



CRIMINAL JUSTICE
COMMISSION

**REPORT BY THE HONOURABLE
R H MATTHEWS QC
ON HIS INVESTIGATION
INTO THE ALLEGATIONS OF
LORRELLE ANNE SAUNDERS
CONCERNING THE CIRCUMSTANCES
SURROUNDING HER BEING CHARGED
WITH CRIMINAL OFFENCES IN 1982,
AND RELATED MATTERS**

VOLUME I

APRIL 1994

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Parliament House
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Dear Sirs

In accordance with Section 26 of the *Criminal Justice Act 1989*, the Commission hereby furnishes to each of you its Report on an investigation conducted by the Honourable R H Matthews QC into the allegations of Lorrelle Anne Saunders concerning the circumstances surrounding her being charged with criminal offences in 1982, and related matters.

Yours faithfully

R. S. O'Regan
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8 April 1994

Mr P M Le Grand
Director
Official Misconduct Division
Criminal Justice Commission
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Dear Mr Le Grand

I refer to a resolution of the Commission dated 15 December 1992, resolving to conduct an investigation into the allegations of Lorrelle Anne Saunders concerning the circumstances surrounding her being charged with criminal offences in 1982, and related matters, and further resolving to engage me to conduct such an investigation.

As you would no doubt recall, on 29 March 1994 I forwarded to you my report in the above matter and by letter dated 30 March 1994 Carew and Company were advised of this fact by Counsel Assisting. On 5 April 1994 Carew and Company wrote to the Chairman of the Commission enclosing the final sixty pages of the written submissions. I was provided with a copy of the letter and with the final sixty pages of submissions on 6 April 1994. I decided to study the final written submissions and to amend my report as a result of that study if I considered it desirable to do so.

There were a number of matters in those submissions which caused me to amend my report. My final report therefore was written after careful consideration of all the written submissions from Carew and Company, including the ones supplied on 5 April 1994. Although the report has been amended slightly my views on the substantial issues remain unaffected.

I enclose my report of the investigation in order that, in the discharge of your responsibilities under section 33 of the *Criminal Justice Act 1989*, you may report to the Chairman.

I have this day written to the Chairman advising that I have furnished my report to you.

Yours sincerely



R H MATTHEWS

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INTRODUCTION

CHAPTER 1

1.1 The establishment of the investigation and the issues to be addressed

On 5 October 1992 Marshall Irwin, General Counsel to the Criminal Justice Commission (the Commission), advised me that the Commission had been requested by the Parliamentary Criminal Justice Committee to conduct an investigation into allegations made by Lorrelle Anne Saunders concerning the circumstances surrounding her being charged with criminal offences in 1982. I was advised that an "independent" person was being sought to conduct the investigation. The Commission's reasons for seeking an "independent" person are set out in the Resolution of the Commission dated 15 December 1992 which is Appendix 1 to this report. I indicated to Irwin¹ that I would be prepared to conduct the investigation and I accepted the suggestion that C E K Hampson QC appear as counsel to assist me.

It was subsequently decided that the formal resolution of the Commission to conduct the investigation should embody the issues that I, in consultation with Hampson QC, considered were necessary to address to enable full investigation of the allegations of Saunders. Hampson QC and I were then provided with a large volume of material to assist us in determining what issues it was necessary to address to do this. Upon the request of Messrs Carew and Company, the solicitors for Saunders, the Commission provided each of us with copies of:

- all of the Criminal Justice Commission files relating to Saunders. These documented all correspondence between Carew and Company and the Commission;
- the submission (in three parts) by Carew and Company which had been furnished to the Government in February 1990; and
- a copy of the documents submitted to the Parliamentary Criminal Justice Committee by Carew and Company in May 1991.

Each of us was also provided with copies of:

- the transcript of the trial of Lorrelle Anne Saunders on the charge of attempting to procure another unlawfully to kill one Allan Lobegeiger;

¹ In the interests of economy and consistency, surnames are used without the customary "Mr" or equivalents and, generally, honorifics and titles will be used only once. No discourtesy is intended.

- the transcript of the trial of Lorrelle Anne Saunders on one count of stealing and one count of attempting to procure another to steal;
- the depositions of the committal hearing of Lorrelle Anne Saunders, Colin Stanley Cooper and Roy Alfred Coomer on one count of conspiracy to pervert the course of justice;
- as much as was then available of the police brief for the committal hearing of Lorrelle Anne Saunders on her first charges;
- the transcript of the trial of Colin Stanley Cooper on one count of conspiracy to pervert the course of justice;
- the transcript of the trial of Roy Alfred Coomer on one count of conspiracy to pervert the course of justice;
- the police brief for the committal hearing of Douglas Mervyn Dodd on three counts of perjury;
- the depositions of the committal hearing of Douglas Mervyn Dodd on three counts of perjury;
- the appeal record incorporating the transcript of the trial of Douglas Mervyn Dodd on three counts of perjury.

After consideration of all this material and after consultation with Hampson QC and the solicitors for Saunders, I furnished to the Commission on 10 December 1992 a document setting out the issues that I considered necessary to address in order to fully investigate the allegations of Saunders.

Those issues are:

1. Whether any of the evidence against Saunders in respect of any of the charges laid against her on the 29th April 1982 and the 9th September 1982 was fabricated and, if so, by whom.
2. Whether if evidence referred to above was fabricated, did any persons conspire to have the evidence fabricated and, if so, who were the conspirators.
3. Whether any Police Officer (whether still a member of the Police Service or not) or other person directly or indirectly, improperly

influenced or attempted to improperly influence witnesses to be called by the prosecution in the committal hearings and/or trials of Saunders and, if so, who.

4. Whether there is any evidence that any Police Officer (whether still a member of the Police Service or not) or any other person may have been guilty of any criminal offence, official misconduct (within the meaning of the Criminal Justice Act 1989 [the Act]), or neglect or violation of duty in relation to the investigation and/or prosecution of the said Saunders in respect to the charges referred to in 1. above and, if so, whether any such person directly or indirectly received, agreed to receive, or was offered any benefit or favour whether financial or otherwise for or on account of that conduct.
5. Whether the Crown Law Authorities carried out the investigation directed or requested by Mr Justice Shepherdson adequately. If the investigation directed or requested by Mr Justice Shepherdson was not carried out adequately, why was it not carried out adequately.
6. Whether any Police Officer (whether still a member of the Police Service or not) or any other person improperly influenced or attempted to improperly influence the nature and extent of charges laid against Douglas Mervyn Dodd and/or the subsequent prosecution of Dodd.
7. Whether there is any evidence that any Police Officer (whether still a member of the Police Service or not) or any other person may have been guilty of any criminal offence, official misconduct (within the meaning of the Act), or neglect or violation of duty in relation to the investigation and/or prosecution of the said Dodd in respect to three counts of perjury arising from evidence he gave against Saunders and, if so, whether any such person directly or indirectly received or was offered any benefit whether financial or otherwise for or on account of that conduct and from whom or by whom was such benefit received or offered.
8. Whether public records relating to the charges against Saunders and Dodd have been unlawfully disposed of and, if so, what records were disposed of, who disposed of them, and what reason was there for the disposal of them.
9. Whether any person knowingly gave false, misleading, or

unsubstantiated information to the Queensland Government or its advisers when advice was sought on the question of granting Saunders compensation in relation to the charges and subsequent prosecutions brought against her and, if so, what information was given, by whom was it given, and may such conduct have constituted a criminal offence or official misconduct (within the meaning of the Act).

10. Whether Saunders should receive compensation by way of an ex gratia payment or otherwise in respect of her being charged, kept in custody and prosecuted or for any other reason and, if so, in what amount.

On 15 December 1992 the Commission resolved to conduct an investigation into the matter and incorporated into the resolution the above issues I considered necessary to address. On this date the Commission also formally resolved to appoint me as the "independent qualified person" to conduct the investigation.

1.2 Public Hearings

The investigation commenced with an extensive interview of Saunders by Junior Counsel Assisting. Her solicitor Richard Carew, from Carew and Company, Solicitors, was present for the entire interview which was conducted over six days. Upon completion of the interview a draft statement was prepared for consideration by Saunders and furnished to her solicitors on 24 December 1992. On 1 February 1993 a 25 page list of corrections and amendments to the draft statement were forwarded to the Commission for the purposes of correcting the draft. On 3 February 1993 a 120 page statement incorporating the amendments sought was signed by Saunders. As I understand it this was the first full statement by Saunders concerning the events in question. The statement also set out possible improper motives for those involved in the investigation and those Saunders believed bore her ill-will.

After consideration of that statement and all the other material previously provided to me by the Commission, I considered it was necessary to hold hearings to hear oral evidence for the purposes of the investigation.

The provisions of the Act as they were when I commenced the investigation imposed a prima facie obligation upon the Commission to hold open hearings. Section 2.17(4) of the Act provided that a hearing

shall, as a general rule, be open to the public but if, having regard to the subject matter of the investigation, or the nature of the evidence expected to be given, the Commission considered it preferable, in the public interest, to conduct a closed hearing, it may do so. This provision recognised the many benefits of holding hearings in public.

Commissioner Fitzgerald QC to a large extent attributed the success of his Inquiry to the fact that the hearings were held in public. He stated at Page 10 of his report that in order to gain the confidence, co-operation and support of the public, the Inquiry had to be as open as possible so the public, including people with information, could see that it was a genuine search for the truth.

I agree with this observation. In the light of these considerations, the prima facie statutory obligation to hold public hearings and the nature of the allegations made by Saunders, I considered that it was essential that a public inquiry be held with the object of ascertaining the truth and, if necessary, disposing of suspicions, rumours and allegations which may have been unjustified.

There were a few occasions however where it was necessary to take evidence in camera so as not to hinder the ongoing investigation or to cause undue prejudice to any persons.

1.3 Standard of Proof

The very nature of an inquiry under the Act (including, in particular, the fact that the Commission is not bound by the rules of evidence applicable to proceedings in a court) raises the question of the degree of satisfaction which should be attained before considering a finding adverse to any person in the course of an investigation such as this. The Act is silent on the standard of proof required; however after consideration of the authorities I considered that the appropriate standard of proof was the civil standard which varies according to the gravity of the finding to be made. This standard is often called the *Briginshaw* principle or the standard of "*reasonable satisfaction*" and in applying it I adopt the statement of Sir Owen Dixon in *Briginshaw v Briginshaw* (1938) C.L.R. 336 at pp. 361-362 where he stated:

"Reasonable satisfaction" is not a state of mind that is attained or established independently of the nature and consequence on the fact or facts to be proved. The

seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences following from a particular finding, are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters "reasonable satisfaction" should not be produced by inexact proofs, indefinite testimony, or indirect references.

I am comforted in my view that the requisite standard is that of "reasonable satisfaction" by the adoption of that standard in similar inquiries such as the Parliamentary Judges Commission of Inquiry (1989) which examined the conduct and behaviour of the former Mr Justice Angelo Vasta. I note that the same standard was also adopted by the Honourable W J Carter QC in his report of August 1993 on his inquiry into The Selection of the Jury for the Trial of Sir Johannes Bjelke-Petersen.

1.4 Public Hearing Days

The public hearings commenced on 20 April 1993. There was a total of 32 hearing days spread over a four month period terminating on 26 August 1993.

1.5 Appearances

C E K Hampson QC was appointed Senior Counsel Assisting the Commission and Stephen Lambrides was appointed Junior Counsel Assisting. Ken Fleming QC and Richard Carew, Solicitor, appeared for Saunders, Michael Quinn, Solicitor from Gilshenan & Luton announced appearances for Brian Patrick Webb, Gregory Wayne Tutt, Graham James Williams, Thomas Terrance Flanagan and Margaret Beverly Godrich. Other appearances were Peter Nolan for Anthony Murphy, Tony Morris QC, and with him, Tony Glynn of Counsel for Shane Herbert QC, Patrick Murphy, Solicitor for Blanche Thompson, and Robert Reed, Solicitor from Goss, Downey & Carne for Barry Krosch.

1.6 Logistics of the Investigation

In all 45 witnesses were called and gave evidence in either the public or in

camera hearings. A further 41 persons furnished statutory declarations to the Commission. These statutory declarations were tendered in evidence with the consent of the legal representatives appearing before me. Without objection a number of reports and other documents were also tendered as evidence before me. As well as the evidence and material generated by the investigation there were tendered before me many thousands of pages of transcript from the plethora of previous proceedings touching upon the subject matter of the investigation. Where available the exhibits to these original proceedings were also tendered.

During the course of obtaining the original statement from Saunders she signed a written document waiving all legal professional privilege and authorising each and every one of her previous solicitors to provide answers to any questions pertaining to her instructions and the circumstances surrounding her defence or claim for compensation and, also, to provide any material in their custody or possession in relation to the matter to officers of the Commission, Counsel Assisting or myself. At the time of signing the document Saunders thought that the majority of her legal defence material which she had last seen at the Public Defender's Office was no longer available. Fleming QC subsequently tendered in evidence a letter dated 27 March 1990 addressed to Carew and Company from the Public Defender's Office which stated:

*I confirm that our files in this case were destroyed while
Mr Healy QC was Public Defender.*

Officers of the Commission approached the Legal Aid Office, the successor to the Public Defender's Office, and sought confirmation that it did not have in its possession any material pertaining to Saunders's matter. Legal Aid Office staff located a number of boxes of material pertaining to Saunders's defence in 1982, 1983 and 1984. These boxes included well over one thousand pages of typed and written instructions to her then solicitors. This material, although resulting in a longer investigation than was first thought necessary, assisted the investigation considerably. At this stage it is worth noting that the waiver of legal professional privilege was not extended by Saunders to her current solicitors, Carew and Company, and some material that they had in their possession which may have been of assistance to me was not forthcoming notwithstanding a written request for it.

Three Commission investigators were engaged in conducting inquiries, interviewing witnesses and serving summonses and notices to produce. One support officer assisted for the duration of the investigation and in the

preparation of the report.

I am indebted to these officers and Counsel Assisting whose efforts materially decreased the difficulties associated with producing a report such as this.

1.7 The distinction between a criminal trial and an investigation under the Criminal Justice Act 1989

In case it is thought that matters determined in a criminal court have some binding effect on me as the fact finder in this investigation it is appropriate that I make the following observations. There is a fundamental distinction between a criminal trial and an investigation under this Act. The primary purpose of a criminal trial is to determine whether the Crown has produced sufficient admissible evidence to satisfy a jury that an accused person is guilty beyond reasonable doubt of the offence with which the accused is charged. That is, it is for the Crown to establish to the criminal standard of proof that the accused is guilty of the offence. An acquittal is not synonymous with innocence. An acquittal means that the Crown has been unable to satisfy the jury that there is sufficient admissible evidence to establish guilt beyond reasonable doubt. I will return later to further discussion of this issue in the context of considering the advice given to the Attorney-General in 1983 by the then Solicitor-General. There is no requirement upon an accused to give evidence at a criminal trial. The accused is entitled to remain silent and not be subject to cross-examination.

On the other hand the primary purpose of an investigation under the Act is to ascertain the truth. The rules governing an investigation under the Act create an environment in which the truth is more likely to be told. In particular, reference is made to the statutory negation of the right to remain silent on the basis of self-incrimination. Subject to matters of form a person is not entitled to refuse to answer questions on the ground that the answer might tend to incriminate. The trade-off is that any answers given by that person cannot be used against him or her in any subsequent criminal, civil or disciplinary proceedings, save perjury arising out of the evidence given before the Commission and contempt of the Commission. Accordingly a person is less likely to conceal the truth where the person knows that any truthful answer given cannot be used against him or her in the future. I am confident that these provisions of the Act resulted in witnesses testifying truthfully in circumstances where otherwise they would not have done so for fear of self incrimination. The most striking example

can be seen in the evidence of Blanche Thompson concerning the making of a tape recording which was said to be a record of a conversation between Saunders and Dodd.

The relevance of the distinction between the two forms of process cannot be overstated in this particular investigation where some persons summoned before me had previously been placed on trial in the criminal courts of this State and some of those persons charged had been convicted.

1.8 The Reporting of the Public Hearings

Throughout the duration of the public hearings legal representatives and lay persons appearing before me brought to my attention on numerous occasions newspaper articles which were inaccurate, unjustifiably sensationalised, and, on occasions, completely erroneous. I am aware that some of these articles caused unwarranted distress to those persons, the subject of the articles, their friends and relatives. This is regretted. I would not normally make reference to such matters except that the frequency with which inaccurate articles were brought to my attention causes me great concern. I consider that I am under some obligation to comment further upon the matter.

Although not the first example brought to my attention an article published in The Courier-Mail on 16 July 1993 titled "CJC hears plot by officers to 'get' Saunders," caused me to express the following sentiments concerning the reporting of the hearings by that particular newspaper:

Well, the disturbing thing about it: I am lucky, I have got the benefit of the evidence. I do not have to rely on The Courier-Mail for my understanding of what has been happening in this room, and I say thank goodness for that because the disturbing thing is that one almost has to wonder whether The Courier-Mail is not deliberately presenting a biased view of that evidence. I have spoken of this before and had very little response, I may say, from The Courier-Mail by way of satisfaction.

This article contained a number of clearly incorrect statements which were arguably defamatory. The first paragraph of the article states:

Two senior Internal Investigations officers were 'out to get' Policewoman Lorrelle Saunders and her former lover, the

Criminal Justice Commission was told yesterday.

Detective Senior Sergeant Barry Donald Krosch told the inquiry that Inspectors Tom Flanagan and Brian Webb fabricated evidence against Saunders.

Krosch made a complaint to the Commission concerning the article.

There was simply no evidence from Krosch that he believed there was a plot to get Saunders as suggested by the headline. He at no time said that Flanagan and Webb had fabricated evidence against Saunders. Krosch had indeed given evidence that he was questioned robustly and in his mind in a manner "very close to being improper," by Flanagan concerning his knowledge of the relationship between Saunders and Lobegeiger. He had also given evidence that in his mind during his interview Flanagan, in particular, "was out to get Saunders." His attention was also brought to a previous statutory declaration he had made in October 1988 in which he accused Flanagan and Webb of "trying to fabricate evidence against Lorrelle Saunders" during their interview of him in 1982. However these statements were qualified first by Krosch confirming his recollection that it was only Flanagan asking the questions whilst Webb typed the answers and secondly by the fact that he was not aware at the time of the information then available to Flanagan and Webb which may have caused them to ask the questions in the manner that they did. Krosch stated that notwithstanding the pressure placed upon him by Flanagan the answers he gave to them during his record of interview were truthful. That is a far cry from a claim by him that evidence was fabricated.

This example highlighted the willingness of the press generally to report any matter which arguably suggested police corruption. Unfortunately there was no such eagerness in reporting critical evidence from pivotal witnesses who claimed no knowledge of police corruption and who gave evidence inconsistent with a 'police set-up' hypothesis. To some extent this may be explained by the press having its appetite whetted by the highly publicised comment in the Fitzgerald Report that Saunders was "to pay a very heavy price for becoming involved" with Fitzgerald "anti-corruption" witness, Basil Hicks. This suggested indeed that police corruption was responsible for Saunders's plight. I will return to this passage of the Fitzgerald Report in greater detail later in the report.

To my mind this unwillingness to report 'both sides of the story' would have left the public with the impression that the Commission was uncovering much evidence of police corruption when in fact it did not.

Another newspaper article referred to me was one dated 24 June 1993 which bore a headline titled "CJC grills Lewis on Saunders." This article was false in two respects. First it gave the clear impression that the Criminal Justice Commission investigators were grilling witnesses. This if accepted as true would no doubt have tended to dissuade witnesses with valuable evidence to come forward for fear of being "grilled" themselves. I did not become aware through the currency of the investigation of any witnesses being grilled by CJC investigators. Secondly former Police Commissioner Terence Lewis was never interviewed by investigators from the Criminal Justice Commission. A series of questions had been provided to Lewis's legal advisers for Lewis's consideration. They supplied them to Lewis for his response. A response was provided to the legal advisers by Lewis and the legal advisers furnished a written response to the Commission. There was no contact with Lewis at this stage by any person from the Commission.

There was also frequent referral in much of the press to Saunders having been acquitted of all charges when she had not been. Reference was also made to her having been incarcerated on false charges or fabricated evidence when the evidence was from the second day of the hearings that she was incarcerated only after being charged with a fourth offence, namely conspiracy to pervert the course of justice; she was incarcerated then because the courts considered that she had breached the conditions of bail which had been imposed in relation to the first three charges.

I am not aware of how or why such errors and inaccuracies continued to occur. It is fair to say that towards the end the reporting did improve. It may well be that in future when an investigation of this nature, namely one of significant public importance and complexity, is conducted one experienced reporter will be assigned by his or her employer to attend the hearing from beginning to end. This would no doubt go a long way to eliminating errors arising from a lack of familiarity with both the oral evidence previously given in the public hearings and the documentary material tendered.

1.9 An outline of the facts giving rise to this investigation

On Sunday 7 March 1982 off-duty Police Constable Lorrelle Anne Saunders and a friend, Roy Alfred Coomer, were dining in Tony's Restaurant at Mt Gravatt when firearms owned by Coomer were removed from the Torana motor vehicle in which they had come to the restaurant. The motor vehicle had been parked in a parking area behind the restaurant.

When they returned to the car and observed that the firearms had been removed from the car they moved the car from the car park to near the post office on the other side of Logan Road.

Initially two uniformed constables, Robert Peter Stalling and Paul Robert Irving, came to the scene and then Inspector Brian Patrick Webb arrived. Detective Sergeant Melvyn Francis Symes and Senior Constable John Caesar Ellsworth arrived and Webb left after he had spoken to the uniformed Constables, Saunders, Coomer, Symes and Ellsworth. Shortly after his departure Webb received a radio message that Saunders had made allegations against Symes and that Symes was making allegations against Saunders. He returned to the scene. He spoke with Saunders and Symes. The motor vehicle was taken by the Police and unsuccessful attempts were made to locate fingerprints on it.

In the afternoon of Tuesday, 9 March 1982 Saunders again saw Webb. The theft of the guns was discussed. Later on that day between 6.00 pm and 9.00 pm Saunders and Senior Constable Barry Krosch met Douglas Mervyn Dodd. Dodd had apparently previously acted as an informant to Saunders. There was talk between Saunders, Krosch and Dodd about recruitment of Dodd as an agent for the Special Branch. Krosch worked in the Special Branch. Saunders had a conversation with Dodd outside Krosch's hearing.

About 10.00 pm on 9 March 1982 at Manly, Joseph Gary Wills stole a motor vehicle into which he and Dodd placed all of Coomer's stolen firearms other than a .22 Smith & Wesson handgun. They then drove the car to a place along the Pacific Highway where they abandoned it. The Beenleigh Police received a telephone call early the next morning in which a woman reported that a car had overturned on the Pacific Highway and had been abandoned. Senior Constable Axel Pfuhl and other police later discovered the car and found a firearm. The car was taken to the police station. It was the car stolen from Manly and the owner, Paterson, was advised. The owner later came and unlocked the boot of the car. In the boot of the car the police found the firearms stolen on Sunday, 7 March 1993 other than the .22 Smith & Wesson.

On 25 March 1982 Detectives attached to the Cleveland Police Station went to a house at 25 Ferry Road, Thorneside. The detectives involved were Detective Sergeant Graham Williams, Detective Constable Gregory Tutt, Detective Constable Mervyn Neilson and a late arrival was Detective Constable Graeme Millard. During a search for stolen property a .22 Smith & Wesson was found which turned out to be Coomer's stolen

weapon. At the time of the search there were present in the house Dodd, Wills and Joselyn Spires, together with her two children. These persons were taken to the Cleveland Police Station. Wills confessed to the commission of quite a number of crimes and was charged by Millard with property offences and kept in custody. Dodd was charged with receiving stolen property but not the .22 Smith & Wesson. He was released on bail to appear at the Cleveland Magistrates Court on 29 March 1982. No charges were made against Spires.

On 26 March 1982 Webb came to the Cleveland Police Station. He met Dodd at the police station. Dodd made allegations that Saunders had arranged the stealing of the guns which had been carried out by Wills and himself. It was communicated to Police Headquarters that allegations were being made against a serving Police Officer and Inspector Thomas Terrance Flanagan was told to go to Cleveland to assist Webb. Records of interview were taken from Wills and Dodd commencing at 3.10 pm and 4.38 pm respectively. Webb and Flanagan spoke with Coomer at the Cleveland Police Station. Saunders also later attended the police station where Webb conducted a record of interview with her commencing at about 9.23 pm.

On 27 March 1982 Dodd and Wills were arrested and charged by Webb with stealing Coomer's guns on 9 March and with the unlawful use of the Paterson vehicle. Both were kept in custody. On the same evening Spires rang Saunders and passed on a message from Dodd that she (Saunders) should contact Krosch to go to Cleveland and see Dodd.

Webb and Flanagan continued the investigation which was directed to ascertaining whether Saunders or another or others were involved with Dodd and Wills. Dodd was kept in custody in Brisbane Prison but on 15 April he was returned to the Cleveland lock-up to appear on remand before the Stipendiary Magistrate. While in the lock-up he told Williams that he had a tape recording that he had made of a meeting between himself and Saunders. He said he had tape recorded a discussion between the two of them in which criminal activities were discussed and in particular the theft of the firearms, the theft of a payroll and the murder of a Police Superintendent named Allan Lobbegeiger who at some stage was Saunders's lover. He claimed the tape was in the custody of a friend at Stanthorpe. He required bail to get the tape. On the same day Webb, Williams, Dodd, Spires and perhaps her two children drove to Stanthorpe. Dodd then drove away in a car provided by Webb for this purpose to get, so he said, the tape from his friend. He returned and said that the friend was away and he had been unable to get the tape.

