversation between Mr Webb and Mr Cooper took place are immaterial for present purposes. It is the subsequent events with which the Commission is concerned. There was, however, a conflict between the evidence of Mr Cooper and Mr Webb which leaves open an interpretation which could reflect adversely on Mr Webb. For that reason I must briefly refer to their evidence on this point.

6.6.3 When Mr Cooper gave evidence he recounted his conversation with Mr Webb as follows:

"Was there an occasion on which a particular matter of concern was raised with you about the Craigie Roller Rink?---I did receive a phone call one day from the chap who was the planning consultant for Mr Pavlinovich or the group.

Who was that?---I forgot what his name is now. Peter something I think it is. It's a long time ago. He had spoken to me on a couple of occasions but on this particular occasion he made reference to money and I asked him to basically run the comments past me again.

What reference did he make to money?---Whether they could give council money and get the thing through and I questioned him on the basis that - - did he mean that council could end up with half the land or something like that. He said, "No". He said, "I was thinking more on - -". Remember we're talking about 1987. It's a long time ago. The exact words get away from me but he said, "No. Could we give councillors money and get it through?" and I said, "I may as well tell you now that when I put the phone down I'm going to call the police".

His reaction to that?---He said, "No. Don't call the police". I said, "Well, really no choice under the Local Government Act but to call the police and name you." He said, "Could you leave it go for a few minutes and I will get Mr Pavlinovich to call you?" From what I remember, I gave him a period of time to call me - - and which Mr Pavlinovich did."

6.6.4 When Mr Webb gave his evidence he said he was appalled when he read in the press Mr Cooper's account of their conversation. He was adamant he had not offered to pay money to facilitate the rezoning application then before Council. He gave the following account of the conversation:

"No, I phoned Councillor Cooper and advised of a matter of particular sensitivity that I wished to discuss with him and he, reasonably, in my view, suggested that he would like to have some information about that before agreeing to meet with him, and so I was, I suppose, required to explain in more detail what that matter was, and I then explained that a client of mine had been contacted by a councillor and that that councillor had asked for payment to ensure that the scheme amendment or the rezoning that he was trying to achieve would go through."

6.6.5 In the light of Mr Webb's evidence Mr Cooper was recalled but he maintained his version of events and stated that his recollection of the incident was pretty clear. Mr Cooper also said he was "100 per cent sure" he had told Mr Webb he was going to call the police when he put the telephone down, a recollection which Mr Webb disputed. Mr Cooper made specific reference to a statement he had given the police as support for his version of events. He said:

"Did you say to Mr Webb at any stage since your evidence (to this Commission) or since his evidence that you would retract your version of events?---No. What he rang me and asked me was whether I could have mixed up the conversation - any of my conversations - between what he said and what Mr Pavlinovich said, and there is that possibility. I mean, a couple of long conversations about the same matter a few minutes apart, there is a possibility that I have. I suggested to him that he go and get the statement that I made eight - - 9 years ago, which would probably be more accurate than my recollection of it. And if you remember, I went to the police the next day, so it would have been very fresh in my mind at the time."

6.6.6 But the police statement to which Mr Cooper referred does not support his recollection of events. On the contrary, the account given in the statement is more consistent with Mr Webb's evidence. Part of Mr Cooper's statement to the police is as follows:

"He told me that he had the information that we had discussed during our previous conversation and the owner was preferred (sic) to give me that information.

He then said . "A person on the Council had approached them and for a sum of money, the premises could be rezoned (sic)."

I told him that I thought that this was a very serious allegation and asked him if he could substantiate his statement in writing.

He then told me that the owner, Mr PAVLINOVICH could and I told him that I would like to talk to Mr PAVLINOVICH.

He then told me that he would have Mr PAVLINOVICH ring me in five minutes.

After I hung up the phone, I received a further call within five minutes."

The statement does not include any reference to calling the police when he put the phone down as positively asserted by Mr Cooper in his evidence before the Commission. Mr Webb made a statement to the police on the

matter on 23 February 1995 which concludes at the point where he contacts Mr Cooper. It is consequently not of any use for comparison purposes.

6.6.7 I have no doubt that Mr Cooper's recollection of his conversation with Mr Webb is substantially flawed. In particular, I am satisfied that his evidence of an apparently corrupt approach on the part of Mr Webb for his client Mr Pavlinovich is incorrect. I do not suggest that Mr Cooper deliberately attempted to mislead the Commission but it is surprising he did not take more care before making such a potentially destructive accusation.

6.6.8 According to a note left by Mr Baddock, he too was contacted about the Craigie Roller Rink matter on Wednesday 8 July 1987 but by Mr Pavlinovich himself. According to the note, Mr Pavlinovich appeared to be under the impression that Mr Baddock was either part of the group requesting a bribe or prepared to be part of it.

6.6.9 On Thursday 9 July the matter was referred to the police by Mr Coffey who had been advised of the situation by Mr Cooper. The inquiry was put into the hands of Detective Sergeant Griffiths from the Wanneroo CIB.

Other Allegations of Involvement with Corruption

6.6.10 I turn now to the allegation that Dr Bradshaw took two of Mr Baddock's diaries from Mr Duffy who was the executor of Mr Baddock's will or, on another version of the story, perhaps from Ms Dawson. This allegation also has its origins with Mrs Baddock and Mr Marlborough. Mr Marlborough put the allegation in this way:

"The two diaries in the conversation came about by Marion telling me that Rob had a box, a cardboard box like a tea chest size, that was full of personal items that she would have expected to come back to her after his death; that she had seen the contents of that box and that in that box there were two diaries. She had read them. One of them was specifically to do with council matters, with Wanneroo issues, *and pointed to forms of corruption - - corrupt activities - - her words - - that could have taken place.* The other one was a personal diary." (italics added)

6.6.11 According to Mr Marlborough's note of the conversation, Mrs Baddock was told by Mr Duffy that Dr Bradshaw had taken the diaries.

Mrs Baddock said she told Mr Marlborough there were two diaries but she did not say Dr Bradshaw took them because she did not know what had happened to them. She said she had seen the diaries when she and Mr Baddock reconciled for a short time in 1986 but did not say she had read them. Mrs Baddock admitted she had no way of knowing whether Mr Baddock still had the diaries at the time of his death. Mrs Baddock was specifically asked by Counsel Assisting whether Mr Duffy had told her Dr Bradshaw took the diaries or had the diaries. She denied he had done so. The answer conflicted with what she had told the police in the course of an interview in May 1994. Mrs Baddock could not explain the discrepancy other than to say she was upset at the time she spoke to the police because they had told her that her husband's death was not suicide.