On 23 April 1982 Dodd with Webb and Williams again went to Stanthorpe when a similar procedure was followed. Dodd returned to Webb and Williams and produced a tape. Webb rang Brisbane so that when the party arrived at Police Headquarters at about 4.00 pm that day there were already assembled some persons to witness the playing of the tape. Dodd was subsequently to give evidence under oath at Saunders's committal hearings and trials that the tape recording was a genuine recording of conversations between himself and Saunders on 19 March 1982. Webb gave evidence that he identified the female voice as that of Saunders.

In the edition of the Sunday Sun of 25 April 1982 a reporter named Brian Bolton wrote a story suggesting that proceedings were imminent against a woman police officer for plotting with a criminal to murder a senior Queensland policeman. On 28 April 1982 Dodd made two further statements and on 29 April 1982 Saunders was arrested. The arrest took place at her solicitor's office by arrangement between the police and her solicitor. She was refused watchhouse bail. On the following day Saunders was given bail by the Stipendiary Magistrate. It was a condition of her bail that she refrain from making contact with Lobegeiger, Coomer or Dodd. The charges against Saunders were three in number:

- (1) Stealing Coomer's firearms from the Torana motor vehicle on 7 March 1982;
- (2) Attempting to procure the theft of a payroll from a company of whom the Tucker family were principals; and
- (3) Attempting to procure Dodd to conspire with another to murder Lobegeiger.

On 4 July 1982 Dodd was arrested for the unlawful use of a car and, together with Spires, Alan Glanville and some other youths, of stripping it of parts. He remained on bail.

On 9 and 10 August 1982 evidence was called in the committal hearings before the Stipendiary Magistrate on the three charges against Saunders. 11 August 1982 was a public holiday, being Exhibition Wednesday, and on this day Colin Stanley Cooper arrived from Adelaide with his girlfriend, Susan Gray. Cooper was at the time 24 years of age but had met Saunders when at 16 years of age he was arrested by her in Brisbane on a drug charge. He had apparently acted as an informant for her for some time after his initial arrest but in recent times had lived in Adelaide.

Saunders, Gray and Cooper visited Gatton and looked at the farm property of Lobegeiger on 15 August 1982. A second trip was made on 17 August 1982 in the Toyota motor vehicle owned by Coomer with Coomer driving. Saunders, Coomer, Cooper and Gray went for a four day holiday to the Gold Coast. This was between 23 August and 26 August 1982. They stayed in a tent in a caravan park at Miami. On 7 September 1982 Saunders, Cooper and Gray visited the Gold Coast. A letter was put in Lobegeiger's post box. Cooper in an effort to get a close look at Lobegeiger entered his property: he was in an intoxicated state. Lobegeiger apprehended him and he was questioned by police. Finally he was brought to Brisbane where Webb questioned him. He told Webb that Saunders had asked him to help her in her trial by giving evidence that he had been present at Gatton with her in February 1982 when some shots had been fired on Lobegeiger's property. He also told Webb that the trips to Gatton in August had been to ensure they had their stories straight. If he had given this evidence at her trial he would have been committing perjury as he was in Adelaide at the relevant time. The evidence went to the state of the relationship between Saunders and Lobegeiger.

On 8 September 1982 a search warrant was executed at Saunders's home and another search was conducted on 9 September 1982. Located was a tape recording of a telephone conversation between Saunders and Lobegeiger which had apparently taken place earlier that week. Also located was a tape recording in Saunders's voice which seemed to set out in detail the account which Cooper claimed he was to relate of events at Gatton in February 1982. On 9 September 1982 Saunders was arrested on a fourth charge: that, together with Cooper and Coomer, she had sought to pervert the court of justice by manufacturing evidence for use at her trial on the first three charges. She was refused bail.

Saunders was tried in the District Court at Brisbane before His Honour Judge Pratt on the first two charges of stealing firearms and of attempting to procure Dodd to steal the payroll. She was acquitted by the jury on 24 May 1993. Once again she was refused bail.

Just prior to the trial Spires had handed in to the police a letter dated 14 July 1982 in the hand of Dodd in which he claimed that Saunders was innocent and that Webb and Williams had made a deal with him that if he "sunk her" he would get off on a good behaviour bond. Dodd was cross-examined about the letter at the trial but denied that the contents of it were true.

On 4 July 1983 Saunders was granted bail by a Judge of the Supreme

Court.

On 2 August 1983 the trial of the third charge of attempting to procure Dodd to conspire to murder Lobbegeiger and the fourth charge of attempting to procure Cooper to commit perjury commenced in the Supreme Court. A nolle prosequi had already been entered on the charge against Coomer. On 3 August 1983 Mr Justice Shepherdson ordered that there be a separate trial on the charge which related to Cooper and voir dire proceedings were held to ascertain whether the tape recording which Dodd had given to police at Stanthorpe was genuine. On 5 August 1983 evidence was given before the Supreme Court that the tape recording could not have been recorded prior to April 1982 although Dodd's evidence was that the conversation was recorded by him on 19 March 1982. The Crown conceded the tape recording was a fabrication and on 8 August 1983 a verdict of not guilty was directed by the trial Judge. The Judge added that he intended to direct that the material before him be referred to the Crown Law authorities for "a full and detailed investigation to try to get to the bottom of this whole rather unsatisfactory sort of affair." Saunders was granted bail.

There remained outstanding the fourth charge of attempting to procure Cooper to perjure himself. Cooper had already been tried for this charge and on 22 April 1983 was convicted in the District Court in Brisbane. He was sentenced to nine months in prison. His defence was that although he had agreed with Saunders that he would give the false evidence requested of him, he had never intended to do so in fact; this meant according to him that there had been no agreement so there could be no conspiracy. The charge against Saunders was changed for this reason to one of attempting to procure Cooper to perjure himself on 2 August 1983. The barristers acting for Saunders made a very detailed written submission to the Attorney General and Minister for Justice to the effect that the Crown should not proceed with the fourth charge. After receiving advice from the then Solicitor-General, The Honourable Neville Harper, Minister for Justice and Attorney-General, issued a press release on 20 January 1984. That press release included the following passage:

'As a result of that submission, having regard to the history of the matters generally and the relationship of the present charge to those on which Miss Saunders has been acquitted, I have decided that no further prosecution should take place', Mr Harper said.

The legal consequences of my decision and the verdicts in

favour of Miss Saunders are such that she is to be regarded as completely innocent of all charges', Mr Harper said.

The Crown entered a nolle prosequi on the outstanding charge.

After investigation of Dodd's role in the making of the fabricated tape he was charged on 11 April 1984. On 5 February 1985 he was convicted on three charges of perjury and was sentenced to six years imprisonment.

During the Fitzgerald Inquiry former Inspector Basil Hicks gave evidence about a visit he had made to the Brisbane Women's Prison in 1978 to visit a prostitute who, it had been rumoured, had made a statement alleging that Hicks had conducted an affair with her and that she had compromising photographs of them both together. He took Saunders with him on this visit. He gave evidence that shortly after he visited the prison Assistant Commissioner Anthony Murphy rang him and told him that he would deal with Saunders in the future. Saunders was called to corroborate the visit. In the report dated 3 July 1989 of the Inquiry it is said that Saunders was "to pay a very heavy price for becoming involved" with Hicks.

In September 1989 a claim for compensation was made to the Government by Carew and Company on behalf of Saunders. It was rejected.

In 1990 Carew and Company made a detailed written submission to the Government requesting that she be paid compensation in respect of the charges that had been brought against her. This claim was also rejected although \$50,000 was paid to her to reimburse her for legal expenses.

The subsequent events leading to the formal Resolution by the Commission to conduct this investigation are set out in the preamble to the Resolution in Appendix 1.

1.10 The submissions from Saunders's solicitors

It is appropriate at this stage of the report to refer to some aspects of the written submissions made by Carew and Company. I have not attempted to refer to every submission made but notwithstanding their late arrival I have considered them all. I was disappointed by the submissions. At times Carew and Company referred me to endless passages of evidence in previous proceedings. Before me those who had given that evidence admitted it had been false. There was no point in referring me to these

passages. For example the submissions detailed for many pages Dodd's previous evidence in which he had claimed that the tape recording produced to police was genuine. Before me for the first time he admitted that it was a fabrication. There was no point in making exhaustive reference to what Dodd had conceded were lies. There were other submissions which I was forced to address in the report when there was no basis for them in the evidence. I will refer to some of these now. There are further references to the submissions throughout the report.

It was submitted on a number of occasions that the investigators of the Commission had shown "incompetence/bias" in conducting their inquiries. Although I was not deliberately looking for either incompetence or bias in the investigation at no stage did it occur to me that the inquiries had been conducted in anything less than a competent and efficient manner. At no stage did it appear to me that the investigators or anyone from the Commission exhibited a lack of objectivity or bias.

In the submissions there was a significant number of references to the solicitors for Saunders having been denied access to certain material by officers of the Commission. A perusal of the correspondence between the Commission and Carew and Company clearly establishes that this claim was completely without basis. During the course of the investigation Carew and Company sought access to certain taped interviews that investigators had conducted with potential witnesses. In only rare circumstances had these taped interviews been transcribed and tendered before me. In relation to those that had not been tendered before me Carew and Company wished to take copies of these tape recordings from the Commission's premises. Counsel Assisting refused to provide copies away from the Commission's premises. Having been advised of the Commission's position Carew and Company wrote to the Commission by letter dated 8 June 1993. In that letter the following passage appears:

Further, Mr Lambrides has already indicated to me that all tape-recordings of interviews with witnesses are available to be heard by us in the precincts of the Inquiry. However, due to the difficulties in relation to non-payment of our costs, it has proved impossible for us to find the time to attend the Inquiry Headquarters for this purpose. For this reason, we now request copies of all tape-recorded interviews and other conversations with Inquiry witnesses or potential witnesses.

Also in that letter Carew and Company advised that it refused to provide

Counsel Assisting with records of further interviews or conversations which Carew had had with a number of persons who had given evidence or were to give evidence before me. The basis of that refusal was that Saunders had not been prepared to waive legal professional privilege in relation to that material.

In response to this letter Carew and Company were advised by letter dated 16 June 1993 in the following terms:

In view of your refusal to provide tape recordings and transcripts as requested, on the ground of legal professional privilege, the previous decision to make available to you, in addition to the statutory declarations, all tape recordings between prospective witnesses and officers of the Commission will be reviewed. Certainly, access to them will not be provided to you away from Commission premises.

In response to that letter Carew and Company again wrote to the Commission on 29 June 1993. In that letter the following passage appeared:

In view of the fact that our legal costs are not being paid, the decision to refuse access to the material away from the Commission's premises effectively amounts to a denial of access to that material. It therefore effectively denies us access to all previous statements by persons who may be material in the investigation.

By letter dated 2 July 1993 the Commission again responded to Carew and Company. In this letter the following passages appeared:

I do not accept the proposition that, because your client is not being legally funded, the decision of the Commission to refuse access to the tape recordings of interviews with prospective witnesses away from the Commission's premises effectively amounts to denial of access to that material. That is clearly not the situation. If your client or yourself wishes greater access to the material at the Commission, arrangements can be made for same. The investigation has been conducted over a period of many months. To date there has not been a single request by you or your client to access that material at the

Commission's premises.

The recordings made by officers of the Commission led to the preparation of statements or statutory declarations which the witnesses executed after reading and with or without correction. These documents, executed after due consideration, are the evidence not tape recordings of prior interviews. I see no legitimate basis upon which you should have access to these tapes at all.

At no time was access to this material denied at the Commission's premises. Although the solicitors had suggested that because of funding problems they could not devote the time to attend at the Commission's premises, there was nothing to preclude Saunders attending by herself whenever she wished. After all, she was in the best position to recognise any matters of significance. If anything of significance arose she could have specifically brought these matters to the attention of her solicitors. I must add that bearing in mind the spread of the public hearing dates and the many months I made available for submissions to be prepared and furnished to me I cannot accept that there had been "effective" denial of access to the solicitors.

It was also submitted that Counsel Assisting had engaged in "inexplicable leading" especially in relation to the key witness Dodd. It is trite to say that investigations of this nature differ considerably from adversarial court proceedings. It is also trite to say that asking leading questions of witnesses in this type of investigation is not only permissible but sometimes necessary. However, if authority is sought for the proposition that a counsel assisting is entitled to ask leading questions it can be found in the text by Leonard Arthur Hallett titled *Royal Commissions and Boards of Inquiry*. At page 220 the following extract appears:

Having regard to the different functions of an executive inquiry and a court of law, it is not surprising that counsel assisting do, on occasions, need to resort to a line of questioning akin to cross-examination, e.g. when a witness whom it is thought is in possession of relevant information refuses to co-operate. Sir Charles Lowe acknowledged the possibility in the Communism Royal Commission (1949) and ruled that counsel assisting was not limited to asking non-leading questions. As Epstein has pointed out, the tool of counsel is forensic examination, therefore he must be able to cross-examine.

In view of the effluxion of time since the events occurred and the history of Dodd's previous accounts I did not consider it inappropriate for Counsel Assisting to examine him by asking leading questions. Dodd always had the option to disagree with the question put by Counsel Assisting which on occasions he did. Relevant in the consideration of this matter was the fact that no objection was taken by Fleming QC to the manner of questioning as it was occurring. Furthermore Fleming QC had the opportunity to cross-examine Dodd subsequently which he did at length. Fleming QC was not in any way restricted in the questions he could ask arising from the examination of Counsel Assisting. Much the same could be said in relation to the questioning of the other witnesses.

I assume from this particular submission that an inference to be drawn was that the integrity of the investigation had in some way been adversely affected. I regard this submission as unwarranted in the circumstances and I dismiss any suggestion that the investigation was in any way compromised by the mode of questioning adopted by Counsel Assisting.

It is interesting to note from the correspondence between Carew and Company and the Commission that Counsel Assisting's manner of examination was criticised by the solicitors in the course of the public hearings. They were invited in writing by Counsel Assisting to raise the matter with me on the next hearing day. The matter was not raised until I received the written submissions.

In an extraordinary submission by Carew and Company it was stated that it was not in the public interest for Hampson QC to have accepted the brief as Counsel Assisting. The basis of the submission was the following paragraph:

Given the controversial history of the matter, including the possibility that senior police (including Lewis and Murphy) were involved in framing Saunders, the concern that those same police may have had a role in preventing a Commission of Inquiry in 1984, a concern that the Crown Law Authorities had not adequately carried out the recommendation of Mr Justice Shepherdson for a "full and detailed investigation into the circumstances" - all of the circumstances warranted an inquiry which observed strictly the highest possible standards to ensure public confidence in its integrity. In the circumstances, we submit that Mr Hampson should not have accepted the brief without ensuring that all principal parties concerned were aware,

at the outset, of his having represented the interests of Lewis and Murphy (and other commissioned officers and ex-commissioned officers) at the Fitzgerald Inquiry in 1987 and without ensuring that all principal parties had no objection to his very important role at this Inquiry.

Later in the submission the solicitors add that:

Saunders's perceptions are likely to be shared by a significant proportion of the public.

At no stage of the investigation was it raised by Saunders's lawyers that Hampson QC should stand down from his role as Counsel Assisting.

Saunders herself first raised the issue when Hampson QC was in the process of examining her on the last day of the public hearings at which stage she no doubt had realised that her position had become less tenable. He was putting for her comment the accounts of other witnesses which were inconsistent with her evidence. After questioning Saunders about not having read some of the statutory declarations of other witnesses the following exchange took place:

You have not bothered reading them, in fact?---As I said, I've gone through some of them. I can't really recall.

All right. I mean, has not this been important to you, this particular inquiry?---Well, I've got to the stage, I'm just totally fed up.

See, I mean, you, through your solicitor, pressed, for a long time, for an inquiry, did not you?---I certainly did.

And then, because, I think, in 1990, it was not going to be on your terms, you disagreed with the way it was going to go ahead then. It was nearly set up then and I think Sir Max Bingham was going to do it, was not he?---I think so.

Yes. Anyway, that did not get off the ground. But since the last three years, at least, you have been clamouring for an inquiring; insisting on an inquiry?---Well, yes. Sure.

Now, we have the inquiry and you are saying that, in

effect, you are too tired, or whatever it happens to be, to read the statutory declarations that the CJC investigators have got in relation to your particular matter?--Mr Hampson, I'll say one thing. If I'd known you were going to be Counsel Assisting, I - if I'd known at the time that you'd represented Mr Murphy and Mr Lewis, I would have, again, refused the inquiry. That's one.

I am getting the poisoned pen, now, too, am I?--No, that's quite true.

All right. Go on - - -?--That's quite true. I certainly didn't know that at the time I agreed to you being Counsel Assisting.

Where did I represent Mr Murphy and Mr Lewis?--I believe that you represented them, at some stage, at the Fitzgerald Inquiry.

I see. Okay. And that makes - - -?--And I didn't have that knowledge.

- - - me corrupt and - - -?--No, just the knowledge you would have had from them. I would have felt that there may be a conflict, if I'd known that. That's one thing. This has put me under tremendous strain. I don't know when I'm supposed to have read all these documents.

In response to Saunders's having raised this matter Hampson QC placed on the record his involvement in the Fitzgerald Inquiry:

HAMPSON QC: Your Honour, in view of that statement from the witness about my appearing in the Fitzgerald Inquiry, I think I should put on the record this: that I received a - it was a public brief; it really came from the Government, and because the Crown Solicitor's office was briefing a number of people and things of that kind - the solicitors engaged were Morris, Fletcher, and Cross, as they were then called, and I was briefed then to appear for the Commissioners and Acting Commissioners of Police, existing and past, and I think the past went back for something like 20 years. And I did appear for that collection of people for a time. I withdrew from the

Commission after some period of time, and the junior, a Mr Bowden, continued. But so far as Mr Lewis was concerned, my recollection was that allegations were made against Mr Lewis after a few months of the hearing - I cannot remember - and then the Government withdrew his name from representation, so he did not continue to be represented.

So far as Mr Murphy was concerned, I do not think I ever had a conference with him or anything of that particular kind. I just say that because in my mind, there is not the slightest suggestion of conflict, absolutely, between this inquiry and what happened there, but I thought it might be necessary to - sorry - I said Commissioners apparently and Acting Commissioners; it was Commissioners, Acting Commissioners, Deputy Commissioners, and Assistant Commissioners - the whole people who had commissioned rank, because they did not have a union. That was the point. The ordinary policemen had a union; the officers had a union; these people - - -

THE JUDGE: Did not.

HAMPSON QC: No, the administration did not have it. So I just thought I would just mention that, because otherwise people might misunderstand it.

THE JUDGE: Yes. Thank you, Mr Hampson. I think, speaking for myself, that it was a pity it was ever raised. If there was some suggestion of conflict, I have no doubt Mr Fleming would have spoken to you about it.

HAMPSON QC: Well, I do not want to go further. Thank you, your Honour. I just thought I should put it on the record.

When the written submissions were made by Carew and Company I caused checks to be made on the public transcript of the Fitzgerald Inquiry. On 12 June 1987 Hampson QC was granted leave to appear with Mr Bowden for:

Sir Terence Lewis, the Commissioner of Police, Mr McDonald, the Deputy Commissioner of Police and the five

Assistant Commissioners, Redmond, Braithwaite, Parker, Donoghue and Walker, and also persons who within the time span named in the terms of reference formerly occupied those positions.

This therefore included Murphy as well as Lewis. Hampson QC continued to appear in the Inquiry until 7 March 1988. After this date his junior only remained. Hampson QC did not further appear. The Hicks/Saunders package of evidence was not led until 14 March 1988 on which date funding for Murphy was withdrawn. In the meantime Lewis's funding had been terminated on 4 November 1987. Hampson QC ceased to act for him at this time.

I have no doubt that no conflict of interest existed in his role of Counsel Assisting. In view of Carew and Company's submission that it was not in the public interest for Hampson QC to accept the brief as Counsel Assisting at this investigation, surprisingly the following was conceded by the solicitors:

Incidentally, we do not submit that Mr Hampson did have a conflict of interest in the sense used in the courts of law.

They did not (and could not) point to any part of the evidence where a conflict of interest arose.

It is clear that the public perception in matters of conflict of interest is irrelevant. The question is whether or not there is a conflict of interest. There was no conflict of interest as a matter of law and the matter should have stopped there. No reasonable member of the public with knowledge of the facts could have even suspected that the brief of Hampson QC in the Fitzgerald Commission could have given him information about Saunders which could be used to her detriment in this investigation. Once again the inference to be drawn from the submission was that the integrity of the investigation had been undermined. I reject this completely and I repeat what I originally stated when the matter first surfaced on the last day of the public hearings. It was a pity the matter was ever raised.

As part of the attack upon the conduct of Counsel Assisting reference was made in the submissions to the fact that Saunders was examined on two separate occasions over a total of eight days. It was submitted that no other witness was questioned by Counsel Assisting for more than a day. Saunders was originally questioned for four days in order for her to exhaust her concerns and raise all allegations known to her concerning the

subject matter of the investigation. Her testimony covered events which spanned many years. There were many incidents, suspicions and allegations which Counsel Assisting correctly wished to elicit exhaustively from Saunders. No doubt if Hampson QC had not questioned her for so long he would have been criticised for diminishing the importance of her evidence. After all other witnesses had given evidence it was apparent that Saunders's original position was no longer convincing. It was necessary for Counsel Assisting to put to Saunders the inconsistent accounts given by other persons either in oral evidence or by way of statutory declaration. If Counsel Assisting had not done so he would have been correctly criticised for not affording Saunders the opportunity to respond to these matters. Because of the great disparity between Saunders's account and those of many others this examination took nearly four days. I do not see how the length of this examination could have been reduced.

To suggest that something adverse can be inferred from the fact that no other witness was questioned for more than a day by Hampson QC ignores the fact that all other witnesses could only give evidence in relation to a relatively small part of the narrative.

Further criticism of Counsel Assisting was made in the following submission from Carew and Company:

Throughout the questioning by Mr Fleming, Dodd claims on a number of occasions that he is 'telling the truth'. But if the transcripts of his previous evidence and statements are examined, it appears as if Dodd has always claimed that the particular version he is giving when being questioned 'is the truth'. The fact that Dodd claims to be telling the truth is perhaps more a cause for concern than anything else. Yet, the Criminal Justice Commission has presented Dodd at this Inquiry as if he is, finally, telling the truth. Without a thorough examination of Dodd by the CJC (and this did not occur) whereby he is asked to explain all of his previous inconsistent versions, in our submission it is extraordinary for the CJC to be submitting to you that you could find that Dodd was telling the truth when giving evidence at the Inquiry.

This is an extraordinary submission. At no stage did the Criminal Justice Commission, Counsel Assisting or anyone else present Dodd to the investigation "as if he is, finally, telling the truth." I imagine that Carew and Company were here referring to a letter dated 27 August 1993 sent to

Fleming QC by Counsel Assisting. It commenced:

As per my previous advice, to assist you in directing your submissions to Judge Matthews I have prepared a 'worst case scenario' concerning your client, arising from the evidence before him. I consider that there is evidence from which the Judge could, but not necessarily should, come to the following findings concerning your client's conduct in 1982 and 1983.

The letter then listed a number of possible "findings." At the end of the letter this paragraph appeared:

Needless to say, this document cannot bind the Judge as he may consider there are other matters in evidence before him from which he may make adverse findings concerning your client. This 'worst case scenario' should be seen as merely my view of the adverse findings which His Honour might make.

I took this document to be nothing more than an aid to Saunders's lawyers in directing their submissions. No doubt when Counsel Assisting decided to furnish such a letter he had considered the rules of natural justice. There is nothing in the letter which suggests that Counsel Assisting was putting forward Dodd as a witness of credit.

The criticism of Counsel Assisting in not putting to Dodd all his previous inconsistent versions is beyond comprehension. The reason that one cross-examines a witness on a previous inconsistent statement is to shake his present testimony. Where the present testimony is that he is now telling the truth but that he lied on previous occasions it is pointless to put to him that his previous evidence differs from his present evidence. No benefit would have been gained by taking Dodd through these previous inconsistencies. I should note that this matter was raised with Counsel Assisting by Carew and Company in the course of the public hearings. Counsel Assisting by letter dated 2 July 1993 invited the solicitors to raise the matter with me at the next hearing date. They did not.

Carew and Company submitted that the integrity of the investigation was undermined by the failure of the Commission to bring to my attention the decision of the Court of Appeal in Whiting's case. A decision in that case was handed down on 8 April 1993. It was stated that prior to the decision in Whiting "it was believed" that pursuant to section 3.23 (as it then was)

of the *Criminal Justice Act* a witness could engage any legal practitioner he or she chose and that legal representative had the right to appear for that witness with the Commissioner having no say in the matter. It was further stated that prior to Whiting it was only a conflict of interest in the traditional legal sense which could prevent a solicitor from representing more than one party. It was said that it had been thought that it was a matter for the legal representatives themselves to determine the limits having regard to the professional and ethical standards expected of them. It was also said that Whiting created new ground in that a Commissioner had the power to refuse to allow a particular legal representative to represent a witness appearing before the Commission on the grounds that the Commission believed that the refusal was necessary to maintain the integrity of the inquiry. It was submitted that the case was relevant in this particular investigation because a significant number of witnesses and persons who supplied statutory declarations to the investigation were represented by Gilshenan and Luton, the solicitors for the Queensland Police Union.

The first point I should make is that it may have been "believed" by Carew and Company that until Whiting's case the Commissioner had no power to refuse to allow a particular legal representative to represent a witness appearing before the Commission but it certainly was not the view of the Commission. After all, they had made such a ruling in an investigative hearing against which the appeal was made to the Court of Appeal. Of course Whiting's case was a private investigative hearing not a public hearing. The solicitors there sought to appear not only for the person the subject of assault allegations but also for prospective witnesses. The prospective witnesses were to be examined in the absence of the person against whom the assault allegations had been made. It was feared that if the solicitors were present for the cross-examination of the prospective witnesses they would gain information which could quite innocently be communicated to the person against whom the allegations had been made when they later sought instructions from him. Such a situation did not arise here but I should add that the case had been brought to my attention by Counsel Assisting.

A further criticism of Counsel Assisting related to some questions asked by Fleming QC of Dodd when Dodd gave evidence before me. Dodd in evidence in chief had for the first time on oath admitted that the tape recording was a fabrication. He was questioned as to whether he had advised Counsel Assisting of this fact in the pre-hearing conference that morning. Dodd replied that he did not tell Counsel Assisting whether the tape was "good or bad." He told Fleming QC that Counsel Assisting had

merely explained to him how things were and "he has more or less left it up to me."

It was suggested by Carew and Company that Dodd was evasive and was lying in his response. By implication it was submitted that Dodd had told Hampson QC what he was intending to say when giving evidence on oath before me. The submission went on to indicate that despite requests the solicitors had not been given a version of the discussion between Hampson QC and Dodd prior to the hearing. The submission continued that at the District Court trial it was clear that the defence had been told about prior discussions with Dodd and had been provided with a copy of Dodd's statement of 4 May 1983 which related to the letter dated 14 July 1982. They claim that no such statement was provided to them before Dodd gave evidence at the investigation.

At the time I did not consider that Dodd was evasive or had been lying concerning his prior discussions with Hampson QC. Had Dodd been lying Hampson QC would have raised the matter with me. Counsel Assisting did not do so and I assumed that the evidence Dodd had been giving was not inconsistent with the events that occurred in the pre-hearing conference.

Upon receipt of the written submissions I requested a memorandum be prepared for me by Lambrides who was present during the pre-hearing conference. He confirmed that Hampson QC had explained to Dodd his rights under the *Criminal Justice Act 1989* and specifically referred to the ramifications of his perjuring himself before me. He was advised that any answers he gave before me could not be used in evidence against him in any subsequent criminal or civil proceedings. It was brought to his attention that Blanche Thompson had admitted providing the female voice on the tape recording. He was reminded that this account had been inconsistent with all Dodd's previous evidence on oath. At no stage did Dodd confirm or deny that the tape recording was genuine.

I can only reiterate my previous belief that if Dodd had been lying on oath the matter would have been brought directly to my attention by Counsel Assisting at the time. I am disappointed that Carew and Company did not have the same expectation of Counsel Assisting bearing in mind his undeniable reputation for acting ethically and with integrity.

In the submissions of Carew and Company they on a number of occasions made claims such as:

All of the relevant documentation was not produced by the CJC to this inquiry.

The implication was that material was held from me by either Counsel Assisting or officers of the Commission. In relation to Webb's diaries Carew and Company submitted:

Webb's diaries and notebooks were not produced by the CJC. Apparently they could not be located.

Later in the submissions the following appeared:

Webb claims that on 26 March 1982 he took notes in his notebook prior to the record of interview which was typed. The notebook cannot be located according to the CJC.

It was not "according to the CJC" that this material was not available. It was according to a letter dated 14 April 1993 from the Queensland Police Service. This letter was tendered before me. It stated that the Police Service was unable to locate notebooks and diaries of a number of police officers including that of Webb. The allegation is mischievous in the extreme.

A further example can be seen in relation to submissions concerning the evidence given by a witness named Mark William Woods. Carew and Company after submitting that a certain part of Woods's evidence was significant made the following statement:

It is interesting to note that this aspect of his interview with the CJC was not included in the statutory declaration with which we were originally supplied but it was in the transcript of the tape recorded interview. [The underlining appeared in the original submission.]

Once again the inference was that information was being withheld. When one looks at the transcript however one can clearly see that Counsel Assisting at the time of tendering the statutory declaration had shown Woods the transcript of the tape recorded interview. As Woods had not had an opportunity to read the transcript to confirm that it was an accurate one the transcript was not tendered at that stage. As soon as Woods had the opportunity to do so and confirmed on oath that it was a fair account Counsel Assisting tendered the transcript. The submission does no credit to Saunders's solicitors.

It was further submitted on a number of occasions by Carew and Company that certain relevant information "was not brought out into the open at the inquiry." One of these references was to a number of entries in the Cleveland watchhouse charge book. The original Cleveland watchhouse charge book was tendered before me very early in the investigation. Fleming QC cross-examined a number of witnesses at length on entries in the book. He did not cross-examine on the entries which Carew and Company had submitted were "not brought out in the open." That was a matter for Fleming QC and his solicitors. The entries were there for all to see. It is an astounding submission. The same comments can be made concerning the other references to material not having been "brought out in the open."

I saw no evidence of relevant documentation having been held back from me by either Counsel Assisting or officers of the Commission.

It was submitted that the actions, or inactions of the Criminal Justice Commission were "a disgrace" in that Murphy was not asked to be interviewed. They claim that the Commission's failure to do so was inexplicable. Carew and Company also submitted that attempts to interview Webb were "feeble" and he should have been interviewed by the Commission prior to giving evidence. Counsel Assisting was also criticised for calling persons such as Murphy and Webb late in the investigation after they had access to transcripts and time to reflect on the answers that they would give when finally questioned.

When Murphy first appeared in the witness box the following exchange took place between him and Counsel Assisting;

HAMPSON QC: Mr Murphy, you declined to be interviewed by investigators from the CJC, but you provided to the Commission your own statutory declaration, is that correct?--I don't think there was ever any request of me - - -

You do not think so?--- - - - by the CJC officers to interview me.

Oh, I see?--I certainly attended at the office on a number of occasions. I found them most courteous, but again I don't accept that I was ever asked to be interviewed.

All right. Well, I just - - - ?---Initially, had I been so, I may have declined.

Yes. Does not matter much, but what has happened with most witnesses at this stage, there has been some reference to a statutory declaration made to the investigators you see. In your case there was none made to the investigators, but you provided your own?---Yes, sir.

And for the purposes of preparing that statutory declaration you did have access to certain documents from the Commission office here, is that right?---I certainly did.

When Murphy was examined by his own counsel the following exchange took place:

NOLAN: Thank you. Mr Murphy, if I could take you back to clear up what may be a misapprehension on the part of those instructing Mr Hampson, to the first question he asked you regarding your refusal to be interviewed by officers from the Criminal Justice Commission. If you remember back to that?---Yes, I do.

Perhaps if I could just recap something for you and tell me whether you agree with what I am putting to you. Is not it the case that the officers from the Criminal Justice Commission offered to interview you, but it was decided that the more helpful thing for you to do would be to look at the material they had and then for you to in effect put together a statement answering most of the allegations. In other words, saving them the time of sitting down with pen and paper?---That - that's what actually happened, but I can't recall any offer from them to interview me. I think that when I - - -

Just bear with me. It may not have been made directly to you, but if you could - - -?---It certainly wasn't made directly to me. As I recollect it, I became very concerned on reading media reports on the matter. I contacted my solicitor who contacted you, and then I understood that you made the approach to the - to the CJC.

Well, it is a bit hard for me to give evidence, but - the point is, Mr Murphy, it is not a case of you refusing to be interviewed in an attempt to be unhelpful. It is more the case that - - -?---Not - not one bit.

- - - you were trying to be as helpful as you could?---Yes. And they were also very helpful every time I've been near the place.

It is clear from a file note dated 27 April 1993 that arrangements had been made at that time with Murphy's counsel for him to be interviewed in the week ending 30 March 1993. In a memorandum to me by Lambrides after written submissions were received by Carew he (Lambrides) advised that it had been Murphy's counsel who had determined that it was in his client's best interests not to be interviewed and that he had advised Lambrides that his client would not participate in an interview but would supply a written statement. If it was then necessary to question Murphy further it could be done in the witness box. Lambrides further advised that on 3 March 1994 Murphy's counsel confirmed that this was correct. On 5 May 1993 a statutory declaration was furnished to the Commission by Murphy. That statutory declaration addressed most of the matters raised by Saunders in her statement to the Commission. It was simply not true that Commission officers did not seek to interview Murphy. Of course he was always to appear before me and be subjected to examination and cross-examination.

In the case of Webb another file note dated 27 April 1993 from Investigator B A Pitman to Lambrides records that at 5.56 pm on Friday, 23 April 1993 Webb was contacted by Pitman on the telephone. After having been advised of the substance of the request for Commission officers to interview him Webb declined. He indicated that he did not wish to be interviewed about the matter advising that it was over ten years since the events. As far as I am aware at no stage did Webb indicate a change of heart to the Commission, although in his evidence it seemed that his objection was to that particular investigator interviewing him. No matter what Webb's position was the Commission's investigators were entitled to conclude that Webb was not prepared to be interviewed.

Commission officers of course could not force either Webb or Murphy to be interviewed. The Commission could have summonsed Murphy and Webb to appear earlier in the investigation however it is clear to me that this was not done until all the "allegations" and relevant evidence had been adduced concerning Murphy and Webb. To have called them earlier would have been pointless. Once again it is disappointing that Carew and

Company used such inflammatory language as "a disgrace" when there was in my opinion no basis for them to do so.

Further implied criticism of the conduct of Counsel Assisting was made in the submissions in relation to the calling of Lewis as a witness before me. Lewis had refused to be interviewed by Commission officers. His counsel advised however he was prepared for Lewis to answer written questions. A series of written questions were prepared for the response of Lewis and his legal advisers were provided with the list. A response to all the questions was received from Lewis in the form of an affidavit.

Upon receipt and consideration of the affidavit Counsel Assisting formed the "provisional" view to rely on the affidavit rather than call him before me to give oral evidence. In a letter dated 21 June 1993 this decision (which applied to twenty eight other named witnesses as well as Lewis) was communicated to Carew and Company which was informed that:

As presently advised Counsel Assisting does not see any useful purpose in examining these persons merely to repeat their account orally or for cross-examination.

Lewis was merely one of these twenty eight persons who fell into the same category. The name of each of these persons was also communicated to Carew and Company in the same letter.

The letter continued:

Please furnish to me in writing particulars of reasons why you contend that any person named in part C [the list in which Lewis was included] or part D should be called to give evidence orally. Counsel Assisting will then study the particulars to decide whether there is sufficient value in calling any witness and you will be promptly advised of his decision. You can then raise the matter with the Honourable R H Matthews QC if you are dissatisfied with Counsel Assisting's decision.

In response to this letter Carew and Company advised by letter of 7 July 1993 in the following terms concerning Lewis:

Further, the witness, Lewis, should be called to give evidence or be made available for cross-examination for the following reasons:-

He made a significant number of entries in his diaries relating to Sergeant Saunders including an apparent discussion with Tony Murphy concerning Hicks' visit to the jail in 1978 in the company of Lorrelle Saunders, discussions held with Lobegeiger concerning his relationship with Saunders (before Saunders was arrested and before Dodd made many of his allegations against Saunders) and with Tony Murphy concerning a committee of inquiry after it was discovered that the tape recording was a fabrication.

He has refused to be interviewed by the Criminal Justice Commission. The Statutory Declaration that he has provided came as a result of a series of questions being issued apparently to his legal advisers. He therefore had the benefit of legal advice in preparing the Statutory Declaration as well as answering them in a comparatively relaxed atmosphere and without any pressure or testing of his recollections.

It should not be forgotten that Lewis is a criminal who was jailed for the maximum period of 14 years after he was convicted by a jury of numerous counts of corruption. That sentence reflected the fact that he betrayed the trust placed in him by the public of Queensland.

In our submission it is clearly in the public interest for Lewis to be called and publicly cross-examined particularly in view of the fact that he has not yet even been questioned by the Criminal Justice Commission.

On 15 July 1993 Hampson QC raised the matter before me in a private hearing. Carew was present. Counsel Assisting submitted the following:

Now, with relation to that request, your Honour, it was not really our intention to call Lewis, because there did not seem to be sufficient evidence, particularly in view of his sworn denial, that actually got to him, but we would be prepared to try to make arrangements for him to be cross-examined but not that he be publicly cross-examined.

In relation to this matter I wish to make two comments. First, it was clear that Counsel Assisting had been trying to minimise the number of days required for public hearings. In fact of the twenty eight persons referred to in part C, Carew and Company only wished three to be called. In view of the detailed response by Lewis in his affidavit I was not surprised that Counsel Assisting had made the "provisional" decision that he had taken. It is clear however that as soon as Carew and Company indicated the desire to cross-examine Lewis Counsel Assisting immediately acceded to that request. The matter was brought before me not because Counsel Assisting had refused to call Lewis but rather so that any hearings could be in camera. No doubt the basis for Counsel Assisting's request for having the examination of Lewis in camera was the tenor of Carew and Company's letter which to my mind gave every indication that a public 'flogging' and nothing less would be appropriate for Lewis. In view of the letter and previous misleading media coverage to which I have already referred I decided that the matter should be heard in camera. I should add that once Lewis had given his evidence at the Wacol Correctional Centre the transcript was available for public scrutiny.

In the written submissions Carew and Company made the following statement:

If it weren't for the funding difficulties which the Police Union Executive imposed on us throughout the Inquiry we would have pursued this matter (and others) in more depth.

The matter in question was the association between Dodd and officers of the Special Branch.

I am startled and astounded that a firm of legal practitioners would submit that because of funding difficulties they did not pursue with the witnesses all those matters they considered relevant. I should add that I do not believe that the question concerning the association between Dodd and the officers of the Special Branch could have been advanced any further. The same applies to the other matters that Carew and Company claimed that they could not further pursue because of funding difficulties. In saying this I should not be taken to have accepted that funding difficulties had been imposed by the Police Union Executive. It is not my position to comment on this issue, especially when I have heard only from Carew and Company and not from the Police Union Executive concerning it.

1.11 Observations on some aspects of the report

In this report I have discussed at length a significant amount of the evidence that was led or tendered before me which bears on the original questions for consideration. In view of the bulk of the material before me and the growing size of the report it was not possible to mention all the evidence, although I did consider it all. I have included reference in the report to those matters which I considered were most relevant. There was a large amount of material such as much of Dodd's testimony and much of Saunders's Legal Aid material which I rejected as having been false or unreliable. There was also a considerable body of material to which I did not refer that was equivocal or otherwise added minimally if at all.

In a number of cases witnesses had given previous conflicting evidence on oath. I did not refer to all these inconsistencies. In fact I referred to relatively few. To my mind they were of little relevance and nothing more than one would expect when a truthful witness had given a number of accounts over a considerable period of time. For example in the report a number of references will be seen to witnesses having given "a similar account," "a consistent version" or the like. I have used phrases such as these although minor conflicts may have existed because I considered that in the context of all the evidence the inconsistencies were of no moment. I do not apologise for this approach as to have done otherwise would have extended the report substantially and added little.

In their written submissions Carew and Company made numerous references to inconsistencies between different accounts given at different times by witnesses. The submissions argue that these inconsistencies are evidence of "deals" having been struck or of some other steps in a police conspiracy. The submissions seldom suggest a motive for what is asserted to be a deliberate lie and never put the inconsistency in a context with other evidence to support the existence of a conspiracy. I should therefore point out that in considering the evidence overall and in assessing the reliability of witnesses I have not failed to take into account these inconsistencies. In most cases however they are readily explained as I have said as honest failures of recollection by witnesses endeavouring after the lapse of so many years to tell the truth. I had the opportunity of seeing and hearing witnesses give evidence and was able to assess them in the light of their own accounts of events and in the light of other evidence.

Carew and Company in their written submissions suggested that further enquiries could assist me in my investigation. For example it was suggested that the two crown prosecutors at Saunders's trial in the District

Court be interviewed. I am firmly of the view that interviews of these persons and the others suggested by Carew and Company would not have advanced the investigation in any significant manner. Considerable time and money had already been expended on the investigation and no further expenditure was warranted on 'fishing' expeditions. The same can be said for some documentation which Carew and Company suggested may have been able to assist me. It should be noted that during the public hearings Carew and Company were invited in writing on a number of occasions to raise with counsel Assisting the names of other persons they wished to have called as witnesses in the investigation. The Commission in a letter dated 27 July 1993 confirmed advices that had been received from Carew and Company concerning this question. In that letter this paragraph appeared:

I confirm your following advices ...

Other than those in Category A (persons who Counsel Assisting had determined to call to give oral evidence yet to be called), there is no other relevant person that you require to be called to give oral evidence.

1.12 The "poisoned pen"

In the report reference will be found to my conclusions concerning the psychiatric and psychological problems which beset Saunders. The evidence suggested to me that Saunders had continued to harbour unwarranted suspicions and to display an extraordinary tendency to ascribe improper and even evil motives to others. To my mind the attacks upon the Commission investigators and Counsel Assisting were an extension of this. It seemed to me that the attacks became more virulent as the evidence which proved to be inimical to Saunders's position mounted. I mention this because I foresee that upon the handing down of this report which will no doubt displease Saunders the attacks which have previously been levelled upon Counsel Assisting and the investigators will be directed at me and my investigation.

1.13 The delay in furnishing the report

Regrettably the report was not furnished as early as I had hoped. A significant factor in this was the necessity to consider the voluminous transcripts, documents, statements and other evidence which were tendered

before me. A more significant factor in the delay was the fact that submissions were not received from Carew and Company until many months after public hearings had ceased on 26 August 1993. On that date Fleming QC had accepted as a reasonable time six weeks within which to provide written submissions. No suggestion was then made that the provision of the submissions was conditional upon payment of Saunders's costs by the Police Union. By letter dated 20 September 1993 from Carew and Company I was advised that that firm was unable to complete the submissions within the stipulated time and indeed preparation of the submission had not yet commenced. A funding problem with the Police Union and its solicitors was the stated cause for the delay. By letter dated 21 September 1993 I advised that I noted the position in which the firm and its client were found but that I was under an obligation to prepare a report and furnish it to the Commission as expeditiously as possible. I stated that the original six weeks allocated for the preparation of the submissions was, to my mind, generous and that it had been settled upon after consideration of the possibility of delay caused by the exigencies of a legal practice. Notwithstanding this, after consideration of all the circumstances I agreed to extend the period for submissions by a further four weeks thereby requiring the submissions to be furnished to me no later than 5.00 pm on Monday, 8 November 1993.

By letter dated 28 October 1993 Carew and Company advised that the legal costs issue had not been resolved and as a result it would not be able to complete submissions by 8 November 1993. On 29 October 1993 Counsel Assisting responded in the following terms to this letter after discussing the matter with me:

Your client was given six weeks to provide written submissions and Mr Fleming QC then accepted that as a reasonable time. No suggestion was then made that the provision of the submissions was conditional upon payment of your client's costs by a third party. When you sought an extension of time beyond six weeks it appeared you had not even commenced the submissions. This was surprising in view of the fact that your counsel earlier stated (page 570 of the transcript) that he and you, even in the absence of funding, would remain representing your client as long as you were able to for the duration of the inquiry. I understand that your client later received funding and it seems a great pity that you continued to represent her through the inquiry but are unable to make written submissions. Nevertheless, your client was given an

extension until 8 November 1993 in the belief that you would be able to provide written submissions within that extended time.

Your present request is for another extension beyond 8 November 1993 of virtually three weeks on the assumption that it will take a week to finalise your negotiations with the Police Union Solicitors. To grant this extension means that it will be impossible for the Judge to present his report before Christmas as he had hoped to do. As I pointed out in my letter there are persons other than your client who are no doubt hoping that the report is published as soon as possible as their reputations are involved. I should also observe that the resolution of differences with the Police Union is not a matter which involves the Judge and it would in my opinion be improper for him to write to the Police Union or its solicitors. He will not be doing so.

After anxious consideration of your latest request the Judge has instructed me to advise you that he will give a four weeks' extension beyond 8 November 1993 on the clear understanding that no further extension will be granted. I hope you are able to resolve the matter of payment with the Police Union speedily but if you are not able to do so, I respectfully suggest you give serious consideration to providing the written submissions and settling the differences with the Police Union afterwards. You will readily appreciate how important it is that your client have submissions made on her behalf. If you find yourself unable to make them might I suggest that you inform her that the Judge would accept written submissions from her.

A new deadline of 6 December 1993 was set.

When it became obvious that submissions were not going to be received on 6 December 1993 I reconvened the hearings with a view to offering a hearing day for oral submissions to be made in lieu of written submissions. On that date I advised Fleming QC that I would set aside 21 December 1993 to enable him to make oral submissions. Fleming QC advised me that neither he nor his solicitors would be in a position to make oral submissions on 21 December 1993 and declined the offer. I then advised Fleming QC that I could wait no longer for the submissions and I would commence to prepare the report without them. However I explained that if

before the report was concluded I had received the written submissions I would consider them.

Prior to the completion of my report I received a letter dated 14 February 1994 from Carew and Company attaching the first 371 pages of the submissions. The firm sought a re-opening of the public hearings or further detailed investigation in relation to a matter which it categorised as "fundamental." The submissions were relied upon in support of the application and in particular the section dealing with the Cleveland watchhouse charge book. Carew and Company advised that it would conclude the remaining sections of the submissions upon a decision by me as to whether there should or should not be a re-opening of the public hearings or further investigations conducted. The solicitors noted that they anticipated that the further submissions would take only "a few days." The basis for the re-opening was a number of entries in the Cleveland watchhouse charge book for the period 25 March 1982 to 29 March 1982. The watchhouse charge book had been in evidence for almost a year. Carew and Company submitted that these entries proved that Wills and Dodd had been released from custody during the period and not transferred to the Wynnum watchhouse as claimed in evidence. Carew and Company relied in particular upon the fact that the Cleveland watchhouse charge book had noted a time of release from the watchhouse without a corresponding time noted in the Wynnum watchhouse charge book for their transfer from Cleveland to Wynnum. In particular it was submitted that Wills and Dodd had been released at 2155 hours on 27 March 1982 contrary to court orders requiring both be kept in custody.

As far as I was concerned on the evidence to that time it had been accepted that Dodd had been kept in custody from the morning of 27 March 1982 until 15 April 1982 and Wills had been kept in custody from the evening of 25 March 1982 until 15 April 1982. Certainly on all the evidence this was what I understood the case to be. When this matter was raised by Carew and Company it was decided to seek further documentation to put the matter beyond issue. As part of these inquiries Commission investigators located another Wynnum watchhouse charge book in which it would seem that only transfers to and from the Cleveland watchhouse had been recorded. They also located a Prisoners' Meals Voucher which established that Wills and Dodd had been at the Wynnum watchhouse from 2230 hours on 27 March 1982 to 0930 hours on 29 March 1982 during which time they were fed four meals. The authenticity of the Prisoners' Meals Voucher and the newly produced Wynnum watchhouse charge book was apparent on their face. They were telling evidence confirming the previous evidence that Dodd and Wills had been

transferred to the Wynnum watchhouse rather than released. There was no basis for a re-opening and by letter dated 21 February 1994 Carew and Company was so advised and provided with photocopies of the relevant documentation.

On 25 February 1994 a further application for re-opening largely on the same basis was received from Carew and Company. Carew and Company submitted that I should reject the entries in the Wynnum watchhouse charge book and the Prisoners' Meals Voucher as having been created as part of the conspiracy against its client. Carew had visited the Commission's premises and examined the Wynnum watchhouse charge book and the original carbon copy of the Prisoners' Meals Voucher. The basis for the rejection of the Wynnum watchhouse charge book was as follows:

No officer had signed for receiving either Dodd or Wills.

No officer signed the transfer back to Cleveland.

No date or time was recorded in relation to this transfer to Cleveland.

The handwriting did not appear to be similar to any of the handwriting in the main Wynnum watchhouse charge book for the same date.

This submission ignored all the evidence supporting that the entries were genuine and in particular the fact that the watchhouse charge books were replete with such omissions. It also rejected the authenticity of the Prisoners' Meals Voucher. In relation to that document these submissions were received:

Whilst the copy of the claim in respect of the prisoner's meals records the names of Dodd and Wills, it is questionable because:-

it is a copy only;

it has not been certified correct within the meaning of the Audit Act in the space provided;

It is unclear as to where S/Sgt Boland, assuming he

signed the form, obtained the information eg. it records that Dodd and Wills were at Wynnum until 9:30 a.m. on 29 March 1982;

on its face it records Dodd and Wills as having four meals which in the ordinary course would include breakfast on 29.3.82 - yet the Cleveland Watch House book also records them being given breakfast at Cleveland on their arrival.

This submission, I thought, was quite irresponsible. The document was not a "copy"; it was an original carbon copy which was held at the watchhouse after the original had been forwarded to Headquarters for payment to be made to the watchhouse keeper. Of course it had not been certified correct within the meaning of the *Audit Act* because that was not the copy that was subject to audit. The original forwarded to Headquarters would have been the document subject to audit. There is simply no basis to suggest that Senior Sergeant Boland had not signed the form. It was clear that Boland was certifying that for the periods referred to on the form Dodd and Wills were at the Wynnum watchhouse. On its face and in conjunction with all the other evidence it was clear the document was a genuine one accurately setting out Dodd's and Wills's incarceration at that time. Submissions like this did not assist me at all. In relation to this issue there was no basis for re-opening.

In the same letter Carew and Company pointed to the issue of Wills having been released on bail in circumstances which they submitted pointed to "deals" having been made. As a result of this submission further documentation was sought. This documentation established beyond any doubt that when Wills first appeared before the court on 26 March 1982 he was remanded in custody and not permitted to go at large without bail as submitted by Carew and Company. It also established beyond any doubt that Wills when he appeared before the Magistrates Court on 15 April 1982 was released on bail subject to a number of conditions including one that required his mother to place the deeds of a Queensland property in the hands of the court as security for the release of her son. This clearly refuted the possibility which had been submitted by Carew and Company that Wills had been released in suspicious circumstances.