6.6.12 There are two references in Mr Marlborough's notes in relation to the diaries. Neither refers to the diaries containing information about "corruption ... that could have taken place" as Mr Marlborough asserted. Mr Marlborough was questioned about this information concerning corruption. His response was very surprising - he said he did not ask. Mr Marlborough said he did not go into details because initially Mrs Baddock would not permit him to take notes. He then said that after three hours he convinced Mrs Baddock it was necessary to "put things on paper" so he went back and tried to revisit some of the things he had been told. It is surprising he did not revisit the question of information in a diary concerning corruption. It would seem to have been central to his interest in the whole affair. Mr Marlborough was asked:

"Did you ask her about what sort of matters?---No. I can't say that I did. I don't recall specifically raising those sort of matters.

But isn't that the sort of thing that you were interested in?---It was.....

You had a specific interest in allegations of corruption in Wanneroo?---Yes."

When pushed further on why he would not have asked the obvious questions Mr Marlborough said he did not ask them because Mrs Baddock was extremely nervous and frightened. That answer is hollow when it is kept in mind that Mrs Baddock was not too nervous or frightened to talk for some seven hours about very personal matters to someone she had never met before.

6.6.13 Ms Dawson was also asked about the diaries. She confirmed there were two. One was an appointments diary for notes of council meetings and functions. According to Ms Dawson, Mr Baddock never wrote down what transpired at those meetings and generally left the diary open and lying around. The other was a personal diary in which Mr Baddock wrote notes of exchanges with Mrs Baddock and his sons. It seemed to Ms Dawson to pertain mostly to Mr Baddock's matrimonial problems. She was unable to say what had happened to the diaries.

6.6.14 Ms Dawson's evidence must, of course, be considered in light of the fact that she has admitted previously lying on oath to Mr Kyle. While that conduct is inexcusable Ms Dawson indicated that her lie was in relation to one matter only and she ultimately drew it to the attention of the authorities of her own volition. There were no apparent contradictions in her evidence nor was any portion of her evidence inherently implausible. Ms Dawson's demeanour in the witness box was not a cause for concern. She gave every indication of attempting to answer questions put to her fully and honestly, even where they could be expected to cause her some embarrassment. In general I found Ms Dawson to be a credible witness. In all the circumstances I prefer her evidence on the diary issue.

6.6.15 I find there is no basis to conclude that Mr Baddock's diaries contained evidence of corruption. Further, on the evidence before the Commission it is not open to me to find that Dr Bradshaw took Mr Baddock's diaries after his death.

6.6.16 There is also no evidence to support an allegation that Ms Dawson paid \$20,000.00 cash to purchase a car from Mr Duffy. Ms Dawson did say that a few weeks after Mr Baddock's death she purchased a car from Mr Duffy. She said her car was old and dangerous and previously she had been able to use Mr Baddock's car. She bought a car from Mr Duffy worth about \$10,000.00 and paid for it with \$2,000.00 of her savings and the remainder borrowed from her father. Ms Dawson produced documentation which supported the loan from her father and the fact that it was repaid over the following year or so.

6.6.17 I have already expressed the view that any analysis of the evidence concerning the alleged \$250,000.00 deposit and withdrawal and all other financial matters relating to Mr Baddock are best dealt with in the wider

context of corruption with which this Commission will deal in future sittings. Similarly, the allegations that Dr Bradshaw attempted to persuade Mr Baddock to withdraw his nomination for election to Council by offering him money and, when refused, then offered to finance Mr Baddock's campaign, will also be dealt with in that wider context. Most of the remaining allegations are laid to rest by an analysis of the evidence concerning the circumstances surrounding Mr Baddock's death.

6.7. The Circumstances Surrounding Mr Baddock's Death

6.7.1 Except where otherwise indicated I accept the following evidence as accurately describing the circumstances and events which culminated in the discover of Mr Baddock's body on Monday 13 July 1987. In the course of that description I deal with a number of the allegations that have been raised concerning those circumstances and events.

6.7.2 Ms Dawson said that on the afternoon of Friday 10 July she accompanied Mr Baddock to the City of Wanneroo offices for a meeting with Mr Cooper. She thought the meeting had been pre-arranged. Mr Cooper confirmed that Mr Baddock had telephoned and asked to see him. Ms Dawson, who waited in the car, said the meeting was quite lengthy. Mr Cooper said Mr Baddock did see him and appeared to be very worried. Mr Cooper said Mr Baddock spoke about Mr Pavlinovich. He told Mr Cooper there were councillors who could be taking money to do with the Craigie Roller Rink but did not mention any names. Mr Cooper did not give him any information but sent him off to see Detective Sergeant Griffiths at the Wanneroo CIB. Ms Dawson said that after the meeting she and Mr Baddock drove to the Wanneroo police station but it was closed. She said Mr Baddock then told her he was going to go home and write it all down.

6.7.3 There is an unexplained discrepancy in the evidence at this point. According to Ms Dawson, after they left the police station she and Mr Baddock went to see Dr Bradshaw's father, Mr Jack Bradshaw, in hospital before going home. Mr Baddock then sat at the dining room table and wrote out a statement concerning the Craigie Roller Rink matter. The statement was received in evidence. Ms Dawson said Mr Baddock may have gone to the Warwick police station the following morning. In fact Mr Baddock saw Detective Mansas at the Warwick police station for approximately two hours prior to Detective Mansas ceasing duty at 7pm on Friday 10 July. According

to Detective Mansas, Mr Baddock appeared upset and spoke to Detective Mansas of a number of things including a problem with his wife. He made a brief statement distancing himself from the Craigie Roller Rink allegation which was passed to Detective Griffiths on the Monday.

6.7.4 On Saturday 11 July 1987 Mr Cooper said Mr Baddock telephoned him and spoke of a whole range of personal matters. He told Mr Cooper he had been to see the police and was going back on the following Monday to make a full statement. Contrary to his impression during the conversation on the Friday, when Mr Cooper described Mr Baddock as "agitated and not entirely coherent", he described Mr Baddock on the Saturday as being in "very good spirits". Ms Dawson said that later on the Saturday he was slipping back to worrying and "getting down again".

6.7.5 Since Mr Baddock's movements on the Sunday before his death, 12 July 1987, have been the subject of considerable comment and conjecture, I will attempt to set out the chronology from the evidence before the Commission. According to Ms Dawson, on that day Mr Baddock was very quiet and keeping very much to himself. Mrs Baddock said he went to her home at around 9 or 10 o'clock in the morning. Mr Baddock did not stay long. Mrs Baddock said he looked terrible and appeared very stressed. He gave his youngest son a hug and asked about his other son who was not at home at the time. That was the last time he was seen by his family.