In the documentation which had been recently obtained I noted a number of inconsistencies between the evidence given before me and that given on oath in 1982. It has now been submitted by Carew and Company that these inconsistencies were a basis for re-opening the hearings. On

consideration of all the evidence I dismissed these inconsistencies as having been caused by the effect of the passage of time on the witnesses's memories. In any event I considered the matters to be insignificant when looked at in the context of the whole investigation. To my mind this documentation added very little to the overall picture. It was substantially confirmatory of evidence previously before me. I have no doubt that any fair minded person who has carefully read this report will understand the decision not to re-open.

In the submissions of Carew and Company received on 5 April 1994 it was submitted that:

It might have been embarrassing for the Commission to have reconvened the Inquiry.

If by this submission it is suggested that this was a consideration in determining not to re-open the public hearings I regard the submission as offensive. The basic reason for not extending the investigation was that it was unnecessary in all the circumstances to do so.

Once again there was no basis for re-opening and Counsel Assisting by hand delivered letter dated 8 March 1984 advised Carew and Company that I had no intention to re-open the hearings or conduct any further detailed investigations. Counsel Assisting also advised Carew and Company that I was disappointed that I had not received the balance of the submissions. Photocopies of all relevant documentation was again forwarded to Carew and Company.

Carew and Company was advised that unless I received the final submissions by 5.00 pm on 18 March 1984 I would be unable to consider them.

On the morning of 21 March 1994 a letter dated 18 March 1994 was hand delivered to the Commission. In it Carew and Company advised that they were unable to deliver their final written submissions for the following reasons:

- *The new material produced by Counsel Assisting last week is so significant that we have been unable to complete the submissions, having regard to the content and nature of that material and the time limit imposed;*

- *As a result of the manner in which the Inquiry has been conducted, Sgt Saunders has instructed that she wishes to make application to the Supreme Court for appropriate orders, particularly in relation to your recent decision not to reopen the public hearings or conduct any further investigations.*

I was requested not to proceed any further.

After consideration of the delays to that time and the fact that I considered the material added very little to the total picture, I determined that I would work to finalise the report until such time as the Commission was served with the appropriate process required by the Supreme Court Rules.

On 29 March 1994 I completed my report and furnished it to the Director of the Official Misconduct Division. By letter dated 30 March 1994 Counsel Assisting advised Carew and Company that I had furnished my report and that further correspondence should be addressed to the Commission.

On 5 April 1994 Carew and Company wrote to the Chairman of the Commission advising that an application had been made to the Police Union for further funding to enable an application to be made to the Supreme Court. It was requested that the report not be released until the Supreme Court had had an opportunity to consider the matter. Attached to the letter was the final sixty pages of the written submissions. I was provided with a copy of the letter and with the final sixty pages of submissions on 6 April 1994. I decided to study the final written submissions and to amend my report as a result of that study if I considered it desirable to do so.

My final report therefore was written after careful consideration of all the written submissions including the ones supplied by Carew and Company on 5 April 1994. In these latter submissions Carew and Company referred to the inconsistencies apparent in the material provided to them under cover of Counsel Assisting's letter of 8 March 1994. It was partly upon these inconsistencies that the application to the Supreme Court for a re-opening was apparently to be made. I had anticipated that reference would be made to these inconsistencies as I had previously considered all of them before deciding that no re-opening was warranted. The report as furnished to the Director on 29 March 1994 dealt with them.

1.14 Chronology of dates and events referred to in evidence

DATE	EVENT
21.9.78	Hicks and Saunders attend the Brisbane Prison and interview Katherine James.
23.12.81	Dodd is arrested for being in possession of a concealable firearm.
24.12.81	Dodd is granted bail on his own undertaking.
29.1.82	Saunders introduced to Dodd at the Garage of Bernie Hannigan.
2.2.82	The camp site at Lobergeiger's property at Gatton is ransacked.
19.2.82	Saunders sees Lobergeiger on his property at Gatton.
23.2.82	Saunders sees Lobergeiger at Gatton and at his property.
Early March 1982	Dodd is introduced to Coomer by Saunders.
7.3.82	<p>Saunders and Coomer go to the Belmont Rifle Range in a car owned by Coomer's sister and later go to an Italian restaurant. While at the restaurant Coomer's car is broken into and a number of weapons are stolen by Dodd and an associate of his, Wills.</p> <p>At 9.20 p.m. Constable Stalling and Constable Irving attend at the Mount Gravatt Post Office and speak to Saunders. Inspector Webb arrives.</p> <p>At about 10.20 p.m. Detective Sergeant Symes and Detective Senior Constable Ellsworth arrive to continue the investigation. Webb departs the scene. A dispute between Saunders and Symes occurs and Webb is asked by both persons to return. He does so.</p>
9.3.82	<p>At 4.15 pm Webb speaks to Saunders concerning her conduct with Symes on 7 March 1982.</p> <p>At some time between 6.00 p.m. and 9.00 p.m., a meeting takes place between Dodd, Saunders and Detective Krosch concerning recruiting Dodd as an informant. This is Krosch's first meeting with Dodd.</p>

DATE	EVENT
9.3.82 (cont.)	At approximately 10.00 p.m. Dodd and Wills steal a car from a person named Paterson at Manly and deliberately crash it. Inside the car the stolen firearms, other than the .22 handgun, are abandoned.
10.3.82	At 12.30 a.m. Spires telephones Beenleigh Police to report that a car had crashed on the main highway. At 2.00 a.m. the stolen car in which the stolen firearms have been abandoned is located by Constable 1/c Pfuhi.
25.3.82	The Cleveland Police raid a house at 49 Ferry Road, Thorneside at which Dodd, Wills and Spires were living. Coomer's .22 handgun and other property is located at the premises. Wills is charged at 4.25 p.m. by Constable Millard with a large number of property offences (not the theft of the firearms) including an armed robbery. He is remanded in custody. Dodd is charged with receiving stolen property by Millard. He is not charged with the theft of the firearms.
26.3.82	Dodd is released on bail at 12.40 a.m. to appear at the Cleveland Magistrates Court on 29.3.82. At 8.00 am Webb interviews Krosch. Wills appears before the Cleveland Court House and is remanded in custody to appear before the Court on 29.3.82. Webb travels to the Cleveland Criminal Investigation Branch where Detective Sergeant Williams introduces him to Dodd and a conversation ensued. Williams and Webb have a conversation with Wills at the Cleveland Police Station. Webb telephones senior officers and Inspector Flanagan is directed to assist in the investigation.

DATE	EVENT
26.3.82 (cont.)	<p>At 3.10 p.m. Flanagan and Webb take a record of interview from Wills at the Cleveland Police Station.</p> <p>At 4.38 p.m. Flanagan and Webb take a record of interview from Dodd at the Cleveland Police Station.</p> <p>Flanagan and Webb interview Coomer at the Cleveland Police Station.</p> <p>At 9.23 p.m. Flanagan and Webb take a record of interview from Saunders at the Cleveland Police Station.</p>
27.3.82	<p>At 2.13 a.m. and 2.24 a.m. respectively Dodd and Wills are charged and arrested by Webb in relation to the stealing of the guns and the unlawful use of the Paterson vehicle. Both are kept in custody.</p> <p>Wills is charged with a further 8 offences at 9.30 p.m. by Millard.</p> <p>Spires rings Saunders and passes a message from Dodd requesting her to telephone Krosch. Saunders is asked to tell Krosch to contact Dodd or otherwise Dodd will implicate her.</p>
29.3.82	<p>Wills and Dodds appear before the Cleveland Magistrates Court and are remanded in custody until 15.3.82. They are transferred to Boggo Road.</p>
15.4.82	<p>Dodd is granted bail after claiming to have a tape recording incriminating Saunders. He is driven to Stanthorpe by Webb and Williams to obtain the tape recording. The tape recording is not produced by Dodd on this day.</p> <p>Wills is granted bail.</p>
Between 15.4.82 and 23.4.82	<p>Dodd provides to Webb a number of documents which have come from Saunders and which suggest something more than a police officer/informant relationship existed between Dodd and Saunders.</p>

DATE	EVENT
23.4.82	In the morning Dodd is taken by Webb and Williams to Stanthorpe to obtain the tape recording. On this occasion he produces a tape recording in a sealed envelope. This tape recording is subsequently established to be a fabrication.
29.4.82	<p>Saunders is arrested and charged with three offences:-</p> <ol style="list-style-type: none"> 1. Stealing firearms (from Coomer's car) - (Charge 1); 2. Attempting to procure the theft of a payroll - (Charge 2); and 3. Attempting to procure Dodd to conspire with another to murder Lobergeiger - (Charge 3). <p>Saunders is kept in custody overnight in the watchhouse.</p>
30.4.82	Saunders is granted bail by the Magistrates Court. The conditions of bail require that Saunders refrain from making contact with Coomer, Dodd and Lobergeiger.
4.7.82	Spires and Dodd are arrested and charged with the unlawful use of a motor vehicle. Dodd and Spires are released on bail.
9.7.82	The committal hearings of Dodd and Wills are conducted and they are committed to the District Court and the Supreme Court respectively on their outstanding charges. Dodd and Wills are released on bail.
14.7.82	The letter exculpating Saunders and involving Webb and Williams in fabricating evidence against Saunders is supposedly written on this date by Dodd.
9.8.82	Committal proceedings against Saunders on all three charges commence.
11.8.82	Cooper and his girlfriend, Gray, arrive in Brisbane. They meet Saunders.
12.8.82	Saunders's committal proceedings are adjourned.
13-16.8.82	Saunders, Cooper and Gray go to Gatton.
17.8.82	Saunders, Cooper, Coomer and Gray go to Gatton. Gray's dog becomes ill and they go to a local veterinary surgeon.

DATE	EVENT
23.8.82	Saunders, Cooper, Coomer and Gray book into a caravan park at Miami for four days.
25.8.82	Cooper, Coomer, Saunders and Gray take a cruise on the Lady Lindeman on the Gold Coast.
7.9.82	A letter written by Saunders is delivered to Lobergeiger's home at Miami by Cooper and Gray. Cooper is apprehended near Lobergeiger's home.
8.9.82	At 4.25 a.m. Webb and Flanagan interview Cooper. A search is conducted by Webb on Saunders' home. Located there are a taped telephone conversation between Lobergeiger and Saunders and a tape recording of Saunders describing Cooper's supposed presence at Gatton in February 1982. Webb and Flanagan interview Gray.
9.9.82	A further search is conducted on Saunders's home. Saunders and Cooper are arrested and charged with conspiring with Coomer to pervert the course of justice in respect of Charge 3 above (Charge 4). The Crown case is that Cooper was to lie about the two visits by Saunders to Lobergeiger in February 1982. Coomer is alleged to have been assisting in getting the false story straight. Bail is refused Saunders by the Magistrate.
16.9.82	An application for bail to Macrossan J in the Supreme Court is refused.
23.9.82	Coomer is arrested in relation to Charge 4.
7.10.82	Dodd is sentenced in the Brisbane District Court to eighteen (18) months imprisonment after pleading guilty to: stealing guns on 7.3.82; receiving stolen cigarettes between 19.3.82 and 25.3.82; the unlawful use of a motor vehicle on 9.3.82; the unlawful use of a motor vehicle on 1.7.82; stealing parts from a motor vehicle on 1.7.82.

DATE	EVENT
28.10.82	Dodd is served with a Summons by Detective Baker in relation to an unlawful carnal knowledge offence allegedly committed in late 1981.
8.11.82	Committal proceedings on the first three charges against Saunders are resumed.
15.11.82	Committal proceedings on the first three charges conclude (other than submissions) and are adjourned.
16.11.82	Committal proceedings against Saunders, Cooper and Coomer commence on Charge 4.
19.11.82	Committal proceedings concerning Charge 4 conclude and are adjourned to 22.11.82.
22.11.82	Saunders is committed for trial on all four (4) charges. Bail is refused. Cooper and Coomer are also committed for trial. They are granted bail.
12.12.82	An application for bail by Saunders is refused in the Supreme Court before D M Campbell J.
26.1.83	Wills is sentenced in the Supreme Court to 6 years imprisonment with recommendation for parole after 9 months.
6.4.83	A nolle prosequi is entered in the charge against Coomer.
7.4.83	An application for bail by Saunders is refused in the Supreme Court before Andrews J.
18.4.83	Trial of Cooper in relation to Charge 4 commences in the Brisbane District Court.
22.4.83	Cooper is convicted of conspiracy with Saunders and sentenced to nine (9) months imprisonment.
3.5.83	Saunders' trial for stealing firearms and attempting to procure the theft of a payroll commences in the Brisbane District Court. Dodd gives evidence and the alleged tape recording of the conversation between Dodd and Saunders is relied upon.
24.5.83	Saunders is acquitted on both charges.
25.5.83	Bail is refused by the trial judge.

DATE	EVENT
1.6.83	Dodd is convicted in the District Court of an offence of unlawful carnal knowledge committed between 25.11.81 and 8.12.81. He is sentenced to 3 years imprisonment. (On appeal it is reduced to 18 months.)
7.6.83	Dodd is convicted of an offence of possession of a concealable firearm on 23.12.81. He is sentenced to 3 months imprisonment.
4.7.83	Saunders is granted bail in the Supreme Court by McPherson J.
2.8.83	Saunders's Supreme Court trial commences before Shepherdson J on charges of:- 1. Attempting to procure Dodd to kill Lobergeiger; and 2. Attempting to procure Cooper to commit perjury.
3.8.83	After legal argument the second count relating to Cooper is severed from the indictment.
4.8.83	A voir dire regarding the admissibility of the Dodd tape recording commences.
5.8.83	The tape recording is played in full and a member of the Public Defender's Office makes inquiries regarding a radio broadcast recording at the end of the tape.
8.8.83	The Crown concedes to the Court that the tape was a fabrication and after legal argument Shepherdson J directs a verdict of not guilty. The Judge indicated that he would forward the papers to the Crown to investigate the fabrication of the tape. Saunders is granted bail on the remaining charge relating to Cooper.
23.9.83	The Solicitor General verbally requests the Deputy Commissioner to commence an investigation into the fabrication of the tape.
21.11.83	The District Court trial of Saunders on the counts relating to Cooper is adjourned because Gray, a vital witness, was in hospital in South Australia. The original count is converted into three alternative counts.
28.11.83	Counsel for Saunders make a submission to the Solicitor General that no further proceedings be taken.

DATE	EVENT
20.1.84	The Attorney-General announces that a nolle prosequi would be entered.
23.1.84	A nolle prosequi is entered.
26.1.84	Saunders is reinstated as a Senior Constable.
21.2.84	Saunders is interviewed by Detectives Youngberry and Ingham concerning allegations of corruption and malpractice by police.
11.4.84	Dodd is arrested and charged with one (1) charge of fabricating evidence and four (4) charges of perjury.
31.4.84	Coomer and Saunders go to Lobbeiger's property at Mount Berryman.
19.7.84	Dodd's committal commences. On 20.7.84 it is adjourned to 13 August 1984.
13.8.84	Dodd's committal resumes.
14.8.84	Dodd is committed to trial on all charges.
11.1.85	Dodd's trial commences on three (3) charges of perjury.
5.2.85	Dodd is convicted on all three charges. He is sentenced to six years imprisonment.

PART A - SAUNDERS - THE EARLY YEARS

CHAPTER 2

2.1 The relevance of the early years

Since first charged Saunders has maintained her innocence in relation to the four charges brought against her. She stated in evidence before me that she had been framed in relation to the initial charges and believed that there were corrupt police involved in her "framing."

She claimed to have been outspoken in relation to corruption in the late 1970's and early 1980's. She stated that at this time Lobegeiger had advised her that she was perceived to be highly dangerous to Lewis's administration. In particular she stated that she may have been seen as aligned with those police officers who had furnished information to journalists resulting in the broadcasting of a Nationwide Programme on 3 March 1982, four days prior to the theft of the guns. She suggested that in order to discredit those making the allegations against the corrupt administration it was necessary for the corrupt to arrange for the levelling of false criminal allegations or charges against the corruption fighters or perceived corruption fighters; that is, it was necessary to direct the controversy away from the real issues of corruption.

Alternatively Saunders suggested that corrupt police may have been trying to get at Lobegeiger through her, his lover, because Lobegeiger was stepping on the toes of corrupt police.

An assessment of these claims and suspicions requires an examination of Saunders's career in the Police Service up until being charged. It also requires close examination of the associates she had and the enemies she may have made. In this process a close analysis is necessary of those incidents put forward by Saunders as possibly evidencing ill-feeling towards her or, alternatively, which could have created a motive for those alleged to be corrupt to "frame" her.

2.2 Joining the Queensland Police Department

Saunders left school at the age of sixteen and just after her seventeenth birthday joined the Australian Army. There she remained for seven years working as an administrator until she decided to join the Queensland Police

Department in 1972. She commenced her probationary training in May of that year and on 18 August 1972 was sworn in as a Constable of Police.

2.3 Her first postings

She was first attached to Brisbane Mobile Patrols performing uniform duties on southside patrols. At the end of November 1972 she was seconded to the Juvenile Aid Bureau performing plain clothes duties. The officer in charge was Senior Sergeant Terence Murray Lewis. She recalls that Anthony Murphy was in charge of the southside section of the Juvenile Aid Bureau and Boyd Barrett was in charge of the northern side. The Commissioner of Police at the time was Ray Whitrod. Saunders remained in the Juvenile Aid Bureau for only a couple of months as it was the norm for trainee female police officers to be rotated through the Bureau.

Having completed the brief stint at the Juvenile Aid Bureau she started performing uniform duties at Woolloongabba from the end of January 1973. She was then transferred to the City Police in March 1973 where she remained until in April 1973 she was again seconded to plain clothes duties at the Juvenile Aid Bureau in Brisbane.

Saunders gave evidence that whilst she was at the Juvenile Aid Bureau on the first occasion there was a major dispute between Whitrod and Murphy and Lewis over the treatment of juveniles. Whitrod had directed that if officers detected juveniles committing more than one offence they were to be charged and not cautioned, as had previously occurred. Saunders claimed that Lewis was very critical of Whitrod because of this change in policy. She added that Lewis advised her that if a juvenile admitted a previous offence she was not to record it but to continue to caution the youth. Saunders could not recollect whether she obeyed the direction of the Commissioner or of Lewis although she stated that having come from an Army background she found it amazing that a Sergeant was giving directions contrary to that of the Commissioner.

In Lewis's affidavit to the Commission dated 18 June 1993 he acknowledged that he had been in dispute with the Commissioner over the charging of juveniles. Lewis maintained the view that juveniles should be cautioned rather than arrested. Lewis however questioned whether he would have advised any of his officers to ensure that they did not obtain admissions of guilt from juveniles, adding that as a police officer he would have been interested in finding out what offences the juveniles had

committed. He maintained that provided they were in police custody for the first time he would not have wished to see juveniles charged.

I do not see that much turns on this divergence of evidence. It was not suggested that any dislike of Saunders arose from the disagreement between Whitrod and Lewis. Saunders herself did not see anything sinister in the differences expressed by the two and conceded that both seemed genuine, as far as she could see, in their expositions of what they believed was the correct philosophy.

Whilst at the Juvenile Aid Bureau Saunders claimed that Murphy and Lewis were openly critical of the Commissioner and did not believe that he should have been made Commissioner. Although she could not recall all of the criticisms they made there were two themes which were prevalent. One was the existence of the Crime Intelligence Unit which she stated they claimed was set up by Whitrod to spy on police and charge police with offences and the other was that Whitrod had been incompetent as a Police Commissioner in Papua New Guinea and as a Senior Police Officer in the Australian Federal Police and should not have been appointed as Queensland Police Commissioner in the first place.

Lewis in his affidavit to the Commission could not recall criticising Whitrod for the existence of the Criminal Intelligence Unit, although he did concede that there were conflicts of view between himself and Commissioner Whitrod. He added that any conflicts of view that he may have had with the Commissioner did not cause him to take any improper action against Saunders nor cause him to dislike her.

In case it is thought the criticism of Whitrod by Lewis should lead one to conclude improper behaviour on the part of Lewis, I include two exchanges between Counsel Assisting and Saunders in which "factionalism" within the Police Service was discussed. At page 73 of the transcript the following exchange appears:

All right. You see, you have got a lot of people might not appreciate it but, in fact, you have got a continuing warfare in the police force, is that correct?---Yes, that's correct.

That is your experience, that that has gone on when you started back in the seventies, and it still continues today, is that what you are saying?---That's what I'm saying.

At page 74 of the transcript the following appears:

All right. And that, of course, is the way it always goes, is it not? You have the police force in this division, I mean, there are personalities, there is mud thrown at the person personally, but also there are other arguments which seemed that they might have a more, how would you call it, important practical basis, as to whether a unit is doing its job, or whether it has been put up for a, to carry out a secret agenda?---That's correct.

All right. And did that sort of thing, in your experience, continue to the force? Different people I mean, but did it continue?---I think it has.

It would seem that such criticism of policy and personnel widely existed and still widely exists in the Police Service. Saunders put the figure as high as fifty percent of officers when describing those critical of Whitrod.

Saunders claimed that a major disagreement arose between Murphy and Lewis concerning arrangements for a Christmas party for officers of the Juvenile Aid Bureau. She stated that she recalled that Murphy was angry with Lewis for arranging for the function to be held at the National Hotel as they should not be seen to set foot in the hotel. She added that she could recall having a discussion with other officers of the Bureau concerning this matter and heard for the first time about allegations that Murphy, Lewis and another police officer named Hallahan were corrupt and were being described as "the rat pack" and further that the alleged corruption related to their dealings with the National Hotel. Lewis denied that the alleged disagreement occurred. I do not see that anything turns on it. I have included it for the sake of completeness as merely another of the matters raised by Saunders as occurring in her early years in the Force.

2.4 The Education Department Liaison Unit

Sometime in early 1973 Whitrod set up the Education Department Liaison Unit (EDLU). The EDLU was part of the Break and Enter Squad in the CIB and was housed at Selby House in Upper Roma Street. The function of the EDLU was to investigate all offences committed in relation to Department of Education property and necessarily involved extensive investigation of juveniles. Saunders gave evidence that she believed that Lewis saw the EDLU as opposition to the Juvenile Aid Bureau. Saunders

claims that Lewis expressed the view that by going to the EDLU one was aligning oneself with Whitrod. This was because the EDLU was mainly dealing with juvenile offenders and charging them with offences of stealing property or damaging property of the Education Department, rather than merely cautioning them when criminal offences were being detected. Saunders gave evidence that she could recall Lewis talking to Murphy, condemning Constable Hilary Huey for being disloyal in leaving the Juvenile Aid Bureau and going to the EDLU.

In his affidavit to the Commission Lewis conceded that he may well have expressed the view that officers in the EDLU were aligning themselves with Whitrod; however he rejected the possibility that he ever said it to Saunders. He did state that it was conceivable that she overheard him expressing this view to another officer. He also denied condemning Huey for leaving the Juvenile Aid Bureau. He stated that he considered Huey was not cut out for that type of work as her attitude was to charge juveniles with whatever offences they had committed rather than to caution them.

In her statutory declaration to the Commission dated 15 June 1993 Huey stated she had no knowledge of Lewis's alleged comments to Murphy concerning her transfer to the EDLU.

The significance of this alleged incident arises from the fact that Saunders claims that when she transferred to the EDLU in the mid 1970's Lewis went "crazy" in front of her, stating that she was disloyal. She added that Lewis told her to get all her stuff out of the Juvenile Aid Bureau and not to set foot in the door again.

Lewis in his affidavit to the Commission denied going "crazy" in front of Saunders when she transferred to the EDLU. He also denied the conversation referred to above occurred.

Saunders claimed that during this period at the EDLU she started to become identified as a person who was "pro-Whitrod." She stated that her friendship with Ken Hoggett, who also worked in the EDLU, brought her into contact with persons like Jim Voigt and Basil Hicks who were perceived to be "pro-Whitrod." Saunders acknowledged that although being "pro-Whitrod" she did not disassociate from persons who were "anti-Whitrod." It was during this period at the EDLU that she became the first female officer to be appointed to the grade of Detective in the Queensland Police Department. She was also the first female officer to be issued with a departmental firearm. She stated that there was a lot of

opposition to her becoming a detective and also to her obtaining a firearm and Whitrod intervened on her behalf to champion her cause. Saunders added that as well as the specific opposition to her becoming a detective there was also general opposition by male officers to policewomen becoming active officers. Saunders claimed that her achievement in becoming the first detective may well have made her less favoured by a lot of male police officers.

At this stage I should refer to one incident to which Saunders referred which occurred while Saunders was at the EDLU. I do not see that it is of great significance but for the sake of completeness I will include reference to it. Saunders claimed that Detective Senior Sergeant Sid Currey, who was the Reception Officer, gave her a file and asked her to go and have a look at it, stating that she might get "a murder" out of it. The file related to a complaint by the Children's Services Department that a woman who had a child out of wedlock had failed to report the whereabouts of the child so that it could be visited on certain days by staff of the Department. A senior officer known to Lewis and another detective had been assigned to interview the woman but she had failed to keep her appointment and the Department had become very suspicious. Saunders claimed that these two officers had taken no action against the woman. Saunders further claimed that she had located the woman, with the assistance of Bob Dallow and Greg Early, within a day. This woman confessed that she had killed the child and directed the detectives to the body. Saunders claimed that it made the two officers who had not taken action against the female look pretty stupid. Saunders conceded that the senior officer had to her knowledge never done anything to her. He had not rung her up and abused her about the matter or discussed it with her. Furthermore he never showed any animosity towards her from that time on. As I have previously stated I do not place any importance on this incident. I should add that Saunders herself did not seem to place great reliance on it either.

Although Saunders claimed that by the end of her term at the EDLU she was clearly recognised in the "pro-Whitrod" camp, Lewis could not recall whether he perceived her to be such. Lewis did concede that at the time he probably assumed that she was.

2.5 Saunders's transfer from the EDLU to uniform duties at the Inala Police Station

In February 1976 Saunders was transferred to uniform duties at Inala. She had not applied for the transfer as she wanted to remain in plain clothes as

a detective. Saunders was particularly dissatisfied with the reason given for the transfer. She claimed that her senior officer, Detective Inspector Noel McIntyre, had alleged that she was having an affair with a married Sergeant. He had initially attempted to have her transferred to Ayr but Saunders appealed against that transfer because of the illness of her mother and was sent by Superintendent Vern MacDonald to Inala instead. Saunders denied that there had been a relationship between herself and the married Sergeant. Saunders claimed that the actual transfer was merely an administrative transfer with no reference to the alleged affair. She also claimed that the transfer to Ayr was fought on compassionate grounds, that is the illness of her mother rather than any question of establishing that the affair did not exist. Saunders put this matter forward as being a clear example of at least one male officer acting to her detriment because he believed that as a female she was unsuitable for detective duties.

Documents on Saunders's personal file shed some light on this incident. A report dated 16 October 1974 signed by Detective Sergeant 1/c R Rigney stated:

Whilst attached to this office P/C Constable Saunders has carried out her duties in a most competent and outstanding manner. She is keen and conscientious, punctual in starting work and her conduct is good.

I consider P/C L A Saunders is capable and a suitable person to carry out criminal investigation.

A similar report was endorsed on 3 July 1975 by McIntyre himself. An additional one dated 17 June 1975 was signed by Detective Sergeant 2/c P R Galwey. It would seem that Saunders's work at the EDLU was initially considered good.

A memorandum dated 4 February 1976 under the hand of V A MacDonald, Acting Assistant Commissioner (Administration and Training), however considered the possibility of transferring Saunders from the EDLU. In this report MacDonald referred to a report by McIntyre in which he claimed that he was given verbal advices by Saunders in relation to a physical association that she was having with a Detective Sergeant. McIntyre is reported as saying that Saunders had advised him that she had decided to cease her association with the Detective Sergeant, although he, the Detective Sergeant, was prepared to leave his wife and family to live with her. The report further stated that McIntyre advised Saunders against such a course of action if she wished to stay in the Police Service. (It

would seem McIntyre then acted to have Saunders transferred.)

The report recorded that MacDonald interviewed Saunders in relation to her application for reconsideration of the decision to transfer her to Ayr and she explained that McIntyre had misunderstood the form of association between herself and the Detective Sergeant. The report then observed that the author, MacDonald, was satisfied that McIntyre could not have made the mistake, as suggested by Saunders, as he was one of the most experienced investigators in the State, adding that it would naturally be in Saunders's interest to deny any illicit association with the Detective Sergeant. The report concluded that no matter what the close association between Saunders and the Detective Sergeant had been it was now over and it was not in the best interests of the Department for Saunders to be transferred to Ayr. He then recommended a transfer to Inala in uniform.

I do not consider it necessary for me to make any comment as to whether or not there had been a relationship between Saunders and the Detective Sergeant which caused the attempt to have her transferred to Ayr. Suffice it to say that McIntyre's previous favourable report of 3 July 1975 concerning Saunders was inconsistent with a capricious act on his part on the basis that Saunders was a female detective as was suggested in evidence by Saunders. It should be added at this stage that when Lewis gave evidence before me he stated that McIntyre and Saunders did have a dislike for each other. Lewis could not recall the basis for the dislike.

Saunders gave evidence that she was not aware of any events which occurred whilst at the Inala Police Station or at the Oxley CIB where she relieved for two months as a detective which would have caused any person to wish her any harm or wrong. She added that as far as she was aware she was not involved in any controversy during that period.

2.6 The South Brisbane Area Office

In January 1977 Saunders was transferred to the Metropolitan CIB at the South Brisbane Area Office. By this time Lewis had become Commissioner. Saunders claimed that Superintendent MacDonald had indicated when he had set aside the transfer to Ayr and sent Saunders to Inala that as soon as he had the opportunity he would ensure she was back relieving in plain clothes. It would seem that he honoured his word by transferring her to the South Brisbane Area Office in January 1977. Saunders acknowledged that this was an indication that some people in the force were not against policewomen. It was whilst at the South Brisbane

Area Office that Saunders met on one occasion Webb who was later to play such a significant part in the investigation of the charges against her. On this occasion Webb relieved another Sergeant as Reception Officer on a shift.

Saunders claimed that she was only at the South Brisbane Area Office for a short period before she received a phone call from her superior officer, Bert Cross, advising her that she had been transferred to Mackay. She claimed that Cross told her that McIntyre, who was by now an Assistant Commissioner, had arranged for her transfer to Mackay in uniform.

An entry in the Lewis diaries for 21 March 1977 records:

Assistant Commissioner McIntyre reported Policewoman Saunders unsuitable on detective work.

This is consistent with Saunders's stated belief; however documents on Saunders's personal file shed a different light on the matter. A memorandum dated 21 March 1977 from an Inspector (whose name I am unable to decipher) addressed to the Commissioner of Police stated that:

It appears that Detective Constable L A Saunders is quite inexperienced, is not responsible to proper advice and the quality of her work is not good.

It appears that she is very difficult to place in so far as work mates are concerned.

Under the circumstances as outlined in this report it seems that Detective Constable Saunders is not a suitable type for Criminal Investigation Branch duties.

Attached to that memorandum was a report of Inspector A J Cross (no doubt the Bert Cross referred to by Saunders). In that report the following passages appear:

This member has only performed duty under my supervision for a very short period and this was when she commenced duty at the South Brisbane Area Office. As a result I am not in a position to form an opinion of my own in relation to the quality of her work, however, I have been informed that briefs prepared by her leave a good deal to be desired. It is well known that she will seek the advice

of several other members in the service relating to a particular matter and will accept the advice which suits her best, whether it be right or wrong.

One of the greatest problems with her is obtaining someone to work with her for any length of time, and it appears that this has been brought about by her morals. It is known that she was responsible for the near break-up of a non-commissioned officer's marriage, but I understand that the association has ceased and the matter has been settled.

The Detective Constable has stated that she does not want to work with another female as this does not command the necessary authority desired in carrying out an investigation and interrogation. Senior detectives have stated that if they were detailed to work with her, they would have no hesitation in applying for a transfer. This has been told to me in total confidence.

It has been suggested to me that in the past she has been responsible for the origin of a number of rumours which have circulated within the CI Branch. Such rumours could have a detrimental effect on the morale of members of this Branch.

In view of the above information perhaps some consideration could be given to transferring her to another position where she could be more suitably employed.

The memorandum dated 21 March 1977 is personally endorsed by Lewis on the same date. The notation in the margin is:

"A/C (A&T) Please arrange a suitable transfer."

Below that appears the following notation by S M Hale, the Assistant Commissioner responsible for administration and training. It says:

Inspector Vidler. Please arrange for a suitable position (uniform). I understand that there is a vacancy at Mackay.

Another document dated 23 March 1977 under the hand of Hale, who was then acting as Commissioner of Police, noted the transfer of Saunders to Mackay.

A submission by Saunders dated 12 April 1977 sought to have the transfer to Mackay cancelled. The significant reason given by Saunders was her mother's infirmity and her mother's reliance on her. It is interesting to note that on the last page of the report Saunders requests:

I respectfully request that this report be forwarded to the Commissioner of Police for his consideration.

This is hardly the action of a person who feared the improper interference of Lewis. Hale, who was still Acting Commissioner of Police, cancelled the transfer to Mackay and approved a transfer to Woodridge in uniform. There is no reference to Lewis questioning the decision to cancel the transfer to Mackay. There is no reference in the documentation to McIntyre although it seems from the entry in Lewis's diary that McIntyre was the conduit for passing the information to Lewis from the Inspector in charge of Saunders. These documents seem to show that McIntyre was merely acting when he made the report to Lewis on his Inspector's report.

2.7 Woodridge Police Station

Saunders was stationed at Woodridge from May 1977 to May 1978. The Senior Sergeant at the station at that time was Bill Hannigan, who was the father of Mick, Garry and Bernie Hannigan, to whom further reference is made later in the report. Saunders claims that she got on very well with him. Documents on Saunders's personal file show that another Senior Sergeant, A R Walker, did not consider her work satisfactory whilst at Woodridge. In a report dated 20 March 1978 to the Inspector of Police, Beenleigh, the following observations appear:

I have to report that I am not satisfied with the work performance or general conduct of Constable 1/c L A Saunders (F) attached to Woodridge Station.

Constable 1/c Saunders is one of the senior members attached to this station and as such she is required to perform duty with and guide and train trainee constables who are detailed to perform duty with her. I have ascertained that the Constable shows a marked reluctance to comply with normal standards of discipline and often displays a strong anti-department attitude. It would be possible to share a harmonious existence with her if she was granted her wishes in respect to hours of duty she

performed, type of work she was to perform, etc., at all times. She attempts to be most demanding in all things.

I have also found that the Constable has little, if any, regard for the truth ...

In addition to the matters outlined above, I find that a continual driving process is required to get her to deal with correspondence which has been detailed to her.

She appears to have some persecution complex in regard to the Department and it is obvious that she considers she has been unfairly treated.

I do not consider that she is a suitable person for the type of duties required of her at this station, particularly in relation to the training of young members. I recommend that consideration be given to transferring her to a larger centre.

This report was endorsed by Inspector Gray on 27 March 1978 with the recommendation that Saunders be transferred to a larger centre. It was also endorsed by the Superintendent of the South Eastern Division, L J Voigt, who also recommended that she be transferred from Woodridge. A further note on that report indicates that other factors had already intervened to cause her transfer from Woodridge. That note records "Saunders already transferred to Mt Isa" and is signed by Assistant Commissioner Hale on 31 March 1978.

2.8 The Lesbian Investigation

Whilst at Woodridge Saunders had been questioned as part of an investigation which became known as the "Lesbian Investigation."

It would seem that the "Lesbian Investigation" commenced after a Constable Brian Marlin furnished a report recording his observations of female officers in nightclubs around town. He had been carrying out covert surveillance of male homosexual haunts. The matter was assigned to Murphy and Inspector F G Donaghue to investigate in October 1977. They interviewed Saunders in March 1978. She denied any lesbian associations.

Saunders originally claimed in evidence before me that just "about every policewoman that was doing any active work or stirring to get active work was interviewed in relation to the issue." She added that "something like thirty-eight to forty policewomen" were interviewed. A perusal of the confidential Police file makes it clear that only seven policewomen were the subject of the investigation. Each policewoman was interviewed and some of them immediately left the Police Department. It also shows that the seven policewomen were interviewed as a direct response to the report made by Marlin. There is nothing on the file which suggests that "active" policewomen were targeted. When the figure of seven was put to Saunders as the correct figure for the number of policewomen interviewed she responded by saying that she may have obtained the figures of thirty-eight to forty from gossip, a newspaper article or some other source.

The file shows that those policewomen who did not leave the Police Department had been recommended for transfer. A passage from a report of Donaghue dated 11 January 1978 sets out his views concerning Saunders:

She states that her mother is very ill with T.B. and other illnesses. In spite of this, an immediate transfer to a location away from Brisbane, may be in the best interests of Constable Saunders, and I recommend accordingly.

The recommendation to transfer Saunders was adopted by Assistant Commissioner, Crime and Services, McIntyre, on 17 March 1978 as part of his recommendation to transfer other policewomen the subject of the investigation.

Following a meeting on 20 March 1978 involving the Commissioner, Deputy Commissioner V A MacDonald, Assistant Commissioner Hale and other Assistant Commissioners, it was agreed that it would be in the best interests of the Department to transfer certain officers. By memorandum dated 20 March 1978 addressed to Assistant Commissioner Hale, Personnel and Training, the Deputy Commissioner, MacDonald, advised that Saunders should be transferred from Woodridge to Mt Isa and that the Inspector in charge of the District to which she was being transferred should be advised that wherever possible she should be used on inside duties and under no circumstances be placed on youth work or in a juvenile aid field.

Documents on Saunders's personal file show that she objected to the transfer and sought cancellation of the transfer or, alternatively, a transfer

to metropolitan centre to enable her to carry out domestic and medical duties for her mother without undue hindrance and hardship. By endorsement dated 11 April 1978 on Saunders's memorandum of objection of transfer L J Voigt, Superintendent of the South Eastern Region, recommended that Saunders be transferred from Woodridge.

After considering a report by Acting Inspector J M Quinn, who recommended that Saunders's transfer to Mt Isa be cancelled and that she be transferred to the Information Bureau, Lewis by memorandum dated 16 May 1978 confirmed that her transfer to Mt Isa should stand. When she heard of this Saunders, by memorandum dated 25 May 1978 attaching a medical certificate from a Doctor I M Salkield relating to her mother, once again sought that the transfer be cancelled. Doctor Salkield was interviewed by Acting Inspector Quinn who was advised that the doctor considered that the best person to look after Saunders's mother was Saunders. On 5 June 1978 Acting Commissioner of Police V A MacDonald cancelled Saunders's transfer to Mt Isa and instead transferred her to the Police Store.

It would seem that Saunders at no stage was aware that the attempt to transfer her to Mt Isa had arisen as a result of the "Lesbian Investigation". She gave evidence that she had been told by Senior Sergeant Hannigan that once again Assistant Commissioner McIntyre had orchestrated the transfer just before he left the Police Force. It is true McIntyre had some involvement in the "Lesbian Investigation". As well as the memorandum referred to above an entry in the Lewis's diaries for 20 December 1977 records:

Saw Assistant Commissioner McIntyre re police lesbian investigation."

This involvement however was purely in his capacity of the Assistant Commissioner responsible for Crime and Services. I am unable to conclude that the action taken against Saunders derived from any spiteful act of McIntyre designed to seek out and victimise Saunders.

Saunders stated that she believed that the reason the transfer was ultimately cancelled was because at that time she was the Secretary of the local branch of the National Party and she had made representations to the Minister which resulted in the transfer being cancelled. Although this is completely inconsistent with the documents on her personal file an entry in the Lewis diaries on 29 March 1978 suggests that political attempts were made to have the transfer cancelled. That entry records:

John Goleby MLA phoned re Senior Sergeant Hannigan making repeated requests on behalf of Policewoman Saunders.

There is no evidence to establish what was the effect of these representations by the member for Redlands. The documentary evidence suggests that Deputy Commissioner MacDonald acted on the views of Dr Salkield to cancel the transfer quite independently of any earlier communications from Goleby to Lewis.

Lewis in his affidavit to the Commission denied that Saunders's involvement in the "Lesbian Investigation" caused him to dislike Saunders.

Murphy in his statutory declaration denied that he ever disliked Saunders because he suspected that she had been a lesbian. Saunders however denied that she ever held the view that Murphy disliked her because he suspected she had been a lesbian. I am not sure why this investigation was referred to by Saunders in evidence other than to show some antipathy towards her by Murphy or the police administration generally. A statutory declaration tendered before me by another person investigated during the "Lesbian Investigation" confirms my suspicions that those the subject of the investigation "were incensed by it". The declarant stated that:

It was considered to be an invasion of privacy, intimidatory and a humiliating experience. The matters canvassed with these female officers were their own business and no-one elses. No allegations were made about policewomen not working, that they were corrupt or that there work was substandard. ... As far as I am aware those, the subject of the investigation, had contempt for Murphy as a result of his questioning."

The declarant went on to add that any dislike no doubt was completely mutual although the declarant had no evidence for suggesting it.

I do not need to be convinced that acrimony resulted from the interaction of the parties involved in this investigation. The matters canvassed were personal and intrusive. I could think of no investigation which would be more likely to create ill feeling, especially towards the investigators. These ill feelings could have been expressed to the investigators resulting in resentment from them. I am not prepared however to conclude that the subject matter of the investigation would have been sufficient reason for Murphy or any other person to act improperly towards Saunders or for that

matter any other female officer in the future. There is simply no evidence that any improper conduct did occur as a consequence of any ill feeling arising from the investigation.

2.9 Seeking permission for Policewomen to wear slacks

Saunders gave evidence that sometime whilst she was at Woodridge she and another police officer by the name of Janet Makepeace prepared a massive report concerning the wearing of slacks by policewomen. At that time the wearing of slacks was not permitted.

Saunders claimed to have written to nearly every female officer in the state obtaining signatures on a petition. It would seem that the soliciting for signatures had commenced before she went to Woodridge as can be seen by an entry in Lewis's diary dated 11 January 1977:

Mr Riley mentioned that Policewomen Saunders and Makepeace soliciting signatures for petition.

Saunders claimed that Lewis had gone to the press and said that the wearing of slacks by policewomen was not a practice overseas. She said that in response she wrote to police forces in the United States, the Philippines, Japan and Britain and obtained information as to their dress requirements and in particular the wearing of slacks whilst on active police duties. Having obtained this information and organised the petition she presented it to Lewis for his consideration. Saunders stated that as a result of her approach to Lewis slacks were introduced as part of the uniform for female police officers. Saunders stated that she believed that this would have caused Lewis to dislike her even more. The basis for her view was that not only would she have been considered a "stirrer" in organising the petition but also she had by her inquiries proven Lewis to be wrong concerning his public statements that slacks were not worn by female officers in police forces of other countries.

Although Saunders had formed the view that Lewis would have disliked her because of this matter she conceded that at no stage did Lewis ever communicate to her by letter, telephone, or word of mouth, that he was annoyed with her for her efforts. Saunders could not even recall anything adverse being said to her at the time of the presentation of the petition to him. In his affidavit to the Commission Lewis denied that this event caused him to dislike Saunders.

When Lewis gave evidence before the Commission he acknowledged that he did have a concern that women ought to be dressed in the traditional fashion. He also expressed the view that he considered that policewomen had a role which was different from that of policemen in the Department. He cited for example a decision he had made to decline to send policewomen to any one of the 102 one man stations that were situated throughout the State notwithstanding agitation by policewomen for him to do so.

As Commissioner of Police Lewis was entitled to form views on matters such as the wearing of slacks by female officers. He was also entitled to change those views by permitting the wearing of slacks. There is simply no evidence that Lewis harboured a grudge against Saunders arising from this matter.

2.10 The Police Store at Petrie Terrace

Saunders having avoided the transfer to Mt Isa reported to duty at the Police Store at Petrie Terrace on 15 June 1978. Whilst there she met an officer by the name of Bob Campbell who subsequently went on to the Nationwide television programme which went to air on 3 March 1982. Saunders had previously known him from the Army. Shortly after Saunders was transferred to Petrie Terrace Campbell was transferred to Woolloongabba.

On 21 August 1978 Saunders was seconded to perform duty at the Regional Task Force. On 29 January 1979 she was formally transferred to a new position that had been created in the Task Force. Saunders had spent a mere two months in the Police Store and during two of these weeks she had attended military training for the Australian Army Reserve. Saunders gave evidence that she had not made representations to be transferred out of the Police Store but had been booking and trying to arrest people. This had previously not been done by any police officer whilst attached to the Store. Saunders seemed to suggest that this may have been one of the reasons why she was seconded to the Task Force; however in view of the mere six weeks service at the Police Store I find this difficult to accept. There is certainly nothing on her personal file which would indicate that this was the case.

Saunders stated that the secondment to the Task Force had come after she had been summoned to Deputy Commissioner MacDonald's office. She stated that she had been concerned that she would be berated by

MacDonald; however when she reached his office discussions were very cordial. She stated that MacDonald told her that she was really wasted in the Police Store and that he would be seconding her to the Task Force.

2.11 The Task Force and the Delegation to National Party Officials

The Task Force was a uniformed squad which was mainly designed to combat the street demonstrations of the time but on normal patrols members wore plain clothes. Saunders stated that she was very happy to return to a quasi-plain clothes unit and considered it a "win" for herself. When asked whether she had any other explanation for her secondment after such a short time in the Police Store Saunders suggested that it may have been a "sweetener" to keep her quiet. She further suggested that it may have been a shrewd plot to cut off the possibility of her appealing to the civil liberties people for any assistance with the women's equal opportunity issue or corruption fighting as the Task Force was the unit most likely to confront civil libertarians because of the street marching. She also suggested that it may have been an attempt to stop her making any further approaches to the National Party about female officers getting equal opportunities.

I cannot accept these suggestions. These were made by Saunders in the erroneous belief that she had visited National Party Officials prior to moving to the Task Force. It would seem however from the notations in Lewis's diary that the delegation to the National Party Officials occurred after she had been seconded to the Task Force and taken up duties there. In any event the plot suggested by Saunders is too far-fetched to be given any credence whatsoever.

Saunders claimed that it was whilst she was at Petrie Terrace that she had gone with Constable Judy Newman, Senior Sergeant Bill Hannigan and Sergeant Evelyn Hill to see National Party identities, Sir Robert Sparkes and Sir Charles Holm. Saunders stated that at this meeting the "Lesbian Investigation" and treatment of policewomen generally in the Force was discussed, with particular mention of the wearing of slacks by policewomen. Specific reference was also made to female officers not having the same opportunities as their male counterparts. Saunders also claimed that at the meeting some aspects of police corruption were mentioned; however when pressed to identify them she could not remember any other than being fairly sure that massage parlours in the Valley were discussed. She did acknowledge that the principal reason for seeing Sparkes and Holm was because of the treatment of women in the

Police Force.

In her earlier statement to the Commission Saunders was more specific, saying that the evidence of corruption that was pointed out to Holm and Sparkes was basically in relation to the massage parlours and the protection being given to them by the Licensing Branch. She claimed to have mentioned the World by Night in particular and also referred to Jack Herbert, who had earlier been acquitted at his trial. She could not recall any further specifics even though she suggested that other minor matters may have been mentioned suggesting corruption.

Saunders claimed that shortly after returning from the meeting at National Party Headquarters she was advised by either Senior Sergeant Colin Chant or Lobegeiger that they were aware of the delegation to Sparkes and Holm. Saunders claimed that till that time it had been kept a secret as far as she was aware. She claimed to have also been told that the Commissioner knew about the delegation. Saunders stated that she was shocked that Sparkes and Holm had breached the confidentiality of the meeting, presumably by advising persons who then notified the Commissioner.

There is little doubt that Lewis did become aware of the delegation to Sparkes and Holm. An entry in Lewis's diary dated 14 September 1978 records:

Allan Callaghan phoned re 3 p/women having deputation to Mr R Sparkes.

An entry four days later in the diaries records:

Phoned Hon. Camm re: ... 3 p/women and Union exec seeing Mr Sparkes.

At this time Allan Callaghan was the Premier's private secretary and Camm was the Minister for Police. There is also little doubt that the delegation occurred whilst Saunders was at the Task Force having been seconded there on 21 August 1978. Saunders made no reference to any other delegation to Sparkes.

I regard it as significant that Saunders was unable to specify those matters of corruption which she claimed were mentioned at the meeting. I am aware that the meeting occurred some fifteen years ago but it seemed to have such prominence in Saunders's mind I think that if corruption had been a significant issue at that meeting she would have been able to recall

more specifically the areas relating to corruption which were raised. I should add that Newman in her statutory declaration dated 24 May 1993 to the Commission stated that she could remember a submission being given to Sir Robert Sparkes about a range of issues involving female employees in the Police Service. She added that she did not recall much about corruption issues being mentioned or Jack Herbert's name being raised, although they could have been.

Bearing upon the question of whether corruption was referred to by the delegation is a passage in Lewis's affidavit to the Commission:

I state that I have a very vague recollection of these events. My recollection is particularly limited because these events did not occasion any trouble for myself at all. It should be understood that the evidence given at my trial, whereat I was convicted of corruptly agreeing to receive monies from Jack Reginald, did not suggest for one moment that at any stage in 1978 either myself or any other Police Officer was acting corruptly in respect of massage parlours, the Licensing Branch, or the premises known as "The World by Night." Any such allegation would significantly contradict the evidence that was led at my trial, at which Jack Reginald Herbert swore that he successfully corrupted myself in the latter half of 1978 only in respect of payments to protect "in-line" machines, and he swore that it was only in 1980 and thereafter that he corrupted myself and other Police Officers with respect to gaming and prostitution.

I have no difficulty in concluding that the paramount, if not the single issue canvassed by the delegation was the lack of female equality in the Department and the associated issue of lesbian policewomen.

If any further support is necessary for this conclusion it can be found in Lewis's diary in an entry for 4 October 1978 in which he records:

Saw Premier re running of a Force; Supt. Murphy; Insp. Jeppesen remaining in Lic. Br. Insp Hicks; A/C Hayes not to be over Lic. Br.; seeing R Sparkes re optional retirement; Lesbian P/W, & tape recorders; addit house at Murgon; National Times article re marches; Sunday Sun article re marches; report by D'arcy Cummins on Aborigines; S/S Hannigan and 3 P/W seeing R Sparkes;

and P/W L Saunders being member of the Nat. Party - Premier said to transfer her. He stated completely happy with my administration.

If corruption had been referred to by the delegation one would have expected reference to it in the agenda with Sparkes.

Although Saunders claimed to have been shocked by the revelation that Lewis had found out about the meeting with Sparkes and Holm, I would have expected in the normal course for Lewis to have been advised that such a meeting had occurred. Furthermore I would have expected that those police officers who attended the meeting would also have had an expectation that the subject matter of their discussions and their identities would have been brought to the attention of the Commissioner of Police in order for him to address the issues. After all as Saunders conceded in evidence Lewis was well received in National Party circles at that time. The following exchange from the transcript between Counsel Assisting and Saunders bears upon this matter:

But when they came back - when you came back, they said that, well, obviously, they knew you had been and they said that the commissioner knew about it too?---That's correct.