6.7.6 At some point on that day Mr Baddock went to the home of his girlfriend Ms Michelle Anderson and placed in her letter box a cassette of some music he had taped for her. Ms Anderson was unable to say when Mr Baddock did that.

6.7.7 Ms Dawson said Mr Baddock was at home when she left the house to go for a run about the middle of the day. He was gone when she returned. She said she was very worried so took her car and went looking for him. She said she finally found him at his sister's house at around 3.30 or 4 o'clock in the afternoon. She said Mr Baddock was distressed and had been crying. He was not pleased to see her and said he was going to see Dr Bradshaw although he did not say why. Mr Baddock then left the house. That was the last time Ms Dawson saw Mr Baddock alive.

6.7.8 Ms Dawson said she stayed at Mr Baddock's sister's house for about an hour before going to Dr Bradshaw's house to see if Mr Baddock's car was there. She could not see Mr Baddock's car there nor any other cars. Ms Dawson said she did not look around or knock on the door but it was her belief there was no-one at home. She said her heart sank because she had lost the trail.

6.7.9 A number of people have expressed the belief that Ms Dawson, on finding Mr Baddock missing, simply drove to Yanchep, went down the first track she saw and found his body in his car. In fact, she gave evidence of having looked for him in numerous locations. Ms Dawson said that after leaving Dr Bradshaw's house she drove around looking for Mr Baddock. She went to the Ocean Reef Marina, the Hillarys Marina and a number of Mr Baddock's favourite haunts with no success. She said she returned home at about 6pm. She then telephoned Dr Bradshaw but could raise no response and left a message on his paging machine.

6.7.10 It seems clear on the evidence of Dr Bradshaw and Mrs Bradshaw that Mr Baddock went to their house before going to see his sister. Mrs Bradshaw puts the time at about 1.30 - 2pm while she and her family were having a late lunch. Mrs Bradshaw said Mr Baddock had telephoned earlier and she had invited him over. She thought he appeared depressed. Mrs Bradshaw was intending to travel south on a holiday trip with her son and an exchange student later that afternoon and invited Mr Baddock to join them. According to Mrs Bradshaw Mr Baddock said he would like to join them but he would first have to get some money. The matter was left on the basis that he could meet up with them later in Harvey. Mrs Bradshaw did not see or speak to Mr Baddock again after that day.

6.7.11 Dr Bradshaw confirms this basic chronology. In the light of my observations elsewhere in this report on his credibility, I view Dr Bradshaw's evidence with some caution. Dr Bradshaw said he last saw Mr Baddock on the Sunday, 12 July, between 2 o'clock and 4 o'clock in the afternoon. He said Mr Baddock was very distressed at the time. Dr Bradshaw said he tried to persuade Mr Baddock to either stay with him or accept Mrs Bradshaw's invitation to join them for the trip down south. Dr Bradshaw believed Mr Baddock did not really want to go down south but he did say he would think about it. Dr Bradshaw did not ever think Mr Baddock would join his wife.

He said Mr Baddock left before Mrs Bradshaw. Dr Bradshaw said he later went out.

6.7.12 Some people have asserted that Mr Baddock's apparent acceptance of the invitation to meet up with Mrs Bradshaw and her party at a later time is in some way inconsistent with his subsequent death by suicide. Ms Rundle in her notes, after referring to Mr Baddock's conversation with Mrs Bradshaw, commented that "(Mr Baddock) gave no indication he planned to commit suicide". The assertion appears to be based on the assumption that suicides must be planned in advance; that Mr Baddock could not have accepted such an invitation and then within hours decided instead to take his own life. It also overlooks the possibility that Mr Baddock may never have intended to accept Mrs Bradshaw's offer and had already planned his suicide. In my view there is no inconsistency in Mr Baddock's conduct, as described by Mrs Bradshaw, and his later decision to take his life.

6.7.13 Mr Cooper put forward a similarly untenable basis for doubting the Coroner's finding of death by suicide. He said that after speaking to Mrs Baddock a couple of years after Mr Baddock's death he "wouldn't have been surprised that he hadn't committed suicide" and he had some doubts about it. He repeated this opinion in discussions with others. It appears Mr Cooper's view is based on little more than the fact that Mr Baddock did not go to see Detective Griffiths on the Monday he died, contrary to the intention he expressed to Mr Cooper on the previous Saturday, and the fact that Mr Baddock seemed to him to be very well and in good spirits on that day. There is clearly nothing in either of those circumstances which could cast any doubt whatever on the otherwise conclusive evidence that Mr Baddock committed suicide.

6.7.14 To resume the chronology, Mrs Baddock said that Mr Baddock contacted her again by telephone some time in the afternoon of Sunday 12 July 1987. Mrs Baddock said a number of times that Mr Baddock told her "I love you very, very much. There's enough money to pay the house off ... and please don't come to my funeral." If Mrs Baddock's recollection is accurate that would appear to be a fairly clear indication of Mr Baddock's intentions at the time. Mrs Baddock said Mr Baddock made a couple of telephone calls to her home on that day. She thought he wanted to talk to his other son who he had not seen when he visited in the morning. She said he

called again at about 6pm and spoke to his son. Mrs Baddock said the call was STD but Mr Baddock did not say from where he was calling.

6.7.15 Mrs Waters said she was driving down Two Rocks Road on the Sunday evening at about sundown and passed Mr Baddock driving north. She said she waved at him but he did not respond. It seems likely that Mrs Waters was the last person who knew Mr Baddock to see him alive.

6.7.16 On the Sunday evening between 7 and 8pm Mrs Baddock and Ms Dawson spoke on the telephone. There is, obviously and understandably, no love lost between the two women. There is some conflict about the terms of the telephone contact which it is unnecessary to resolve. The Commission is not concerned to determine which of the two was the most concerned for Mr Baddock's safety. Clearly they were both extremely concerned and with good reason.

6.7.17 Dr Bradshaw said that either on the Sunday night or the Monday morning Ms Dawson came to his house looking for Mr Baddock. Ms Dawson's evidence contradicts this account and in my view should be preferred. Ms Dawson said she had left urgent telephone messages for Dr Bradshaw and he rang her back the following morning, Monday, at around 7 o'clock. Ms Dawson produced a contemporaneous note of her conversation with Dr Bradshaw in which she recorded that Dr Bradshaw said he spoke to Mr Baddock at about 4.30 pm and told him he would be home at about 8 o'clock. Ms Dawson said it was she who asked Dr Bradshaw to telephone Mrs Baddock. She said she did that because she was reluctant to ring Mrs Baddock herself. Ms Dawson obviously wanted to know whether Mrs Baddock had any further news. Dr Bradshaw telephoned Mrs Baddock who then rang Ms Dawson.