Is that so?---Yes, that's correct.

Well, it was believed, rightly or wrongly, was it not in the police force, that the commissioner was very well received in National Party circles, at that time?---Yes.

It was said, in fact, that through the National Party, he had achieved a meteoric rise to the commissionership?---That's correct.

Was that right?---That's correct.

And, in fact, you joined the National Party with some view that it might assist your career?---No, not that it would assist my career, but it might save any pay back for being a Whitrod supporter.

I see. Anyway, I suppose you were not greatly surprised to find that Sparkes and Holm would have been discussing a

police matter such as you had raised about women in the police force with the commissioner?---I was rather shocked they'd breached the confidentiality of the meeting.

But how far are they going to get unless they took the matter to the senior police, how far were they going to get with trying to right the perceived wrongs that you had told him about?---I don't know. All I know is that we went there on the understanding that it was a confidential meeting.

But what had you asked them to do? You asked them to try to change things so that women would have a better chance; is not that right?---We wanted to make them aware of what was happening.

But with what purpose, so that some changes would come about?---Obviously so women would get a better go.

Yes, okay. And to do that, a short step to do that, would presumably be to talk to the commissioner and perhaps the assistant commissioners with a view to confirming your complaints and seeing what could be done to improve them?---I didn't really - - -

Or not? I mean, it just occurs to me that, you see, that that would be a natural thing?---I didn't think it was necessary for them to identify the officers that went there.

I see. Did you ask them - - -?---If I had known I was going to be identified, I wouldn't have gone.

Did you ask them not to get in touch with the senior police - with the Commissioner and so forth about your - the matters that you had raised and whatever reforms you had requested?---Well, the meeting was held on the basis that it was confidential and it would go no further about who was present and what we said, than National Party headquarters; that's my recollection of it.

I see. Well, what was the value of the meeting going to be then; if they were to maintain a silence and a secrecy about the whole matter, what was the point of going

there?---So they were made aware of what was happening.

But that would not achieve anything, just the fact that they were aware, unless they took some steps - - -?---Well, if - - -

- - - if you follow what I mean?---Well, if - if people are aware of a problem, then they can do something to rectify the problem, but what I'm saying is that we didn't expect that our names would be immediately given back to the Police Department as being the officers.

In his affidavit to the Commission Lewis stated:

I have no recollection now of the conversations I had with Allan Callaghan or The Honourable Mr Camm concerning Sergeant Saunders. I did not consider it improper of her to approach Charlie Holm and Robert Sparkes. This did not cause me to dislike Sergeant Saunders.

Once again there is no evidence that Lewis acted to the detriment of Saunders because of her approach to Sparkes and Holm. Newman knew of no adverse effects caused Saunders because of the action of the delegation and there was no suggestion that Newman herself suffered at Lewis's hands.

I am fortified in the view that I have reached that Lewis did not seek to harm Saunders or her cause or indeed to attempt to negate her effectiveness as a person who had been promoting equality within the Department (or even acting as a "whistleblower" as she stated she had been) by the following incident.

In May 1979 Lewis requested Saunders's senior officer in the Task Force to direct Saunders to be interviewed by The Sunday Sun and The Sunday Mail on the issue of equal opportunities for female officers. Saunders claimed that she refused to be interviewed by The Sunday Sun because of the appalling articles that had appeared in that paper, written by Brian Bolton, concerning the "Lesbian Investigation". She did however consent to an interview with The Courier Mail which on 20 May 1979 published, in Saunders's view, a good story. I do not consider these the actions of a Commissioner who wished to silence Saunders. Saunders suggested in her statement to the Commission that the newspaper article had reported that

she was in the Task Force, having the effect of widely publicising that she was a member of the section of the Police Force that was most hated by the civil liberties group, thereby making sure that she was unpopular and discrediting her in the eyes of the very people who took allegations of corruption in the Police Force seriously and who were prepared to discuss it publicly if necessary. I do not accept this proposition. By this time she had been in the Task Force for nine months. It would have been well known where Saunders then worked. Furthermore the direction by Lewis placed Saunders in the best possible position to obtain publicity for any revelations on corruption, that is, by giving her the opportunity of meeting journalists who would no doubt be only too ready to follow up on accusations of police corruption. It would be strained logic to accept Saunders's suspicions in this regard and I do not. Saunders herself conceded that Lewis's actions, on the face of them, seemed to boost the role of women in the Police Force.

Also bearing upon this question is the following paragraph from Lewis's affidavit to the Commission:

Finally, I wish to make the point that, had I both disliked Sergeant Saunders and been prepared to take improper action against her, I could have transferred her at any time to any Police Station in the State. I had the authority to do this, as Commissioner, with no right of appeal, in respect of any Officer up to and including the rank of Senior Sergeant. No Cabinet approval was needed for such transfers. Instead, she remained in Brisbane and its environs throughout her service, which gave her a preferred position over many and most other Police Officers.

Further support for the conclusion that Lewis was not intent on inflicting harm upon Saunders or prejudicing her can be drawn from Lewis's diary note of 4 October 1978, reference to which has already been made. From that entry it would seem that Lewis had the imprimatur of the Premier to transfer Saunders anywhere in the State if he chose to do so. Her secondment to the Task Force where she was happy to be was confirmed after this date by formal transfer. She remained there until charged in April 1982.

It is significant in my mind that Lewis, having been given 'the green light' to transfer Saunders in his discussions with the Premier on 4 October 1978, did not subject her to any unfavourable transfer notwithstanding the Basil

Hicks incident involving the interviewing at the Brisbane Prison of a female prisoner by Hicks and Saunders. This incident had occurred shortly before 4 October 1978.

2.12 The Basil Hicks Incident

Saunders stated that whilst at the Task Force she was asked by Inspector Basil Hicks to assist him at the Brisbane Prison by interviewing a prostitute (who came to be known as Katherine James during the Fitzgerald Inquiry). Saunders claimed she had been advised by Hicks that there was an attempt being made by certain corrupt high-ranking police to have James give false statements and evidence about Hicks to discredit him. She also claimed that Hicks had told her that someone working for Murphy was doing this with a view to ensuring that Hicks would not be made the head of the CIB. Saunders stated that she was selected by Hicks because he knew from the Whitrod days that she could be trusted. She added that there were very few active policewomen at that time and Hicks obviously saw her as a person in whom he could place trust.

Hicks gave evidence before me that he thought his chances of getting information from the prostitute would be greater if he had a female officer with him and he thought of Saunders to assist him. Later in examination by Carew the following exchange took place:

Yes. Now, why did you take Lorrelle Saunders to the prison with you?--Why her in particular?

Yes?--She was at the depot. I considered that she was a mature policewoman. There were some young ones there at the depot. I knew that she'd been in the Army before she came into the police; I believe she had - and I suppose summing it all up, because she was a mature policewoman.

At the Fitzgerald Inquiry Hicks agreed with the proposition put to him that he took Saunders because he wanted a woman to be present when he was confronting James. There seems to be no suggestion that Saunders was selected because she was perceived to be a corruption fighter.

Hicks gave further evidence before me that he had warned Saunders what could happen to her if she came over to the jail with him. At page 2109 of the transcript the following exchange appears:

HAMPSON QC: Yes?---I'm ashamed to say this, but I know that I was exposing her to very, very grave consequences.

Yes?---One, because she was coming over to the jail with me and she was going to witness something that - well, at that time I didn't know what she was going to witness. And two, I was going to expose her to a lot of danger, because she was going over there to the jail.

All right?---I also had fears for her because she is a woman - she was a policewoman. At that time there was a lot of - lot of antagonism, a lot of antipathy towards policewomen.

Yes?---So, as much as I possibly could I got through to her that she didn't have to come over there with me. She understood that, but I don't think she realised just how serious it was.

Saunders claimed that Lobegeiger, her senior officer, had not been approached beforehand to obtain his permission for her to go with Hicks as it was not necessary to do so.

The Prison Visitors Book for 1978 showed that Hicks and Saunders attended the prison to see James on 21 September 1978. Saunders's account before me of the events of that day were understandably vague. I prefer to relate her account of events from her undated statement to the Fitzgerald Inquiry. It stated as follows:

After receiving our passes, Inspector Hicks and I proceeded to an area near the dormitories where we sat down with the person James. Inspector Hicks introduced me to her. At first she did not want to talk and after a short while Inspector Hicks left us alone. I recall that Inspector Hicks had a tape recorder in his hand but I cannot say whether it was going or not. He did not leave me with the tape recorder whilst I had a conversation with James.

When I was alone with James, I told her about the allegation that she had been approached by police to say that there were photographs of her and Hicks in a compromising situation. I told her that he was a happily

married man, and that this could wreck his family life and that she had better tell us now if it was not true. James told me that the photographs did not exist. She told me that she had been approached by Murphy and [two other named police officers] to say that they did exist.

...

James told me that Basil Hicks was too honest and was causing problems and had to be stopped because he arrested people who were being looked after. She told me that she had to do it or they would put more charges on her and that this would affect her parole. In this context I took it to mean she was referring to [a named police officer] and Murphy, because these persons' names came up frequently in the conversation.

James told me that photographs of herself and [a named person] had been taken in the past. She made mention of what the Department had done to [a named person] and that she had loved him at one time. James told me that she desperately wanted parole because her boyfriend was working on an oil rig off the Malaysian Coast and she wanted to go there and go straight.

After the conversation that occurred out of the presence of Inspector Hicks, he returned to the group but I cannot remember what parts of the conversation he was present for and what parts he was absent for. Whatever conversation did occur in Inspector Hicks' presence, it would have been confirmatory of what she had already told me whilst we were on our own.

Hicks denied any impropriety with James and his account of the meeting at the prison was consistent with that of Saunders, although he was not able to give a first hand account of what Saunders was told by James as he was not within hearing of most of that conversation.

Although not called before me, James gave a contrary account before Commissioner Fitzgerald of this meeting at the prison. Also before Commissioner Fitzgerald was an account of the meeting at the prison written by a prison officer who claimed to be present with Saunders when

she interviewed James. If this account were to be accepted as true it would cast doubts over the accuracy of Saunders's recollection. Fortunately there is no need for me to reach a conclusion as to the conversation that took place during this meeting.

Saunders stated that when she returned to the Task Force from interviewing James she was confronted by Lobegeiger. She claimed that Lobegeiger told her that he had received a telephone call advising that she had been to the jail with Hicks. Saunders could not recall which of the two, Lewis or Murphy, Lobegeiger had stated had made this call to him. She claimed that Lobegeiger said to her that they were annoyed with her for going to the prison. She also claimed to have been told by Lobegeiger:

What the hell do you think you are doing, antagonising them, going out there with Hicks;

and further:

He might win the battle, but we'll win the war.

The obvious implication being that he (Lobegeiger) was 'on side' with whomsoever had rung to advise him of the visit to the prison. Saunders claimed that Lobegeiger condemned her for her association with the anti-Lewis forces and demanded the names of the members of what was known as the "Committee of Eight." Saunders explained that this was a supposed group of pro-Whitrod officers which was sworn to bring about the downfall of Lewis. She stated that as far as she was aware no such group existed.

Saunders claimed that Lobegeiger then asked her to relate to him what occurred at the jail but she responded that she was not at liberty to tell him adding that if he wished to know he should go and see Inspector Hicks. Saunders went on to say that rational discourse ceased at this time.

Surprisingly in Saunders's statement concerning the Hicks incident to the Fitzgerald Commission she described the subsequent conversation between herself and Lobegeiger, when she returned to the prison, as follows:

When I returned to the office after leaving the prison, I was requested to see Inspector Lobegeiger, who asked me what I had been doing at the prison with Hicks. I simply referred his enquiry to Inspector Hicks.

There was no reference to the incident in evidence before Commissioner Fitzgerald. I would have thought that if the subsequent conversation occurred as she described it before me a more full account would have been given both in her statement to the officers of the Fitzgerald Inquiry and in evidence before Commissioner Fitzgerald. As a matter of completeness I should add that before me Hicks gave evidence that Saunders had phoned him and told him that she had been interviewed by Lobegeiger, who told her that he received a phone call that she had been over to the prison. However there was no suggestion this had come from an irate Murphy or Lewis.

Furthermore there was no reference to this subsequent conversation with Lobegeiger in her detailed 67 page statement to her solicitors which was provided to police investigators in 1984. In that statement there was however reference made to an alleged threat by Murphy to Hicks shortly after the visit to the prison. This threat was subsequently related by Hicks and Saunders to the Fitzgerald Inquiry and also to me.

Saunders gave evidence before me that Hicks had subsequently told her that he had run into Murphy somewhere and that Murphy had made mention of the visit to the prison and that he would get Saunders over it, or words to that effect. It was this alleged threat by Murphy to which reference was made in the Fitzgerald Report. I will make further observations in relation to this reference in the Fitzgerald Report later in my Report.

In the Fitzgerald Inquiry Hicks had described the actions of Murphy in the period shortly after the visit to the prison as follows:

*BY MR. CROOKE: You went back to police headquarters after your visit to the prison, is that right?--
I went back to Mobile Patrols. I just forget where I dropped Saunders off - somewhere. I could have dropped her off. I am not sure where I went. I was walking from downtown back up to Mobile Patrols when I met Murphy on the way down. He stopped to speak to me. I didn't stop, I just kept on walking. When I got back to Mobile Patrols he rang me and asked me what I was doing over at the gaol. I told him to mind his own business. He asked me what I was doing taking a policewoman over there. I told him it was my business and he said he'll settle with her in future - 'I'll deal with her in future.'*

Did you tell the policewoman, Saunders, that Murphy had said this to you?-- I did. I said I felt it was a threat and I would be very, very careful if I was her.

Unfortunately legal representation on behalf of Murphy was withdrawn shortly before Hicks gave his evidence before Commissioner Fitzgerald and his recollection of this incident was not tested by cross-examination by any legal representative of Murphy.

Before me in questioning by Counsel Assisting Hicks described the incident as follows:

What about Murphy? Did you meet Murphy in the street or see him in the street?---Yes, I did, but it wasn't - I'm sure it wasn't that day.

It wasn't that day, it was later, was it?---Because I was back at the depot working that afternoon, I'm sure.

Okay?---But two or three days later, after that, I was walking up towards the depot and he was walking down town, I presume towards headquarters. Now, I put that as about at least two days after the depot - the going back to the depot, you know, on the day of the - going to the gaol and - I'm just trying to think of the street from the depot down to the George Street. Oh, it doesn't matter anyway. He was coming from the CI branch building, I presume, downtown, I was going back up to the depot, and we were approaching each other. We could see each other from some distance away, and he had a big grin on his face, and I admit that I was very angry at that time. He came down the street and we met, we just about met, and he walked towards me and said something. Now, I don't know what he said. I believe it was something to do with going to the gaol. But I didn't answer him, I just walked past him. I didn't answer him because I knew I was quite capable of making a fool of myself at the time because I was so angry. I went back up to the depot, and about a quarter of an hour - 20 - say quarter of an hour to half an hour later I got a phone call. Nobody said - this person spoke on the phone didn't say who they were, and - but the voice, I'd say that it was Murphy rang me up, and he asked me what was I doing taking the policewoman over

to the gaol. Why did I take the policewoman over to the gaol? And, again, I said, 'I'm minding my own business.' And then he said - I can't remember the exact words, but asked about her. I can't remember exactly what he asked about her, but I think it was, 'Why did I take her over the road - over to the gaol?' And he said, 'I'll deal with her later.' That was the end of the conversation.

Right?---That I can remember.

Now, he did not say who he was, though, whoever rang up. You believed it was Murphy?---No, he didn't say who he was.

How do you know it was not Lobegeiger, because he had already complained about it?---Well, he told me about it. I can't say positively that it was Murphy because I didn't see the person on the end of the phone.

Yes, right?---But from what I heard of his voice I took it to be Murphy.

All right?---And it happened a quarter of an hour to half an hour after I met him in the street.

In examination before me by Counsel for Murphy, Hicks conceded that he only assumed the telephone call he received was from Murphy. He did however refute that it could have been Lobegeiger as he explained that Lobegeiger had already called him and queried the purpose of the visit with him. He told Lobegeiger to mind his own business.

Inspector Ingham on 14 March 1984 had put to Lobegeiger those parts of Saunders's 67 page statement which purported to involve Lobegeiger. The relevant extracts from Saunders's statement and Lobegeiger's handwritten responses are set out in full:

Extract: There was an attempt being made by certain corrupt high ranking officers to have James give false statements and evidence about Hicks so they could have him charged.

Handwritten

Response: I don't know anything about this. Hicks did approach me and ask if he could have the services of a policewoman to interview a prisoner at the gaol and I agreed to it. I was in charge of the Task Force and Saunders was a member. Nothing was said to me by Hicks of any setup.

Extract: He often joked and said he was only having the affair to obtain information for the administration. Subsequent to this visit to the prison Insp Hicks had a conversation with Asst Commissioner Murphy in relation to it. Murphy made very serious threats about me to Hicks for my part in the proceedings.

Handwritten

Response: No way. I know nothing of any threats being made by Tony Murphy concerning Saunders.

From Lobegeiger's account to Ingham, Hicks sought Lobegeiger's approval beforehand to take Saunders to the prison. Hicks denied this before me. It was also inconsistent with Saunders's account although Saunders would not have known for a fact whether Hicks had spoken with Lobegeiger before the visit.

Lewis when questioned before me could shed little light on the whole incident. He was asked to comment specifically upon an entry in his diary for 25 September 1978:

Superintendent Murphy phoned re P/W Saunders accompanying Inspector Hicks to H.M. Prison on 21st inst.

He stated that he did not have the faintest idea why that matter would be brought to his attention.

It may well be that it was in response to investigations arising from a query seemingly asked of him on 22 September 1978 by the Superintendent of the Prison, Ron Boronetti. On that date the following

entry appears in Lewis's diary:

Mr R Boronetti, HM Prison phoned re B. Hicks and a P/Woman seeing James on 21st and inquiring as to who had visited her.

Murphy was asked by Counsel Assisting whether he had anything to do with the statements made by Katherine James concerning Hicks. He denied having anything to do with the matter or manipulating other people to do it. He also denied ringing Hicks in September 1978 to discuss with him the visit by Saunders to the prison. He denied passing Hicks in the street shortly after Hicks's visit to the prison as claimed by Hicks. Murphy stated that he would not speak to Hicks if he saw him in the street as he did not have any time for the man.

Whatever the true situation concerning the visit to the prison, the history behind it, or the alleged conversations and threats following it, there is simply no evidence that either Murphy or Lewis subsequently acted to the detriment of Saunders. As I have previously indicated Saunders was soon after her visit to the prison transferred officially to the Task Force. She was happy with this transfer. Lewis could have sent her anywhere in the State. He had the Premier's blessing to do so. Further he had directed that she provide an interview to the press on the role of policewomen in the Service. This had resulted in the women's lobby in the Police Force obtaining publicity and support. To suggest that Murphy and Lewis bided their time for 3½ years to vent their spleen on Saunders in March 1982 is far fetched.

2.13 Further incidents whilst at the Task Force

In evidence Saunders described a number of incidents which occurred whilst she was working at the Task Force. Saunders claimed that according to Lobbegeiger these had made her unpopular with Lewis and/or Murphy.

The first of these incidents involved a woman by the name of Camila Finta who Saunders claimed was the right hand woman of a significant criminal identity named Billy Phillips. Enquiries by Commission investigators indicate that Finta is now deceased. Saunders claimed that Constable Ray Knight, her partner at the time and she were patrolling on the southside when a call over the police radio was made for an unmarked police vehicle to attend the Colmslie Hotel. When they arrived there they were advised

by the Manager that two women had been "shooting up" in the toilets. The Manager provided them with the registration number of a vehicle in which the women had departed and indicated to them a male person at the bar who was associated with these women. Saunders claimed that they arrested the man and as a result of a motor vehicle registration number search the address of one of the females was ascertained. Knight and Saunders went to the premises and located three women two of whom were weighing heroin. Saunders and Knight arrested the two women weighing heroin; one of these was Finta. Saunders was unable to recall the name of the other woman although she could recall that this woman claimed to live opposite Lewis at Bardon. Saunders claimed that this woman had stated that Lewis would fix it up for her and nothing would happen to her. Saunders claimed that the third female who was the proprietor of Bubbles Bathhouse, a massage parlour in the Valley, had told her that there was nothing that she could do as she was paying the Drug Squad, the Licensing Branch and the Cleveland CIB. No names were mentioned by this person according to Saunders. Saunders opined that the Cleveland CIB was mentioned because the house that was raided was in the Cleveland area. Saunders stated that this woman was now dead.

Saunders claimed that when the matter went to court Finta got three months' jail and the other woman arrested was put on probation. She thought that this was very suspicious.

During questioning by Counsel Assisting Saunders acknowledged that the sole reason for not arresting the proprietor of Bubbles Bathhouse was insufficiency of evidence to charge her. Saunders accepted that it had nothing to do with this woman's claims that she was paying police. Saunders also acknowledged that her suspicions concerning the imposition of a three month prison term on Finta, in the face of the other woman being placed on probation, were without foundation as there were many factors which contributed to a particular sentence being imposed upon an individual, for example, the individual's criminal history.

Knight in a statutory declaration dated 2 June 1993 stated that he knew of nothing untoward about what had occurred with the prosecutions of the two women although he could recall that Saunders was unhappy with the sentences imposed. He also stated that although he could remember the arrests he could not recall any reference to pay-offs to the Drug Squad, the Licensing Branch or the Cleveland CIB but added that there could have been such reference.

Saunders gave evidence that at about the same time as the arrest of these

two women she and Knight had decided to sit outside Phillip's house in Vulture Street. She claimed that they booked people for traffic offences and simple offences in the area and Lobegeiger advised her that Lewis and Murphy were angry about it. She claimed that Lobegeiger told her to stay away from Phillip's house because it was upsetting Murphy and Lewis. Saunders also stated that when she was in prison on remand she met up with Finta, who claimed that Phillip was paying Lewis and Murphy.

Lewis in his affidavit to the Commission denied knowledge of any person who lived opposite him being charged on drug offences. He categorically denied all knowledge of the incident described by Saunders and the further implication that he somehow induced the Supreme Court to impose a light sentence upon the woman. Lewis claimed that he had arrested Phillip on one occasion many years ago on a shoplifting charge. He denied any impropriety with him and stated that he had never previously heard of the allegations now being made by Saunders. He added that he had never heard of Saunders's alleged activities outside Phillip's house in Vulture Street.

Saunders claimed that she supplied to the Fitzgerald Inquiry the information that she received from Finta whilst in prison. There is no reference to the information in either of her two statements to the Fitzgerald Commission or in her evidence before Commissioner Fitzgerald, although there is reference to another incident concerning a prostitute who worked from premises in Barry Parade, Fortitude Valley. I would have thought that if Saunders considered this matter had any real relevance or significance she would have related the whole of the matter to investigators of the Fitzgerald Inquiry. I am satisfied that no significance can be placed on these matters and rely upon the statements of her then partner Knight who believed that there was nothing untoward in the two prosecutions. Knight also stated that he had no knowledge of Lewis and Murphy being upset about their carrying out police duties around Phillip's house. I should add that there was no reference to these matters in Saunders's 67 page statement to her solicitors. As a result Lobegeiger was not called upon to comment on them when questioned by the police in 1984 on the other matters relating to him raised by Saunders in that statement.

There was no reference to these matters in a statement dated 19 March 1984 which Saunders provided to police investigators who had been specifically assigned to question her on the matters of police corruption which she had raised in that 67 page statement.

Saunders gave evidence before me of two other arrests which she claimed

had come to the attention of Lobegeiger as a result of which the Commissioner was displeased with her according to Lobegeiger. On each occasion Saunders claimed that she had been on patrol with Knight when they arrested a defendant for driving whilst under the influence of alcohol. The first person arrested was an accountant who had been drinking with the Commissioner at the Belfast Tavern just prior to the arrest. The second person claimed to have been the Clerk of the Course at Hong Kong Racecourse in Queensland on holidays. He also claimed to have been drinking with Lewis. Saunders could elaborate no further on the matter.

Lewis in his affidavit to the Commission stated as follows:

I have no knowledge that Sergeant Saunders arrested or laid complaints against the accountant she describes, nor the person who was assertedly the Clerk of the Course for a racecourse in Hong Kong. I did drink at the Belfast Tavern and my practice of doing so was widely known among the Queensland Police Force. If Sergeant Saunders did, in truth, take police action against the person she described, I knew nothing about this and it did not cause me to dislike her.

I am satisfied that these two arrests were of no consequence or significance to Lewis. Knight and Saunders were merely carrying out their police duties in relation to traffic offenders. I have difficulty accepting that Lewis would bear a grudge against each and every police officer who breached a friend or associate of Lewis for a traffic offence or for driving a motor vehicle whilst under the influence of alcohol. There was no suggestion that Knight fell out of favour because of these arrests.

Knight in his affidavit to the Commission commented on the fact that there were complaints from local police about Saunders and himself "creating too much work for the local police" but made no suggestion that complaints had come from Lewis or Murphy in relation to any of their arrests.

Saunders also described the arrest of a man by the name of Snowy Collins for a traffic offence. After the arrest Saunders claimed that she was told by Lobegeiger that Collins was paying a Sergeant on the Gold Coast for protection. She claimed that Lobegeiger believed that she gained notoriety over her involvement in the matter because of Collins's friends in the Police Force. It was never suggested that Lewis or Murphy was involved in the matter and in view of the minor nature of the offence I cannot see

any significance in the incident.