6.7.18 I accept the evidence of Ms Dawson as to the sequence of events. I conclude that there was nothing sinister about Dr Bradshaw telephoning Mrs Baddock early on the Monday morning and suggesting she contact the police to report Mr Baddock missing. Ms Dawson had requested Dr Bradshaw's assistance. The suggestion Dr Bradshaw made to Mrs Baddock was, in the circumstances, appropriate and sensible. Indeed, if he had in some way been implicated in Mr Baddock's death, contacting Mrs Baddock in that way and making the suggestion he did would have been most unwise.

6.7.19 Mrs Baddock said she rang Ms Dawson at approximately 9am on Monday 13 July and told Ms Dawson there had been no further telephone calls to her house and she intended to report the matter to the police. This she did and the police then also contacted Ms Dawson. Both women dispute giving the police certain of the information in the Missing Person Report. On the assumption that the police officer completed the form accurately from the information he was given, it must have come from one or other of Mrs Baddock or Ms Dawson.

6.7.20 According to Ms Dawson she did not speak to Dr Bradshaw again on the Monday. She said that rather than stay at home she drove around looking for Mr Baddock. She said she knew he had an affinity with the coastal strip so she drove along tracks on the west side of Wanneroo Road. She went to Burns Beach and also tried tracks north of the Ocean Reef area off Wanneroo Road. She said she searched for over an hour before returning home. After her return Detective Griffiths arrived to interview Mr Baddock. Ms Dawson said she told Mr Griffiths of her fears and he took possession of Mr Baddock's handwritten statement concerning the Craigie Roller Rink matter and left a note for Mr Baddock to contact him.

6.7.21 Early on the afternoon of Monday 13 July Ms Dawson spoke to Mr Baddock's mother who told her she had a voice going on in her head saying "Yanchep". She said she decided to drive to the Yanchep area but first checked some other tracks on the way, further north from where she had searched in the morning. When she got to the Yanchep National Park she took what she perceived to be the first track. It was down that track that she found Mr Baddock's car and his body.

6.7.22 Much has been made of the supposedly remarkable coincidence of Ms Dawson locating the body. Certainly the idea that Mr Baddock's mother was hearing voices in her head should be viewed with some caution. On the other hand, both women were close to Mr Baddock and I would not reject out of hand the suggestion that the closeness of their relationship with him would give the women some insight into his thought processes and therefore his possible whereabouts. More importantly, the track on which Ms Dawson found Mr Baddock's body was far from the first she had searched. It may have been the first track in the Yanchep National Park she had driven down but she had searched a number of other locations. There have been suggestions that there is something sinister in the fact that Ms Dawson found

Mr Baddock's body. On one view Ms Dawson did no more than repeat Mr Baddock's behaviour; she drove to Yanchep National Park and drove down the first track. In any event there is absolutely no evidence which in any way implicates Ms Dawson in Mr Baddock's death. There is no evidence that anyone other than Mr Baddock himself was involved.

6.7.23 It is, I believe, unnecessary to recount the evidence concerning the scene of Mr Baddock's death. There are really only three relevant factors. First, there was no suicide note. The only documents left by Mr Baddock were the two statements concerning the Craigie Roller rink matter, one of which he made to Detective Mansas, neither of which concerned his personal circumstances or explained his subsequent actions. Secondly, there was evidence of a small fire near the car but it was not consistent with the burning of large quantities of documents. There was no apparent attempt to destroy evidence. Ms Dawson thought the ashes may have been of photographs; one of the police officers considered it was a martial arts type of belt and paper from a martial arts book. Thirdly, it is also apparent from the evidence of Ms Dawson and the police officers that Mr Wayne Smith was not the first police officer on the scene. There is no evidence to suggest that Mr Smith ever attended the scene of Mr Baddock's death and conclusive evidence to the contrary from those who did attend.

6.7.24 After Mr Baddock's death Ms Dawson did stay with Dr Bradshaw for a short time. Both Ms Dawson and Mrs Bradshaw agree that occurred. There was no suggestion from either witness that the invitation was based on anything but concern for someone who had suffered a loss. There is certainly nothing to suggest there was any kind of close relationship between Ms Dawson and Dr Bradshaw at the time, although such a relationship developed later. Dr Bradshaw had denied to Mr Kyle that Ms Dawson had stayed at his house and told this Commission he had forgotten she had done so. While Dr Bradshaw admitted he had lied on oath when he told Mr Kyle he had never had a relationship with Ms Dawson, he denied he had lied about her staying at his house. Dr Bradshaw said he lied about their relationship out of gallantry and because he believed Mr Kyle had an inordinate interest in a matter outside the bounds of his inquiry. It is apparent from his evidence on this point that Dr Bradshaw believes, quite erroneously, that he is justified in lying on oath in certain circumstances. In my view it is more likely than not that Dr Bradshaw saw the fact that Ms Dawson had stayed with him after Mr Baddock's death as in the same category as the fact

of their subsequent relationship and as justifying lying on oath. I believe he knew full well Ms Dawson had stayed at his house, that he had not forgotten and he did in fact lie to Mr Kyle and has therefore misled this Commission about the matter.

6.7.25 The fact that Dr Bradshaw misled the Commission on the point is only material to the issue of Dr Bradshaw's credibility. It raises no questions relevant to the circumstances of Mr Baddock's death.

Remaining Issues

6.7.26 The allegation that Ms Dawson decided to withdraw from the Council election at the instigation of Dr Bradshaw and Mrs Waters is difficult to categorise but, in any event, it is not supported by any evidence. Ms Dawson said she decided to run for council because of her dislike for Mr David King who she thought to be dishonest and not worthy of being a councillor. It appears that few would disagree with her assessment. She said she discussed the matter with Dr Bradshaw, but only after she had nominated, and also with Mr Coffey. The decision to withdraw was her own, made without any pressure being placed on her by others. Ms Dawson decided her personality or character was not suited to public speaking and public gatherings. With no disrespect intended, Ms Dawson's demeanour in the witness box would support that conclusion and the wisdom of her decision.

6.7.27 There has been some suggestion from Mrs Baddock that she was not sufficiently informed about the circumstances of her husband's death. There has also been criticism of the fact that neither she nor Dr Bradshaw were interviewed to establish when and in what circumstances they had last seen Mr Baddock.

6.7.28 No doubt the first criticism arises from the fact that while Mr Baddock was still legally married to Mrs Baddock he was living with Ms Dawson in a de facto relationship and had been for some time. Initially the Coroner wrote to Mrs Baddock. Although the coronial enquiries had not been completed at that stage, the letter contains an offer to Mrs Baddock to contact the Coroner if she required any assistance. At the conclusion of his inquiries, however, the Coroner wrote to Ms Dawson to advise her of the outcome. This was understandable in view of the fact that by that time the Coroner was aware Ms Dawson had been living with the deceased at the time

of his death, had found the body and had supplied the statement to the police. I am satisfied the fact that Mrs Baddock was not further notified was nothing more than an administrative oversight which could easily have been rectified if Mrs Baddock had simply contacted the Coroner in accordance with his earlier invitation.

6.7.29 As to the criticisms of the police inquiry, I would make these observations. Ideally it would have been preferable for the police to have interviewed Mrs Baddock and she would have told them she had spoken to Mr Baddock after he was last seen by Ms Dawson. Similarly, if the police had interviewed Dr Bradshaw he would have told them he had seen Mr Baddock on the Sunday afternoon. However that information could have had no impact on the Coroner's conclusion as to the cause of Mr Baddock's death. The coronial investigation may not have been completely comprehensive but it was sound. Similarly, the conclusions may not have been communicated personally to Mrs Baddock but they were accurate.

6.8. Factors That May Have Contributed to Mr Baddock's Decision to End His Own Life

6.8.1 The reasons which may have prompted Mr Baddock to commit suicide are numerous. When those reasons are aggregated, it is difficult to see how it could reasonably be suggested that he died in any other way.

6.8.2 As I have noted, Mr Baddock suffered from a chronic eye problem which caused consistent and severe pain. More significantly, at the time of his death he was being treated for a depressive illness from which he had suffered from at least October 1985. Mr Baddock's general medical practitioner, Dr Malcolm Washer, described Mr Baddock as "a very uptight type personality" whose behaviour was at times completely irrational. He gave the following assessment of his medical problems:

"Leaving aside any minor ailments that he sought your assistance about, did he suffer from any medical problem? --Well, certainly his major problems were basically his eye problem, which I think are recorded in letters submitted to the Commission, where he had burnt his eyes chemically while working for Telecom, that he was retired on, and he had consistent pain as a result of that. But the other major problem was really that Rob, particularly in the latter year or so prior to his death, was preoccupied with suicide."

Dr Washer also said treatment gave little positive result. He elaborated as follows:

"But he was just a very determined, almost - - I suppose in the trade you'd call it a - and I hate the word - neurotic. A determined personality to be unhappy and end his life under certain situations and that really is impossible to treat. I mean, you'd need a 24 hour bodyguard. There's nothing you can do to stop that."

6.8.3 Dr Washer also described how Mr Baddock had made a number of previous suicide attempts and often expressed a desire to take his life. Dr Washer said the first major emotional difficulty for which he treated Mr Baddock was what he described as a "situational crisis". That occurred on 9 January 1986 when Mr Baddock consulted Dr Washer in his surgery. Dr Washer describes the event as follows:

"Leaving aside the physical problems that he had, did you refer him for any specialist treatment?---Yes. Rob had follow-up, of course. I put him into Wanneroo Hospital in January of 86 with a crisis then where he was suicidal, which we call a situational crisis, and he was in hospital just for a few days. He was agitated to get out of hospital. He's one of those sort of people who are hard to pin down.

Did that situational crisis resolve itself, or was it resolved?---His agitation about the situation changed over a period of a few days. He wanted to be discharged from hospital which was reasonable at that time, but the - - Bob was the sort of personality - - every time I saw him, he had a problem, you know what I mean? He was always bent on taking his life or having a miserable or a bad time."

6.8.4 Mr Baddock's first attempt at suicide was in September 1986. He was admitted to hospital on 18 September 1986 with a drug overdose. There was some suggestion in the hospital documents that the attempt was no more than an impulsive overdose. Dr Washer took a different view:

"It says "Progress and treatment: This man was reviewed by Dr Stanford, a psychiatrist, who felt that this was an impulsive overdose following a more recent intensification of long-standing neurotic conflicts with his wife". Did you agree with that diagnosis?---No. I thought Bob was more a serious fellow. I thought that - - I felt quite convinced ever since I met Bob in November of 85, and it's certainly in my records here that I have, that he was serious about attempting to take his life, and I don't know whether on that particular time he was dead serious, but he

certainly gave the impression that he was deadly serious that he didn't want to continue living.

It also goes on to say, according to Dr Stanford that "He", that is Baddock, "was not clinically depressed". Did you agree with that?--No. I didn't agree with that."

6.8.5 Mr Baddock's next suicide attempt was in May 1987 when he took an overdose of one of the drugs prescribed by Dr Washer to treat his depression. The In-Patient Summary from his admission to hospital on that occasion referred to Mr Baddock's "continuing suicidal ideation", a diagnosis with which Dr Washer agreed. The final diagnosis on the In-Patient Summary included the comment that Mr Baddock suffered from "an anti-social personality disorder". Dr Washer agreed with that diagnosis also and added:

"..... I think Bob was hard on himself. I think he also probably was hard on his family because of his own problems at times, too. You know, I think he was just an unhappy sort of a person. He'd become unhappy so I guess that would reflect over and create unhappiness for others.

I appreciate that you've said that his problems were such that it's almost impossible to treat, but did you see him as somebody whose condition was static until the end, or did he improve at all or did he deteriorate in the time that you treated him?---I think it would be fair to say that Rob (was) isolated in terms of moods and he had not so bad days. Not every day was consistently bad, but he certainly gave me the impression that when I heard of his suicide, I wasn't surprised by that. He seemed very determined at times to take his own life and that's certainly my first episode of that was back in January of 86, prior to his admission here, and that's why I admitted him to hospital."

6.8.6 Of course Mr Baddock's medical problems were by no means the extent of his difficulties. His personal life was tangled to say the least. His sister, to whom he was apparently close, was terminally ill with AIDS. He was separated from his wife and living apart from his children. Although he and Mrs Baddock had dealt with their property proceedings, there had been no divorce. It is apparent from Mrs Baddock's evidence there had been no clean break in their relationship. There were continuing concerns on his part about his children. Restraining orders, taken out by Mrs Baddock, particularly one taken out shortly before his death, evidently caused him great distress. He was living in a defacto relationship with Ms Dawson while at the same time involved in a relationship with another woman.

6.8.7 The mere fact that Mr Baddock was implicated in the Craigie Roller Rink matter, irrespective of his complicity, was clearly sufficient to cause him great concern and no doubt contributed to his level of depression. Apart from the temporal connection, however, it cannot be said it was the sole or even primary factor in his decision to take his life. There were so many factors at play it simply is not possible or useful to attempt to analyse the thought processes of such an obviously depressed and irrational mind.