Saunders claimed that there was another incident which caused her some consternation and which may have created a motive for corrupt police officers to harbour a grudge against her. This incident occurred late in 1981. Saunders described that she and Knight intercepted a vehicle whose driver was charged with being under the influence of liquor. During the processing of this driver he told them that he had been assaulted by a bouncer at the National Hotel. Saunders claimed that she and Knight travelled to the hotel to investigate the complaint but when they got there they were greeted by five employees of the hotel who were standing on the footpath. Saunders claimed that they were told that they would not be allowed inside and so they called for backup. After police reinforcements arrived a raid was conducted on the hotel and a bouncer was arrested for wilfully damaging Knight's shirt in a struggle. Saunders also claimed that a number of breaches of the *Liquor Act* were detected as well. Saunders stated that these events occurred late at night and at about 1 o'clock in the morning Deputy Commissioner Atkinson rang the watchhouse wanting to know what was going on. Saunders acknowledged that she had not spoken to Atkinson when he rang the watchhouse and could not relate that conversation. Saunders claimed that at some stage Lobegeiger rang her and said, "What the hell have you and Knight done on this occasion." Saunders claimed that they submitted a very comprehensive report in relation to the alleged breaches of the *Liquor Act* asking for direction on what action to take. On the morning of the committal hearing Saunders claimed that she asked Inspector Graham Matthews, to whom the comprehensive report had been given, if he had a result in relation to the direction sought by the officers as they expected to be cross-examined about their power of entry. She claimed that Matthews produced the report which had been locked in his bottom drawer and said that he could not send a report like that to headquarters as it related to the National Hotel.

Saunders said that when the time came to give evidence at the committal hearings the prosecutor came out and told her that he had received a telephone call from the Commissioner's Office and she was not allowed to give evidence. She was to corroborate Knight and although he gave his evidence and the accused was committed she did not give evidence.

In relation to the incident Knight stated that he could recall that he arrested the person for tearing his shirt on 20 December 1981 and that the arrest occurred in circumstances similar to those described by Saunders. He also explained that this person was arrested on other summary offences arising out of the one incident. Saunders was the arresting officer in relation to

two of these offences, namely assaulting and resisting a police officer in the execution of her duty.

Knight explained that there had to be committal hearings as the wilful damage charge was an indictable offence. He stated that he could not remember being at court when the person was committed; however he presumed that it had been a hand up brief which did not require the attendance of any of the witnesses. This perhaps explains why Saunders was not required to give any evidence on that day.

Knight added that after the person had been committed for trial on the wilful damage charge the Crown Law Office advised that there was a defence open on the charge and entered a nolle prosequi in relation to it. Knight stated that the defence was equally applicable to the summary charges which had been brought by Saunders and which had been adjourned to November 1982. Knight therefore prepared a report of 17 November 1982, a copy of which was furnished to me, recommending that the summary charges be withdrawn on several bases, one of which was that a similar defence may have been offered on those two charges. The charges were withdrawn. Knight concluded his statutory declaration by saying that there was no pressure placed upon him to make the recommendation to withdraw the charges.

He said he knew nothing about Atkinson telephoning the watchhouse. He also stated that he could not remember Lobegeiger telephoning Saunders to ask what she and he had done on that occasion.

I have had the benefit of reading both the report of 17 November 1982 prepared by Knight and also the advice of the Solicitor-General dated 15 September 1982 which resulted in the nolle prosequi being entered on the charge of wilful damage. I am satisfied that no impropriety occurred and that the appropriate action was taken in all respects concerning the withdrawal of these charges.

In relation to the comprehensive report alleging breaches of the *Liquor Act* submitted to Inspector Matthews the Commission obtained a statutory declaration dated 8 July 1993 from him. He declared that he remembered the incident and also the report that had been furnished to him. He added:

I was unhappy with the facts of the report as I considered that, if the events had been of such a nature to warrant a charge against the Manager, then it would have been Knight's option to arrest him and charge him with

hindering rather than resorting to the tactic of reporting him for a breach of what I believe to have been, as far as I can recall, a breach of the Liquor Act. I recall speaking to Knight about the matter on more than one occasion but I do not remember if Saunders was present. I told Knight I was not particularly happy with the contents of the report because of the above reasons and I would have to give it long and considerable thought before I would be prepared to authorise prosecution. I had reservations about the evidence and nature of the matter because a Magistrate had previously awarded costs against cases that Knight had presented at court. The file was still in the active file basket at the time I left the Task Force. I do not know what happened to the file after that. I remember Knight protesting to me about my views on what should be done with the circumstances of the incident with the Manager at the National Hotel. I do not recall Knight exercising his prerogative to report his non-acceptance of my decision and report the matter directly to the Commissioner. No other senior officer contacted me about the particular file. I had no personal knowledge of the alleged offender.

Matthews's account of being dissatisfied with the report and the fact that he had reservations about the evidence accords with the advice of the Solicitor-General in relation to the wilful damage charge. That advice disclosed that the hotel was seemingly not open for business and the police officers concerned did not enter the hotel for the purpose of investigating any suspected breach of the *Liquor Act*. The advice concluded:

In these circumstances, the entry of the police officers into the hotel would probably be held to be unlawful and the hotel licensee and his employees would be excused for attempting to remove them.

For this reason it is my view that the Crown cannot succeed on the wilful damage charge ...

Clearly if the premises were not open for business then there could not be breaches of the *Liquor Act* in the circumstances described and the hotel licensee or manager could not be liable. I am satisfied that there was nothing untoward in the actions of Matthews. In my view the whole incident was given far greater significance by Saunders than it deserved. I am unable to draw any adverse inference against any person arising from

the incident.

Saunders stated that she could not recall any other incidents prior to the events of 7 March 1982 which would have caused Lewis or Murphy to dislike her. She did add that she was told by Lobegeiger that Atkinson disliked her. She could not recall any clashes with him which may have caused his dislike of her with the exception of the National Hotel incident. She also suggested that Atkinson may have perceived her to be protected by Whitrod in the early days when she was in the EDLU and he was the Sergeant at the Break and Enter Squad. Notwithstanding what Saunders claimed Lobegeiger told her about Atkinson there is simply no evidence that he acted improperly towards her.

Saunders provided to this investigation a statutory declaration dated 5 June 1990 from Mervyn John Bainbridge which had been obtained by Carew and Company. In it Bainbridge claimed:

I am also aware from my personal knowledge that Tony Murphy and Terry Lewis have for many years shown a great deal of animosity towards Lorrelle Saunders.

When Bainbridge gave evidence before me he gave no direct evidence of any such animosity towards Saunders by Murphy. His understanding of events had come from Saunders's mouth. The only direct evidence of animosity he related concerned Lewis's alleged objection to the reinstatement of Saunders after the first three charges against her had been dismissed. He however conceded that there had been a fourth charge pending. I do not consider that Lewis's attitude was surprising in view of the pending charge.

2.14 Saunders's association with Kevin Hooper MLA

Saunders claimed to have first met Kevin Hooper MLA in 1976 when she went to his premises to investigate a wilful damage complaint by him. She claimed to have kept in contact with him over the years and passed information to him in relation to the Valley. She also claimed to have passed other material to him in relation to corruption even though she could no longer remember what that material was. She could not recall whether that information that had been passed to him by her had been used in Parliament. Saunders claimed that Hooper never mentioned his other sources to her and assumed that he kept her name from other persons. She stated that the only persons who would have known that she was an

informant to Hooper were his secretary and his immediate family, all of whom she met at his residence. She certainly could not recall any occasions when her name was disclosed as a source by Hooper in Parliament.

Lewis in his evidence claimed that he believed that Saunders may have been an informant to Hooper and said that he had seen them on television and from that concluded that she probably was. Lewis could not recall when he saw them on television but explained that it would have been on the news on several occasions. It would seem that these references by Lewis to having seen Hooper and Saunders together related to events after March 1982. There was certainly no evidence from Saunders that she was ever on television with Hooper prior to this or that she publicised their relationship.

The following passage in the evidence by Lewis bears upon the question as well:

You had not associated her with Hooper?--Well, yes, but there was lots of people knew Hooper. Hooper knew everybody and they knew him. I mean, just the fact that she was friendly with him didn't - he used to phone me, and he'd have the most friendly conversation you could have. Next week, he'd call you everything in Parliament.

I find it of great significance that Saunders could not recall any of the information that had been provided to Hooper. In view of Saunders's concession that she had direct evidence of only one incident involving corruption I do not believe that the information being communicated to Hooper was of great moment or, more importantly, perceived to be of great moment by those in the police administration.

2.15 Saunders as a perceived corruption fighter

In an attempt to establish that there had been ill feeling against her by senior members of the administration Saunders relied not only upon the incidents referred to in this chapter but also upon the impression given to her by Lobegeiger that people thought that she knew far more than what she did concerning corruption. She gave as an example Lobegeiger's questioning of her concerning the "Committee of Eight" which as far as she was aware did not exist.

Saunders claimed that Lobegeiger specifically told her that the police administration considered her to be highly dangerous due to her knowledge of certain corrupt officers and practices. She did however concede that with the exception of one incident in the Valley which was referred to the Fitzgerald Inquiry she had no direct evidence of corruption. Saunders stated this incident had occurred in January 1982. She had been on patrol with Knight when she saw a woman throw a packet of green leafy substance from a vehicle. When this woman was interviewed in relation to a possible drug offence she admitted that a large sum of money she had in her possession was the proceeds of prostitution whilst working at a brothel named Bubbles Bathhouse. Saunders stated that she was prevented from charging the female by an Inspector of Police who was subsequently convicted on corruption charges.

Saunders claimed to have received a substantial amount of information from Lobegeiger. This information was recorded in her 67 page statement to her solicitors and on 14 March 1984 put to Lobegeiger for his comment by police inspectors. The relevant extracts from her 67 page statement and the handwritten response by Lobegeiger are repeated in full below:

A. Extract: *Lobegeiger often told me that the current Police Administration regarded me as highly dangerous due to my knowledge of certain corrupt officers and practices and believed that I was a member of a group of dissident officers who had sworn to bring about the downfall of the current Administration.*

Handwritten

Response: *No way, I didn't say that.*

B. Extract: *He also told me to stop attending political meetings and criticising the Police Administration. It was well known by the Administration I had led a deputation to Highly placed members of the National Party complaining about some things that were happening in the Department. It was also believed I'd made very serious allegations against Senior members of the Department.*

Handwritten

Response: *I didn't know she had made any serious allegations about the Department or any police. She did tell me that she had attended meetings where Sir Robert Sparkes was present. I did not tell her to stop any meetings.*

- C. Extract: *Lobegeiger and I had many discussions re police corruption on the Gold Coast. He told me something. (That [two named officers] were the main 'bag-men' for Tony Murphy and were spying for him).*

Handwritten

Response: *No way. I had no reason to mistrust either man. Had I any suspicion, I would have done something about it.*

- D. Extract: *Lobegeiger and I had lengthy discussions about the situation in relation to Police corruption at the Coast he was drinking quite heavily.*

Handwritten

Response: *Garbage. I have never had any discussion with Saunders re police corruption at the Coast. I have an odd beer and am a moderate drinker.*

- E. Extract: *Lobegeiger and I then had a further discussion about the corruption at the Coast and he said that he had had to get Det Sgt Williams and Det Tutt of Cleveland to the Coast to make some arrests as he couldn't trust his own cops.*

Handwritten

Response: *I didn't discuss corruption at the Coast with Saunders. I have never called Williams or Tutt to the Coast to make any arrest.*

Clearly Lobegeiger denied advising Saunders about matters of corruption. He also denied that he told her that she was regarded as highly dangerous to the administration. Saunders suggested that this was because Lobegeiger would have been unwilling to make allegations against the administration in 1984. I regard this suggestion as difficult to accept bearing in mind Lobegeiger had retired from the Force a year earlier. I am not at all convinced that Saunders was perceived prior to 1982 to be a threat to the administration or a corruption fighter or a person who had a great knowledge of corruption in the Police Force.

Extracts from Lewis's affidavit to the Commission bear directly on this question. At paragraph 6 of the affidavit the following appears:

I state that I was aware of the existence of a supposed "Committee of Eight." I was never told of any females who were members of it, and I never heard it suggested that Sergeant Saunders was.

At paragraph 12 of that affidavit Lewis states:

I say that I did not consider Sergeant Saunders was 'highly dangerous' to my myself or to my administration. I did not wish to be offensive, but the truth is that the existence of Sergeant Saunders was of no interest, let alone a threat to me, until her arrest. After that, my only interest was that she was a police officer.

And further at paragraph 15 of his affidavit this appears:

I say that I did not perceive in or around 1982 that Sergeant Saunders was a 'corruption fighter. I never heard this of her at the time. I never heard of her being known as such at or about that time. The first knowledge I had of this being said about her was after the commencement of the Fitzgerald Commission of Inquiry.

Also relevant in this context is the final paragraph of Lewis's affidavit which I have previously quoted in the report. In that paragraph Lewis explained that if he disliked her and was prepared to take improper action against her he had the authority to transfer Saunders anywhere in the State.

Although Lewis was examined in detail on the entries in his diary and in particular those concerning Saunders there was nothing in them from which

I could conclude that Lewis or others in the administration considered Saunders a threat prior to 1982. After she was reinstated she did make allegations of corruption which were referred to Inspectors Ingram and Youngberry. These were investigated after March 1984. By that time she would have been seen as a threat to the corrupt officers in the Police Force.

An entry in Lewis's diary for 24 November 1986 records:

Senior Constable L Saunders a dangerous person.

When asked to explain this entry Lewis said in evidence:

Yes, this is 1986 by now?--Yes. By about that stage I think Miss Saunders probably was a little bit discontented about not having - well, received compensation and perhaps other issues. I know certain police officers at Beenleigh at some stage said that she was very vocal in her thoughts about a whole range of issues, including the way she felt that she hadn't been treated well. But whether that was it I just don't know, because I know one union executive member from down there mentioned to me one day about her being a little bit outspoken - outspoken in a sense of being dissatisfied. It was Mr Bainbridge.

That hardly justifies a comment that she was dangerous?--No, well - I - I say, I don't know whether that was it. No, that's true.

One suspects that this entry in Lewis's diary was not unconnected with her allegations to Ingram and Youngberry.

It was suggested to Lewis by Counsel for Saunders that his diary entries established that Saunders was singled out. I do not accept this. There are many references to Saunders in the diary but there are literally thousands upon thousands of entries by Lewis in these diaries. Many police officers are mentioned on countless occasions. It is not possible to conclude from the diaries that Saunders was singled out.

It is also fair to conclude from the evidence before me that neither her peers nor associates considered Saunders to be a corruption fighter prior to 1982.

Although her partner Knight could recall Saunders speaking to him about possible corruption in the Police Service he had no knowledge of her discussing such matters with anyone else. He expressly stated:

I have no knowledge of any link between what Saunders had said about police corruption and subsequent events involving her.

Her subsequent partner, Gregory John Carnes, made no reference to Saunders being either a corruption fighter or a perceived corruption fighter.

Her Inspector in the Task Force from December 1981 to March 1982, Graham Evan Matthews, could not remember Saunders raising any aspects of possible corruption in the Police Force when she was under his control.

Newman, with whom she went to see Sparkes and Holm, could not remember corruption issues being raised and knew of nothing that happened to Saunders as a result of that meeting. She added that she knew nothing that Saunders had said or done that would have caused resentment against her by other police.

Hilary Huey, with whom Saunders had worked in various squads and on occasions as a partner, stated in her statutory declaration of 16 June 1993 that she could not recall Saunders discussing corruption in the early days.

Jill Maria Bolen a former work mate and associate of Saunders and formerly Chief Superintendent of Police declared in a statutory declaration of 4 August 1993 to the Commission:

I did not know Saunders as one publicising police corruption that may have existed early in her service. Although I heard of the Basil Hicks/Katherine James incident, I have no direct knowledge of it. She was a dedicated officer intent on doing her duty. I am unaware of any resentment of her that would suggest that police were out to "get her" and knew of no bias against her when we were at the EDLU, despite the fact that Saunders had been appointed a detective and that we were the only two female officers there in a unit established by then Commissioner R W Whitrod, with the Juvenile Aid Bureau being then, I think, under the authority of the Children's Services Department.

Hicks, when asked to explain why Saunders in particular was selected to go with him to the prison to interview James, made no reference to Saunders's reputation as a corruption fighter or a perceived corruption fighter.

Arthur Victor Pitts who retired from the Police Force on 1 December 1978 on the rank of Superintendent and who claimed that Saunders treated him as both a friend and confidante declared in his statutory declaration dated 5 June 1993 to the Commission that:

During my time in the Police Service and the time I knew Saunders in the Service, I know of no grounds where she could make the claim that she was a corruption fighter. She knew my position on corruption and knew how opposed I was to it, but she never approached me with any information about any alleged corruption.

He does go on to say that Saunders made a number of allegations against the so-called "Rat Pack." Saunders did not have any first hand knowledge of any alleged impropriety by members of the so-called "Rat Pack." I should add that Saunders claimed to her solicitors in 1983 that Pitts was not a person on whom she could rely to assist her in the defence of her charges.

2.16. The suggestion that Saunders may have been "framed" because of her association with Lobegeiger

Saunders's solicitors obtained a statement dated 1 June 1990 from Peter John Goodwin. Goodwin had been Saunders's solicitor from 15 September 1982 until March 1983. During this time she had been committed for trial. When Saunders's private funds had been exhausted she had to approach the Public Defender's Office for legal assistance. As Goodwin was a sole practitioner he could not afford to continue to represent her on Public Defence rates. Peter Sorensen from the Public Defender's Office then became her solicitor. He was her solicitor during her trials. After the Crown had determined to enter a nolle prosequi Goodwin once again became her solicitor for the purpose of pursuing her reinstatement in the Police Force and her claim for compensation. By this time Goodwin had become a senior partner in the firm of Gabriel Ruddy and Garrett, Solicitors.

In his statement Goodwin stated that he recalled having a conversation with

Detective Inspector Lawrence John Pointing on 30 March 1984. Pointing and Inspector Trevor Menary were at that time investigating the tape produced by Dodd after the Crown had conceded that it was a fabrication. Goodwin claimed that during that conversation Pointing had told him that he, Pointing, had worked out that Saunders had been set up not only for the purpose of getting at her but more particularly for getting at Lobegeiger. Goodwin claimed that Pointing had told him that the trouble started when Lobegeiger was appointed as a District Superintendent in Cairns at a time when Murphy was being paid off by a person or persons unnamed. Pointing's words to him were to the effect that when Lobegeiger arrived Murphy had everything all set up there but Lobegeiger stepped on Murphy's toes by going around to each of the persons from whom Murphy was supposed to have been receiving payments and insisting on payments being made to him, Lobegeiger. Goodwin then claimed he was told by Pointing that Lobegeiger was transferred to the Gold Coast to try and avoid the problem but even on transfer to the Gold Coast the same thing occurred. Goodwin added that Pointing had told him that the relationship between Saunders and Lobegeiger was well known in the Police Force and that in order to get to Lobegeiger it was decided the best way was to go through her and to embarrass or shame him out of the Police Force.

Later in the statement the following passage appeared:

Pointing told me that they had established that the tape recording produced by Dodd has most probably been made in the basement of the Police Headquarters building and that the sound in the background, which had always been claimed to have been a motor vehicle was, in fact, an airconditioning unit and ran at a similar cycled pace to the airconditioner in the basement of Police Headquarters.

Goodwin was asked to expand upon his statement by Commission investigators.

In a statutory declaration dated 19 May 1993 to the Commission Goodwin confirmed that the account that he had given in his statement of 1 June 1990 was an accurate account of what he had been told, as far as he could recall, with the exception that he was not sure whether Pointing had told him that Murphy had arrived first in Cairns or that Lobegeiger had. He explained that this conversation had taken place outside the hearing of Menary or any other person. He further explained that he had made the statement from his own recollection without the use of any notes after a period of about seven years and that the only person with whom he had

discussed the matter was Saunders on the very day that he received the information. He stated that on that day Saunders had mentioned to him matters which seemed to be similar to those to which reference had been made by Pointing and therefore he related to her his discussion with Pointing.

In further explanation of his statement of 1 June 1990 Goodwin added:

Pointing never gave me the impression one way or the other as to whether he believed the information which he communicated to me. I did not form a view as to whether the information was true or not. As I recall it, he was merely relating to me what he had been told or what he had heard. It may have been expressed as what a person might have been going to say in the future. It may even have been relayed to me as "just gossip." It was not stated as a matter of fact. I have no evidence to suggest it is true.

Later in the statutory declaration the following passage appeared:

I would have been astounded if it were true. I have no evidence to suggest that it is true.

Trevor Graham Menary in evidence before me claimed that he was present with Pointing for the duration of the meeting referred to by Goodwin. He denied that the conversation described by Goodwin had occurred and further that Goodwin and Pointing were never by themselves for the conversation to have occurred outside his hearing. Pointing in evidence before me denied having had the conversation with Goodwin.

On its face there appeared to be an irreconcilable difference in the account of Goodwin on the one side and Pointing and Menary on the other. However a report dated 13 February 1984 on the police file relating to Saunders charges sheds light on the matter. This report signed by Pointing and Menary explained how they obtained a 67 page statement from Saunders as part of their investigation into the fabricated tape. That report is set out in full below:

Detective Superintendent of Police
Metropolitan C I Branch:

Saunders's false tape matter - referred for investigation by

the Solicitor-General.

On Thursday 26 January 1984, Senior Constable Lorrelle Anne Saunders of Beenleigh Police was interviewed by us in the presence of her Solicitor, Mr Peter Goodwin, and she handed to us a 61 page statement which she had compiled of the evidence she would give at her trial. She had handed this statement to the Public Defender's Office who were conducting her defence.

Saunders informed us that the statements that she handed us was incomplete and we subsequently obtained a further 6 pages of her statement for the office of the Public Defender.

On perusal of this statement it was found that she had made a number of serious allegations about certain ex-Police Officers and serving Police Officers. Reference to these matters is made on the following pages of her attached statement:-

Pages 4, 5, 19, 20, 29, 34, 47, 51, 57, 63, 64, 65 and 66.

We respectfully request a direction whether we are to make investigations in relation to Saunders's allegations against Ex-Police Officers and serving Police Officers in conjunction with our overall investigations as requested by the Solicitor-General.

*T G Menary
Det. Inspector.*

*L J Pointing
Det. Inspector.*

As a result of this report Inspector Ingham was asked to pursue the serious allegations raised by Saunders. Pointing and Menary were directed to confine themselves to the investigation of the fabricated tape.

Interestingly enough, one of the allegations which appeared in Saunders's statement and which Pointing and Menary were directed not to pursue was that Lobegeiger had said to her that:

Webb was certainly doing the job on me for Murphy but he thought it may be him that Murphy was really after ... I was just the instrument to achieve it. He and Murphy had

clashed in Cairns over police pay-offs ... Murphy was building a block of units in Cairns with his ill-gotten gains. (I have confirmed Murphy has built units there.) Murphy was also against his activities at the Coast and he was raiding premises and having persons arrested who were paying protection money to the Irish Mafia. [Named police officer] had been and now [another named police officer] was the main bagman on the Coast for the syndicate. Both phoned Murphy direct and spied on him.

This allegation although more specific contained basically the same information that Goodwin recalled having been disclosed to him by Pointing. Importantly this allegation did not appear in the first 61 pages of Saunders's statement provided to Pointing and Menary during the meeting with Saunders and Goodwin on 26 January 1984. It appeared at page 63 and was therefore in the 6 pages of the statement obtained from the Public Defender's Office.

It seems likely to me that having obtained the last 6 pages of Saunders's statement from the Public Defender's Office Pointing and Menary had a further meeting with Saunders and Goodwin on the date claimed by Goodwin to be the date on which he was advised by Pointing of these matters, namely 30 March 1984. By this time the allegation had been put to Lobegeiger by Inspector Ingham on 14 March 1984. His response had been:

I never discussed Webb's investigation with her. I have never clashed with Murphy. I never discussed any raids at the Coast with Saunders and I never had any difference with Tony Murphy over any raids at the Coast. I have never suspected either [named police officer] or [another named police officer] of being bagmen or being dishonest.

I am satisfied that at this meeting of 30 March 1984 the allegation was raised by Pointing with Goodwin not as a statement of fact but rather as a statement of what Saunders had previously advised Sorensen. Of course it had been denied by Lobegeiger by this time. As previously noted Goodwin had not been Saunders's solicitor at her trial and seemingly would not have known of the contents of the last 6 pages of Saunders's statement.

The conclusions I have reached explain why Pointing was adamant that he had not divulged any information to Goodwin. He had not divulged the

results of their investigations or his views of the facts. He had merely repeated Saunders's allegation to him. I would not expect this was of great moment to Pointing and I do not consider it would have stuck in his mind. This scenario would also explain Goodwin's recollection that the matter was not communicated to him as a matter of fact but rather as "gossip" or just "what he (Pointing) had heard." This would also account for Goodwin's recollection that Saunders had made reference to matters which seemed similar prior to his having told her of Pointing's conversation.

I am satisfied that Pointing was merely relating Saunders's own allegation which Lobegeiger had refuted. I am also satisfied that Menary, Pointing and Goodwin were honest in their attempts to recollect events and I am of the view that each gave evidence of the events as they believed them to be.

It might be suggested that my previous conclusions do not sit well with that part of the conversation between Pointing and Goodwin in which reference is allegedly made to the fabricated tape having been made in the basement of Police Headquarters. Nowhere in Saunders's 67 page statement did this claim appear.

I am satisfied that Pointing did relate this account to Goodwin but not as a statement of fact. Support for this can be drawn from Sorensen's statutory declaration dated 22 July 1993. In that he declared:

I can recall discussing with John Jerrard² the possibility that the noise on the fabricated tape was from an airconditioning unit in the basement of Police Headquarters. This was not pursued during the trial as far as I can recall. We had not been advised by anybody that this was the case. It was pure supposition.