6.9. Summary of Findings

6.9.1 In relation to the matters investigated in this chapter I record the following findings:

- (a) Mr Robert Baddock committed suicide.
- (b) There is no evidence that Dr Bradshaw ever boasted that he could have a person "dispatched" for \$2,000.00 or fatally injected with a substance that could not be detected.
- (c) The allegation that Dr Bradshaw pressured or threatened Mr Baddock to the point where the pressure or threats were a contributing factor or the cause of his death has no foundation.
- (d) There is no evidence to suggest that Mr Baddock's diaries contained any evidence of corruption. The allegation that Dr Bradshaw took the diaries from the offices of Mr Duffy after Mr Baddock died is not substantiated.
- (e) Mr Baddock did visit Dr Bradshaw's home on the day before his body was found, stayed for approximately two hours and left. The fact that Dr Bradshaw was not interviewed by police in relation to that visit was no more than an oversight on the part of the police officer conducting the coronial inquiry and could not have affected the Coroner's finding.
- (f) The fact that Dr Bradshaw telephoned Mrs Baddock on the morning of Monday 13 July 1987, the day on which Mr Baddock's body was found, and suggested she report

Mr Baddock as missing carries no connotations that Dr Bradshaw was in any way implicated in Mr Baddock's death.

(g) Ms Dawson did stay with Dr Bradshaw for a short time after Mr Baddock's death. There is no evidence to suggest that Dr Bradshaw's invitation to Ms Dawson was motivated by anything other than concern for Ms Dawson.

(h) Mr Wayde Smith was not the first police officer on the scene of Mr Baddock's suicide and in fact did not attend the scene at any time.

(i) Ms Dawson did find Mr Baddock's body but only after an extensive search of a number of different localities.

(j) There is no evidence that the small fire found near Mr Baddock's car was an attempt to burn evidence of corruption.

(k) Dr Bradshaw instructed Mr Harman to permit Mr Baddock to work out of Mr Harman's real estate business. He did so out of a desire to help Mr Baddock.

(l) The allegation that Ms Dawson paid Mr Duffy \$20,000.00 to purchase a car from Mr Duffy after Mr Baddock's death is not substantiated. Ms Dawson did purchase a car from Mr Duffy for approximately \$10,000.00 but paid for it herself from savings and a loan from her father. There is no evidence that the purchase price came from the proceeds of corruption.

(m) The allegation that Ms Dawson nominated for election to the Wanneroo Council but withdrew at the instigation of Dr Bradshaw and Mrs Waters has not been substantiated. Ms Dawson did nominate for election to Council and she did withdraw but she did so for reasons personal to herself. She was not intimidated in any way by Dr Bradshaw and/or Mrs Waters.

(n) The allegation by Mr Cooper that Mr Webb in the course of a telephone conversation corruptly offered to pay

money to councillors on behalf of his client Mr Pavlinovich has not been substantiated.

- (o) The fact that Mr Baddock discussed the possibility of accompanying Mrs Bradshaw and two children on a car trip south on the day before he died is not inconsistent with the fact that he committed suicide.
- (p) The allegation that Mr Baddock was involved in the Craigie Roller Rink matter caused him distress and no doubt contributed to his level of depression. There is no evidence to support a conclusion that it was the sole or even primary factor in his decision to take his own life.
- (q) The allegations that:
 - (i) Mr Baddock deposited \$250,000.00 in one of his bank accounts shortly before his death; and
 - (ii) when Mr Baddock nominated for election to Council Dr Bradshaw offered him \$1,000.00 to withdraw and, when refused, offered to pay his campaign expenses on certain conditions

will be considered by the Commission in the wider context of corruption in the City of Wanneroo.

6.9.2 Finally, I observe that much of the sittings of the Commission to which this report relates has been concerned with the investigation of rumour, innuendo and smear. For none of the matters investigated has this been more the case than the allegations concerned with the death of Mr Robert Baddock. The allegations were widely and indiscriminately disseminated. Those responsible exercised no care or consideration for the truth. The motivation appears in a number of cases to have been a desire to score political points at both State parliamentary and local council levels. Others appear to have acted from ignorance. In all a great deal of the Commission's time has been spent investigating matters that should never have been seriously in doubt.

List of Witnesses

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LIST OF WITNESSES WHO APPEARED BEFORE THE COMMISSION

Witness Name	Date of Evidence	Date Recalled
AYTON L.D.	16/05/96	21/05/96
BADDOCK M.J.	13/06/96	
BRADSHAW N.M.	18/06/96	
BRADSHAW W.W.	25/06/96	
CARSTAIRS A.	19/06/96	
CASTLEHOWE G.	29/05/96	
CLARKE M.T.	24/05/96	
COFFEY R.F.	26/06/96	
COOPER B.A.	19/06/96	09/07/96
CORSE B.	23/05/96	11/07/96 + 16/07/96
DAMMERS A.V.S.	20/06/96	
DAVIES K.H.	03/07/96	
DAWSON M.L.	12/06/96	
DEAL K.I.	28/06/96	
DRESCHER O.G.	04/07/96	
DUFFY W.D.	18/06/96	
DUNSTAN F.J.	16/07/96	
EASON A.F.	24/05/96	
EDUARDES C.G.	30/05/96	28/06/96
EDUARDES C.L.	30/05/96	28/06/96
EDWARDS G.	24/05/96	
ELLIOTT R.A.	11/06/96	
FALCONER R.	28/05/96	
FREAME F.D.	27/06/96	
GARDINER R.K.	24/05/96	
GARNAUT R.G.	26/06/96	
GRANT D.J.	23/05/96	
GREGSON W.	24/05/96	
GRIFFITHS B.	30/05/96	18/06/96
HARMAN R.H.	18/06/96	
HAWKINS J.J.	19/06/96	
HAY M.C.	28/05/96	
HILL D.L.	04/07/96	
HILTON J.M.N.	12/06/96	
HUNT G.G.	19/07/96	
JOHNSON G.M.	11/06/96	16/07/96
KING C.D.	29/05/96	11/07/96
KING D.A.	28/05/96	
LAWRENCE B.	21/05/96	11/07/96
LYTTON D.S.	24/05/96	

Witness Name	Date of Evidence	Date Recalled
MacCOLL J.D.R.	21/05/96	
MacNAUGHTON A.D.	11/06/96	
MAJOR G.A.	28/06/96	
MANSAS W.E.	02/07/96	
MARCHALL P.	24/05/96	
MARLBOROUGH N.R.	16/07/96	
MARWICK W.H.E.	02/07/96	
MAWSON J.V.	24/05/96	
McCOTTER D.A.	16/05/96	
McKECHNIE J.R.	30/05/96	
McLEOD D.J.	15/05/96	21/05/96
McNALLY R.T.	03/07/96	
MITCHELL S.J.	11/06/96	
MOLONEY B.J.	21/06/96	
MOORE P.R.	11/07/96	
PHILLIPS E.R.	24/05/96	
POKLEPOVICH H.	30/05/96	
RANKIN B.T.	16/07/96	
ROBBINS S.J.	24/05/96	
ROBSON A.	03/07/96	
ROWE D.M.	09/07/96	16/07/96
RUNDLE N.	21/06/96	
SALTER M.J.	04/07/96	
SAWYER K.J.	22/05/96	
SAXON M.R.	15/05/96	
SCHILO J.A.	11/06/96	11/07/96
SCHRANZ L.A.	24/05/96	
SCHRANZ S.I.	24/05/96	
SMITH B.A.	02/07/96	
SMITH W.S.	09/07/96	
SYME S.G.	24/05/96	
TOGHER S.P.	22/05/96	
TOLLEY G.E.	09/07/96	16/07/96
TRIVETT P.T.	13/06/96	
TURKINGTON J.B.	27/06/96	
VAN BOHEEMEN C.J.	30/05/96	
VILLANOVA A.	03/07/96	
WARD P.J.	11/06/96	
WASHER M.J.	13/06/96	
WATERS H.M.	20/06/96	
WATSON A.K.	24/05/96	
WATTS M.	24/05/96	
WEBB P.D.	02/07/96	
WHITBY K.L.	04/07/96	

ANNEXURE 2

Information Report

Mr Lawrence to Mr Grant dated 16 June 1994

15.05
08.17

Information Report

FREEDOM OF INFORMATION ACT

If a request under the Freedom of Information Act is received for access to this document, or an extract from this document, please consult the Ministry of Justice, Intelligence Unit, Perth WA.

Report Number	PERT1994060012
Subject of Report	Threats being made against prisoner KING, David Anthony - Wooroloo Prison.
Source and Date Information Received	Person who wishes to remain anonymous June 15, 1994.

960041

INFORMATION :

It has been reported to this office that threats have been made against Wooroloo prisoner KING, David Anthony (OMS:941217, DOB:25.12.1945), in an attempt to stop him from talking about matters relating to his case.

Prisoner KING was sentenced on June 2, 1994 for Official Corruption after admitting to having received bribe money to produce favourable council decisions relating to re-zoning and building matters, put before the Wanneroo City Council.

KING has alleged to have been involved in receiving bribe money together with fugitive Doctor Wayne BRADSHAW, who at the time of the incident, was the Mayor of Wanneroo. KING alleged that Doctor BRADSHAW was the mastermind behind the corruption scam.

The informant claims that the reason why prisoner KING did not take the Director of Public Prosecution's offer of indemnity from prosecution in exchange for further information, is due to threats being made against his well being.

960041

The informant claims that prisoner KING is still under threat and will not be safe whilst he remains incarcerated. It is claimed that the Wanneroo Corruption issue is bigger than what is publicly known and there are a number of other very senior persons involved who KING at this point in time is too afraid to mention.

In other information received from a completely separate source, it is alleged that in 1992, prisoner KING made available a tape recorded interview to Police, which identifies the other people involved.

KING advised this person that after making the tape, he was told that he would be safe from prosecution and now after being imprisoned feels betrayed, as the tape was not taken into consideration and has disappeared.

960041

ONCE NUMBERED, THIS REPORT IS A SECURE DOCUMENT. IT SHOULD BE STORED IN ACCORDANCE WITH SECURITY GUIDELINES, AND DESTROYED WHEN NO LONGER REQUIRED.

Source Grading	Information Grading	Reporting Officer	Distribution
A Completely reliable	1 Report confirmed	Brian LAWRENCE	(Intelligence Use)
B Usually reliable	2 Probably true report	Position	1. D.G.
C Fairly reliable	3 Possibly true report	Manager	2.
D Not usually reliable	4 Doubtfully true report	Location	3.
E Unreliable	5 Improbable report	Westralia Square	4.
F Reliability unknown	6 Truth cannot be judged	Phone	5.
F	6	264-1213	6.
		Date 16.06.1994	
		Time 08:12	

- Confidential -

Information Report

Page 2

Continued...

Action taken

960041

This office has contacted the Investigating Officer Mr Brian GRIFFITHS and informed him of the threats.

Prisoner KING will be closely monitored and will be interviewed by this office with regard to his safety.

Consideration should be given to providing the information about the alleged Police tape recording, to the Director Public Prosecutions, Mr John Mc KECHNIE.

960041

Memorandum

Mr Corse to Mr Grant dated 6 July 1994

IN EXTREME CONFIDENCE

MR DAVID GRANT
DIRECTOR GENERAL
MINISTRY OF JUSTICE

BREACHES OF STATUTE LAW - PUBLIC OFFICERS

On Friday 1 July 1994, in company with a friend, I privately visited prisoner/trustee David King at the Armadale lock-up, between the hours of approximately 11.25am and 12.10pm. Arrival time can be confirmed by the lock-up visitors book.

During the course of my discussions with Mr King, I made it very clear that this visit, with a mutual friend, was a private visit and although I am a consultant in the Ministry of Justice I was not talking to him in any official capacity. I did point out that I am a public officer.

King looked ill and worried as to his safety and well-being, but was very appreciative of the Ministry of Justice doing its job regarding his concerns.

He very bitterly explained why he felt he had been doublecrossed by the DPP and senior police. I explained the due process to him. He confessed to realise that what some police officers, and some highly respected lawyers, had said to him may not have been accurate responses allegedly from the DPP.

During our discussion he made these comments:

1. I cannot understand why the police have not taken action against others in view of the countless statements I have made.

2. [REDACTED]

Question. Who for. *Answer.* [REDACTED]

Question. Cash or cheque. *Answer.* Both.

3. [REDACTED]

Note: [REDACTED]

4. Lots and lots of others.

Question. Where is this information. *Answer.* The police have it.

Handed to DPP (JMK) 8/7/94

5. **My Comment.** The media and police grapevine claim that your responses to police were smart mouth, ie you told the police to ask questions, but you would not speak freely.

Response. Not so, initially I didn't understand where they wanted me to start or specifically talk about. Once I understood I then, on all occasions, spoke freely.

6. I don't think my lawyer has seen all my statements. He said plead guilty you'll be alright. (Others and police said the same thing).

7. **Question.** Where are the statements taken when you were arrested in 1992.

Answer. Senior police.

Question. Did the statement come back to you for verification.

Answer. No, never seen them.

Note: Allegedly this 1992 tape is supposed to clearly show all the links between Bradshaw, Edwardes (Colin and Cheryl), Smith and others.

8. King believed he was being protected by senior cops and friends from the time of his arrest in 1992, and freely answered and gave names and events during subsequent interviews. The day he was sentenced he went to court believing he would walk out again as he always had.

After sentencing and in shock - allegedly asked police, what went wrong.

Response. You have been doublecrossed by the DPP.

9. **His Comment.** If it's not the DPP, who are the senior cops that were protecting me and why the change, looks like I was the sacrifice and I didn't know it.

10.

Note:

Note:

Note:

11. King was quite sure that Colin Edwardes conducted Wanneroo Council and Liberal Party electioneering and general business from his public sector place of work and was/is the real brains behind Cheryl Edwardes.

Note: Work conflict of interest has evidently been confirmed by Pat Strickland who was Ian Hill's former and current personal assistant.

Note: Prior to the election Colin Edwardes was touting Ian Hill to the Liberal party as the best candidate to be the next Public Service Commissioner. This was confirmed to me by [redacted] prior to the election. [redacted] and liberals were discretely advised that the Labour Party had dumped Hill who may have a few embarrassing skeletons in his closet that will eventually embarrass anyone connected to him.

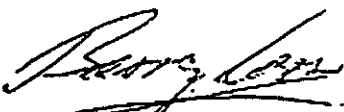
12. King confirmed that during their overseas trip there was a large altercation involving he, Bradshaw and the Edwardes in the foyer of a Macedonian Hotel regarding their individual and collective corruption.
13. That Cheryl Edwardes travel expenses were refunded to Wanneroo after the stink began and she was very angry about having to use her (government funds) for these expenses.
14. My Comment. I said to King I am here privately and I believe there are honest public officers and police who may want to talk to you. Are you prepared to speak again and openly to authorised honest public officers.
Response. I have been stupid - yes.

Conclusion

This information confirms my verbal report to Brian Lawrence, Ministry of Justice at approximately 2.00pm Friday 1 July 1994.

As a public officer I believe that what I have heard indicated a need to report these comments if for no other reason than a fellow public officer Colin Edwardes, with known political connections, appears to have created a conflict of interest with his employment. Moreover, he has apparently breached statute law along with other past and present public officers, specifically Cheryl Edwardes, Wayde Smith, and Wayne Bradshaw, and also apparently [REDACTED]. Consequently these public officers appear to have breached various sections of the criminal code of Western Australia.

For your assessment, direction and appropriate investigatory referral.


BARRY CORSE
PUBLIC OFFICER

CONSULTANT
MINISTRY OF JUSTICE

6 July 1994

IN EXTREME CONFIDENCE

Memorandum
Mr Ayton to Commissioner of Police
dated 19 January 1996

COPY

MEMO

TO : COMMISSIONER OF POLICE
FROM : DEPUTY COMMISSIONER
SUBJECT : MR KYLE

As discussed I advise that Mr KYLE met with me on the 12 January, 1996 seeking confirmation of the existence of a copy tape recording of a conversation ex a listening device. The gist of his request was that a serving Police Officer from the Internal Affairs Unit (either SAWYER or TOGHER) had told a Prison Intelligence Officer (LAWRENCE) of the existence of a copy of a tape. Mr KYLE informed me that the source of his information was Mr LAWRENCE direct.

KYLE'S information was that the tape contained a record of a conversation recorded off a listening device deployed during the SMITH inquiry. That the text implicated Messrs BRADSHAW, EDWARDES and another and included a comment attributed to the former Attorney General about a gift or payment of \$20,000.00.

Mr KYLE was informed that to my knowledge no such conversation had ever been recorded, no copy tape existed and that I was certain, had such a conversation been recorded by Internal Affairs Unit I would have known about it.

I further informed Mr KYLE that the story regarding the tape was not new and it had come previously from Mr David GRANT some 18 months ago (June 1994).

Following Mr KYLES visit I have interviewed Detective Inspector SAWYER of the Internal Affairs Unit and Mr Brian LAWRENCE of the Prison's Intelligence Branch.

Detective Inspector SAWYER denies absolutely knowing of any tape or making any comment to LAWRENCE or any other person concerning the existence of a tape.

LAWRENCE denies absolutely any conversation wherein a Police Officer confirmed, admitted or suggested that a copy tape had been made and was being held. Particularly, LAWRENCE denied any such conversation with either SAWYER or TOGHER.

Mr LAWRENCE confirmed that he had heard the story of the existence of a tape and that the story had its beginnings in his contact with Mr Barry CORSE. Mr LAWRENCE confirmed also that he had spoken to Mr KYLE on two occasions. The gist of what he told KYLE will be related later in this report. Further, importantly LAWRENCE denies absolutely having told Mr KYLE of any conversation between he, SAWYER or TOGHER wherein those police officers confirmed, admitted or suggested the existence of a tape.

Mr LAWRENCE said he told Mr KYLE about the meeting (June 1994) he attended between Detective Inspector McLEOD and Mr David GRANT wherein GRANT told the Police Officer that he was privy to some information concerning some government misconduct and a proposed take-over of the Police Ministry by the Ministry of Justice. The general trend of this conversation was to the effect that Mr GRANT was not happy about the information or the actions of government and he could be in some jeopardy.

Mr GRANT, at that meeting, also said that he understood a tape such as has been described in this report existed. He sought confirmation from Detective Inspector McLEOD of the existence of the tape and sought to be supplied a copy for his protection in respect of the matters he had disclosed to McLEOD.

Mr LAWRENCE informed me that he was later also present when Mr David GRANT was interviewed by Mr KYLE in respect of the same issue. He said Mr GRANT was less than forthcoming to Mr KYLE.

On 17.1.96, I discussed this matter with Inspector McLEOD who was Officer in Charge of the initial inquiry. He confirms that no tape to his knowledge containing any information of the type alleged ever existed.

I am seriously concerned at two issues. Firstly, that a rumour or deliberately created diversionary story has achieved such prominence. Of key concern to me is that the source of the so called story is attributed to people in our organisation who are blameless. That this story maligns them and could well create suspicion as to their ethical behaviour goes without saying.

Of main concern to me is the serious discrepancy in the story told to me by Mr KYLE as to the source of the information (ie SAWYER or TOGHER) given that Mr LAWRENCE refutes the assertion of Mr KYLE as to the role of Police.

In my view the events which have lead to the need of writing this report cannot be ignored. Mr KYLE must be made aware of the position taken by SAWYER and LAWRENCE and the Police view needs to clearly be stated on the record.

Accordingly, I recommend that a copy of this report to you be forwarded to Mr KYLE in correspondence bearing your signature.


L.D. AYTON
DEPUTY COMMISSIONER

January 19, 1996 :sc