I strongly suspect that when Pointing and Menary went to the Public Defender's Office to obtain the final 6 pages of Saunders's statement Sorensen related to them his previous discussions with Jerrard QC. It would not be surprising that having been told of this possibility by Sorensen it was then relayed to Goodwin by Pointing. If Sorensen said this not as a matter of fact but merely as Sorensen's thoughts on the matter it is not surprising that Pointing had no recollection of discussing the matter with Goodwin. It would have been of no significance to him.

² John Alexander Jerrard was Saunders's Senior Counsel at her trials in 1983. Since that time he has taken Silk and further reference to him in the report will be as "Jerrard QC".

Although after this lapse of time it is impossible to prove the conclusion I have reached about the conversation between Pointing and Goodwin I take comfort from the fact that the documents support this conclusion; it is more likely than the possibility that one of the parties to the conversation is lying.

At this stage I should add that Murphy in evidence before me denied that he had been corrupt. He also denied that he had ever heard the allegation that Lobegeiger had been corrupt. He explained that he had arrived in Cairns five months after Lobegeiger had arrived in Cairns. This was confirmed by a letter dated 2 July 1993 from Assistant Commissioner Aldrich of the Queensland Police Service. Murphy denied that Lobegeiger had ever stepped on his toes although he explained that in Cairns there had once been a dispute between himself and Lobegeiger over a serious domestic altercation.

In relation to the claim that he had built units in Cairns with "ill-gotten gains" he had the following to say in his statutory declaration to the Commission:

With respect to the allegation made by Saunders that Lobegeiger told her that I had built a block of units in Cairns in 1981 with my 'ill-gotten gains' I deny this completely. From the outset it should be noted that the Commission of Inquiry headed by Mr G E Fitzgerald QC investigated my financial affairs completely as a result of a number of false allegations made about me there. I can say without equivocation that I provided them with everything they asked for and my accountant equally provided them with all relevant material. My affairs were investigated by them and there was no adverse finding made by them in anyway whatsoever. More importantly I was never even called before the Commission of Inquiry to be questioned about anything concerning my financial affairs that they may have had queries about.

I am also fortified in my conclusions upon the discussions between Pointing and Goodwin for the following reasons. The conclusion that Saunders was "framed" because of her association with Lobegeiger can only follow if two things existed in March 1982. First, that the relationship between Lobegeiger and Saunders was ongoing and secondly, that Lobegeiger had been corrupt.

In relation to the first of these matters I am completely satisfied that the relationship between Saunders and Lobegeiger had ceased some time in September/October 1981. This matter will be canvassed in far greater detail later in the report.

So far as the second matter is concerned there is no evidence before me that Lobegeiger was corrupt. Saunders claimed that both Hooper and she had received anonymous phone calls advising that Lobegeiger was involved in running prostitution from the Zebra Motel. Saunders stated that when she was driving Lobegeiger around she could remember having to go and have coffee and sandwiches whilst he went up to the motel for a considerable time every Friday night. Saunders also claimed that a neighbour by the name of Joyce Looker who had worked as a Night Manager or something similar at the motel had subsequently told her that she believed that Lobegeiger was conducting prostitution there.

Commission investigators located Looker and a statutory declaration was obtained from her. In her statutory declaration of 7 July 1993 Heather Joyce Looker acknowledged working at the Zebra Motel as one of the waitresses during the 1970's and 1980's. She declared that she could not ever recall seeing Lobegeiger at the Zebra Motel when she was employed there. She also added that she knew of no activities that occurred at the Zebra Motel which were outside the law and further added that she believed that she would have known if there were any illegal activities because of the regularity of her work there. She concluded by declaring that she definitely did not remember telling Saunders or her mother anything about Lobegeiger running prostitution at the Zebra Motel.

I am satisfied that Looker at no stage advised Saunders that Lobegeiger was involved in conducting prostitution from the Zebra Motel. There is simply no evidence upon which I could find that Lobegeiger did conduct prostitution from the Zebra Motel or indeed that prostitution was conducted from that motel.

Saunders had previously brought her suspicions concerning Lobegeiger to the attention of the Fitzgerald Commission in a report to then Inspector James Patrick O'Sullivan dated 14 October 1989. In that report Saunders made reference to property dealings by Lobegeiger which she claimed were not in keeping with police salaries or any family monies. She attached a schedule of property that she believed he owned. It was not of course possible for me to analyse Lobegeiger's property dealings, which according to the schedule had commenced in 1973, after the effluxion of such a period of time and after his death.

His daughter, Suzanne Marce Whitehall, in her statutory declaration to the Commission did take the opportunity to comment upon the suggestion that her father's property was purchased using monies corruptly obtained. She stated:

As for my father's property holdings, all I have to say is that you have to look at the price he paid for these properties and consider that he had no family, other than myself to look after. I left home to get married twenty years ago this year. All the properties he bought had old run down dilapidated buildings on them. He spent all his time off duty hours repairing them to make them livable. They are still only old places that he has rebuilt from the stumps up. He always lived very frugally as it was necessary to buy materials to complete these repairs. It should also be considered that he collected his Superannuation and insurance policies which had matured. Also, my husband and myself have lent him money to dabble in real estate. He always enjoyed taking a risk with property and loved to watch his investment grow as the property became valuable. He did not believe money was any good in the bank. He did all of this for my security for when he would not be here to make sure I was secure. You can not consider the values at the time of his death as he had had most of these properties for years. Even the last one he bought was purchased ten years ago.

It is interesting to note that Saunders's report was furnished to Inspector O'Sullivan after attempts by Saunders to reunite with Lobegeiger had failed in 1989. I will make further reference to this later in the report as well. There is simply no evidence before me that Lobegeiger obtained property by using monies corruptly obtained. Furthermore as far as I am aware no evidence of corruption or impropriety by Lobegeiger was led at the Fitzgerald Inquiry.

I should mention here that notwithstanding Saunders's suggestion that Lobegeiger may have been corrupt and the administration was attempting to get at him through Saunders, Lobegeiger was appointed a Superintendent Grade 2 on 24 May 1982. Counsel Assisting suggested to Saunders that this was inconsistent with the suggestion that she had made that the administration was trying to get at Lobegeiger. She responded that they may well have been promoting Lobegeiger to influence him not to tell the full truth of their relationship, presumably at her forthcoming trials. That

is she considered the promotion may have been something in the nature of a bribe and saw significance in the fact that there was a reference in Lewis's diary on 28 April 1982 to Lewis phoning Lobegeiger concerning his promotion. That entry however refers not only to a telephone call to Lobegeiger but also to four other Superintendents who were being promoted to Superintendent Grade 2. Lewis stated in evidence before me that he saw no significance whatsoever in the reference to the phone call to Lobegeiger because he had made a practice of phoning every officer that was promoted or upgraded. Other entries in Lewis's diary seem to bear this out. I attach no significance whatsoever to the entry.

As the suggestion that Lobegeiger may have been promoted as a form of bribe had been raised by Saunders, I sought access to the Queensland Police Service Lists for the years 1982 and 1983 published in the Queensland Police Gazette. These show that Lobegeiger was promoted to a Superintendent Grade 2, from a Superintendent Grade 3, on the basis of seniority. That is those officers who had been more senior to him as at 31 December 1981 had either been promoted before Lobegeiger or had retired. Certainly no adverse inference can be drawn by Lobegeiger's promotion at this time.

I am further fortified in my view that Saunders was not "set up" because of any association with Lobegeiger by the conclusions I have reached in relation to "the primary facts" I was required to consider. By the "primary facts" I refer to those facts relating to the actual charging of Saunders. This matter is canvassed later in the report.

2.17 Nationwide Programme of 3 March 1982

Saunders claimed that it was thought by persons in authority that she had some involvement with the Nationwide Programme which went to air on 3 March 1982, four days before the theft of the guns from Coomer. In that programme, Campbell, amongst others, alleged that corruption was rife in the Police Force. She believed this suspicion arose because of her association with Hicks, Ken Hoggett and, of course, Campbell, with whom she had worked at the Police Store.

In her statement to the Commission Saunders explained what she perceived to be the significance of the broadcasting of the Nationwide Programme to her being charged.

I believe that the broadcasting of this programme on police

corruption may have been the primary cause of corrupt police being involved in my framing. I have recently viewed the Nationwide programme in Mr Lambrides' office and my suspicions are confirmed that the corrupt network needed a diversion to take public attention away from the allegations that had been made on that programme. There was a call for a Royal Commission to be established at the conclusion of the programme and it was stated that there were serving police who were willing to give evidence at such a Royal Commission. The programme was not dissimilar to 'The Moonlight State' which brought about the Fitzgerald Inquiry in 1987.

When asked by Counsel Assisting whether Saunders actually had any involvement in the Nationwide programme she stated that she had met some reporters and television people but could not recall for which programme they worked. There is certainly nothing on the face of the programme which would support the conclusion that she was involved in the programme. Also there is no evidence that corrupt police believed that she had been involved in the programme. Whether in fact Saunders was "framed" by corrupt police because they intended to deflect publicity from those matters raised in the Nationwide programme can only be determined after assessing the evidence relating to the charges which were brought against her. I will turn to this task later in the report.

2.18 Conclusion

Having examined the early years of Saunders's police service and in particular Saunders's claims and suspicions concerning enemies she may have made up to the time of the charges against her in April 1982, and having considered possible motives in those suggested by Saunders to have considered her, or Lobegeiger, a threat, I am satisfied that there is no evidence to suggest that any of the events considered had its ultimate conclusion in a plot to charge Saunders. If Saunders had been framed by corrupt police in 1982 the events of the early years afford no assistance in establishing a motive for framing her.

PART B - THE FIRST THREE CHARGES

CHAPTER 3

SAUNDERS'S RELATIONSHIP WITH LOBEGEIGER

3.1 The significance of the relationship between Lobegeiger and Saunders

A matter which grew in significance as the investigation progressed was the relationship between Saunders and Lobegeiger. It was originally clear that Lobegeiger would play some part in the events surrounding Saunders being charged in 1982 as he was the subject of the charge against Saunders of attempting to procure Dodd to conspire with another to murder Lobegeiger. However what gradually became apparent was that it was this relationship with Lobegeiger, coupled with Saunders's intense hatred of Lobegeiger's long term associate, Cecily Bull, which explains many of the subsequent events that took place. I am satisfied that it was because of the failure of Saunders's relationship with Lobegeiger and her perception of his association with Bull that Saunders commenced to exhibit symptoms of psychiatric disability which, according to her psychiatrist, exist to this day. Saunders's psychiatric condition will be canvassed in far more detail later in the report. It is only after consideration of the association between Bull and Lobegeiger and, more importantly, Saunders's perception of that association that a full understanding of Saunders's relationship with Lobegeiger can be achieved.

3.2 The source of the information used to determine the extent and nature of the relationship

I was hampered to some extent in my efforts to determine the extent and nature of the relationship between Lobegeiger and Saunders as I only had the opportunity to hear evidence from one of the parties; Lobegeiger died in June 1990. Lobegeiger had previously given a number of statements to investigating police between 1982 and 1984. He had also given evidence under oath at Saunders's committal hearings and at Cooper's trial. He had been subjected to cross-examination on his account of events in the Magistrates Court and District Court. Accordingly Lobegeiger had given at least part of his side of his relationship with Saunders.

I was greatly assisted by the evidence of Bull and the material which was supplied with the statutory declaration of Lobegeiger's daughter, Whitehall.

Whitehall had unexpectedly come forward as a result of the publicity generated by the Public Hearings. She supplied to the Commission a substantial amount of correspondence from Saunders to her father which she had located at Lobegeiger's premises subsequent to his death. This material proved to be most valuable. I will refer to it as the Whitehall material.

Another unexpected source of material which was of great assistance was the huge amount of documentation obtained by officers of the Commission from the Legal Aid Office after Saunders had waived legal professional privilege in relation to communications with all her solicitors, other than Carew and Company. This material I will refer to as the Legal Aid material. The Legal Aid material included two Spirax notebooks which according to Saunders's sworn evidence before me had been written by her contemporaneously to the events recorded in the notebooks. I will return to these notebooks later in the report.

There was other material and evidence which were of lesser significance but still of value to me in determining the extent and nature of the relationship. I will turn to this in due course.

3.3 The association between Lobegeiger and Bull

Relevant to the question of the nature of the association between Lobegeiger and Bull is the following passage from the statutory declaration of Lobegeiger's daughter, Whitehall. The evidence contained in that statutory declaration has never been challenged.

As far as I am aware, Bull and my father were very close friends but not intimate friends. Certainly neither person ever told me that they were romantically linked and I never saw them embracing each other or holding hands. I can recall my father telling me in around 1982 that he was concerned for Bull's safety as Saunders considered her to be my father's partner.

At Saunders's first committal hearing on 12 August 1982 Lobegeiger indicated that he had known Bull for about 17 years and had been on friendly terms with her for that period. At no stage in his evidence did he suggest that their association was anything more than that of close friends.

At Saunders's committal hearing and before me Bull stated that the

association between Lobegeiger and herself was that of close friends. She told me it had continued until Lobegeiger's death. It was suggested to Bull by Carew, no doubt on instructions, that the association she had had with Lobegeiger was an intimate one. Bull denied she ever had sexual intercourse with Lobegeiger. In examination of Bull by Carew the following exchange took place:

Did you have a sexual relationship with him?---No, I did not.

Not at all during the whole period?---No, I did not.

All right. Did you ever live with him?---No, I did not.

Did you ever accompany him on social occasions?---Yes, frequently. I also stayed at his home. I also visited his - he took me to meet his family and we attended many family celebrations. I was very close with his family and his daughter as well.

See, when you were asked about your relationship with Mr Lobegeiger at the committal hearing - - -?---Yes.

- - - the only time that you gave evidence in this case - - -?---Yes, Mr Carew.

- - - you were asked about your relationship with Mr Lobegeiger, were not you?---In detail.

Your Honour, could Miss Bull be shown that evidence? I am not sure what exhibit it is now.

...

MR CAREW: Yes. That is - - -?---I have it, Mr Carew. Yes.

Yes. All right. Now, if you go over to page 435, towards the bottom, you were asked questions by Mr Howell, who said:

You were very annoyed that the defendant had an intimate relationship - that Mr Lobegeiger had an

intimate relationship with the defendant last year.

That is Sergeant Saunders?--Yes.

You answered:

It didn't please me.

?--Correct.

Well, why wouldn't - why wouldn't it please you if, as you say, you did not, yourself, have an intimate relationship with Mr Lobegeiger?--I have already said that I was a very close friend of Mr Lobegeiger's. Given his ambitions and his dedication to the police force, at that stage he was a very senior officer, Miss Saunders was a very junior officer, and I felt that such - any relationship, in any business - it would be jeopardising his career for him to so associate with a junior employee.

All right?--I had followed his career closely, I had helped him with examinations as a friend, and I thought he was a very foolish man to - at that stage of his career - have an association with a junior officer, who was also 20 years his junior.

Are you sure you were not jealous?--Not at all. I had many friends - my own friends.

No, jealous of the fact that Mr Lobegeiger became involved with a much younger woman?--Not at all. That was Mr Lobegeiger's business. His personal affairs - and he had many relationships with women - I consider entirely his business.

And later in Carew's examination, the following questions and answers appeared:

And did you stay for extended periods with him?--Oh, occasionally, when we went out west, it would have been up to a week. I stayed at his home in Cairns once for a week when he was based in Cairns, yes, I did.

All right?---And he has stayed at my home, as have several other of my male friends.

I considered Bull to be a very impressive witness. She answered questions in a forthright and credible fashion. I considered her to be a truthful witness, albeit, one who clearly wished the whole matter to go away. In accepting Bull's evidence I reject that of Saunders where it conflicts with that of Bull. I will turn to Saunders's evidence on relationships shortly but for present purposes suffice it to say that Saunders claimed Bull had certain discussions with her. If accepted as having taken place one could readily conclude that Bull was 'obsessed' with Lobegeiger. Saunders also claimed Bull in discussions with her had painted in graphic detail the sexual exploits of herself (Bull) and Lobegeiger. I reject these claims.

I am satisfied that Lobegeiger and Bull did not have a sexual relationship. The picture which emerged from all the evidence upon which I could rely was that they were long term friends and companions. It would appear that they had many things in common such as the welfare of Lobegeiger's daughter and the love of animals and nature.

Another incident suggested to Bull by Carew as being indicative of an intimate relationship between her and Lobegeiger was one which she had described in evidence at Saunders's committal hearing. Bull was examined by Carew at length about the incident. The relevant examination is set out in full:

The year was 1981, Mr Carew. The date, it was either 29 or 30 August. That week-end, Allan had come from the Gold Coast and was at my home late in the evening when there was a loud wailing of a police siren, an extended wailing. He - I commented to him next morning it was an unusual occurrence in our neighbourhood. He said nothing. I think it was a little bit later, on 2 September, I was in my office with a colleague and I received a phone call then from a male person.

Yes?---Is this the - - -

Yes. What did he - - -?--- - - - call you're referring to?

It is. What did he say?---The person said, 'You do not know me. I am a member of the task force and I think you

should know that Allan is playing around with my girlfriend.'

And then, as a result of that, did he say who the girlfriend was?--I asked. I said, 'And who is your girlfriend?' And he said, 'She is the only female member of the task force.' I - and then terminated the call.

Yes?--I then - I couldn't immediately remember Lorrelle's name. I had met her on occasions, the last one being up at Cairns, but I couldn't remember her surname. So in the first instance, I had tried to telephone Allan at the Gold Coast, couldn't get him, because I thought there was something sinister in the overtones of the conversation and also connected it with the siren incident which had preceded it some time before and I thought that it was something that was staged to defame both Ms Saunders and Allan Lobegeiger. I couldn't get Allan so I phoned the task force; was told that Lorrelle was not there. Spoke to another officer there and obtained her surname from that conversation.

Yes. And where did you get her telephone number from?--That same source.

The person at the task force?--Yes.

All right. And why did you phone her to ask her about this - whether or not she was going around with Allan Lobegeiger?--I didn't - - -

Why did not you take it up with Mr Lobegeiger?--I've already told you, I couldn't get in touch with him.

Did you think it was something that you had to act on immediately, did you?--No, but I was concerned because I - it had, as I said, unpleasant and sinister overtones.

Yes, you said that, but - - -?--Yes, yes, I did say that.

- - - you had to act on it immediately, you thought?--No, I did not act on it immediately. I already

had a colleague and was busy in my office.

Well, you knew where Allan Lobegeiger was during those days, at that time?--I did not. He was at the Gold Coast. I didn't know what his business was.

Yes, he worked at the Gold Coast?--Yes, that's correct.

But you were a good friend. You could have left a message for him to return your call?--Perhaps I could have but I was equally friendly - I thought Lorrelle Saunders was such a nice person, I thought she would be concerned that her so-called - - -

I am sorry, you said you were equally friendly with Lorrelle Saunders?--Well, I wasn't friendly. I'd met her but she seemed a very nice person to me.

You had, in fact, only met her on, I think, two occasions, previous to that?--I had met her on - and her mother - I had met her, actually, on four occasions.

Four occasions?--Yes.

She and her mother?--No, not always her mother
- - -

But Lorrelle Saunders?-- - - - but I had met Lorrelle on four occasions.

All right?--So I thought that, as I couldn't get Allan
- - -

But you could not remember her surname?--No.

All right?--I could not.

See, I suggest that it was the fact that you and Mr Lobegeiger did have an intimate relationship and that you were affected by this phone call. You wanted to find out whether it was true?--I can't help if you can't understand me, Mr Carew.

I am suggesting it to you. You can deny it?--I am denying it. It seems fairly simple when I say we didn't have, to me. I am suggesting to you the reason I phoned Miss Saunders home, I did not speak to her, I spoke with her mother, found out she was asleep, I asked for her not to be disturbed and that was the end of the call.

No, it was not?--I had decided not to do any more about it.

I am suggesting that that was not the end of the conversation. You, in fact, left a message for Lorrelle Saunders to call you?--That is a lie. I said, 'I will call back later,' and I had already decided that I wouldn't bother. I would wait until I saw Allan. Her mother did not know who I was. I did not give my name.

Yes. All right. Now - - -?--And very shortly afterwards Lorrelle Saunders telephoned me saying, 'Are you looking for me?'

Yes?--I did not - at that time I was stunned. I didn't know how - why she would expect that I would be calling her since I didn't give my name.

But you had rung and said who you were, did not you?--No, I had not.

You did not tell her mother who it was when you rang?--No, I did not.

You said to her mother, 'I'll call back later,' but you did not say who you were?--No, I did not.

I suggest, Miss Bull, that you are - that is not consistent with your personality. You appear to be a very polite woman?--I am, Mr Carew.

Now, I suggest, that you would have left your name?--I did not. I think that has nothing to do with politeness. I would say it has more to do with discretion.

And later:

Well, why, then, did you decide to phone Lorrelle Saunders on 2 September? You went to quite a bit of trouble to find out her phone number, did not you? You could not initially remember her name?---Correct.

You rang the task force. Asked who it was that - - - ?---Correct.

- - - was the only female officer. Found out her name, her phone number - - -?---Correct.

- - - and then phoned her residence?---Correct.

Now, I am suggesting that is the actions of someone who was very concerned about the intimate relationships of Mr Lobegeiger?---Well, you can suggest whatever you like, Mr Carew. I am telling you I am concerned with Allan's position in the police force and at that stage, Lorrelle Saunders's position, even, and I thought that the allegation by her so-called boy-friend in the task force was an attempt to damage both their careers.

I accept Bull's explanation of this incident. It appeared to me that Bull was genuine in her account that she had been attempting to take some action to remedy the damage which may have been caused to Saunders and, in particular, Lobegeiger.

This conclusion sat comfortably with other evidence presented before me. On a number of occasions in evidence at the committal hearing Bull stated that she felt "sorry," or "very sorry," for Saunders. In evidence before me she expressed the same sentiments as can be seen from the following passage from the transcript:

We [Lobegeiger and Bull] discussed it [the relationship between Lobegeiger and Saunders] because following Lorrelle's visit to my home, she had contacted me many times on the telephone and I did, indeed, feel very sorry for her as she was very distressed and seemed unhappy about the way her and Allan's relationship was going. For some reason, she seemed to think that I was, in fact, the reason that it wasn't progressing as well as she had hoped.

I had no difficulty accepting these sentiments as genuine. Support for the

proposition that she had held a sympathetic view of Saunders's predicament can be seen from the fact that she sent to Saunders a card of sympathy on her mother's death.

3.4 Saunders's perception of Bull

The first thing that struck me when reading Saunders's Legal Aid material and the 67 page statement to her solicitors was the surprising number of references to Bull. Bull's relevance to the charges against Saunders was peripheral and minimal. The extent to which reference was made to Bull by Saunders was completely out of proportion to the significance she had as a witness against her.

The police had obtained a statement from Bull dated 28 July 1982 for the purpose of her giving evidence at Saunders's committal hearing on the first three charges. It commenced with a very brief description of her initial contact with Saunders and outlined the telephone call of 2 September 1981 to which I have already made reference. It also described:

- an uninvited visit on 4 September 1981 to her home by Saunders in which Bull claimed that Saunders acquainted her with details of her (Saunders's) personal relationship with Lobegeiger. In the statement Bull described Saunders sitting down on the sofa when she first arrived, unstrapping a revolver from her leg and placing it beside her, saying it was uncomfortable. The statement added that Bull had visited her doctor earlier that day and she had taken some sedation. She was suffering the effects of this sedation and some alcohol she had been consuming. Saunders gave evidence that this meeting was not an uninvited visit to Bull's home but that it occurred in response to Bull's cry for help during a previous telephone call to her by Bull. Saunders also gave evidence that during this meeting Bull gave her intimate details of her relationship with Lobegeiger;
- a telephone conversation from Saunders to her on 23 September 1981 in which Saunders was stated to have said, amongst other things:

*Allan is such a liar, I hate him for what he
has done to me.*

Saunders denied making this call in the Legal Aid material;

- how on occasions, mostly in the evening, the telephone would ring but no-one spoke when she answered it;
- the receipt of two telephone calls from male persons on 17 February 1982 and 24 February 1982, respectively;
- that on 19 February 1982 when she was at Gatton with Lobegeiger and some men who were working on his property she saw Lobegeiger drive past her towards the higher part of the property and then heard a gun shot followed by a second and louder shot. In the distance she saw Lobegeiger standing facing another person who she assumed to be a male;
- that on the evening of 24 or 25 February 1982 Bull received a telephone call at her home from Saunders. During this phone call Saunders accused her of harassing her 80 year-old mother and accused Bull's friends from Ansett of making abusive phone calls to Saunders's home. Saunders denied making the phone call in the Legal Aid material.

Bull maintained before me that this statement was truthful and I accept her unreservedly in this respect. Her evidence at the committal hearing, although marginally more detailed, was in all relevant respects consistent with her statement. From a consideration of this evidence it is clear that in relation to the original three charges laid against Saunders Bull's evidence was of little consequence.

As well as the references to Bull spread throughout the hundreds of pages of Legal Aid material and the 67 page statement to her solicitors, there were 32 typed pages of notes prepared by Saunders specifically for the purposes of the cross-examination of Bull. The first 17 pages of notes were prepared according to Saunders on 8 June 1982 for the benefit of her then solicitor, Shane Herbert³. The next 15 pages were prepared on the face of them whilst Saunders was in prison and refer to the evidence given by Bull and Lobegeiger at the committal hearing, as well as to "recent information re Bull."

The notes went into extraordinary detail about each and every meeting or telephone conversation Saunders claimed to have had with Bull. The

³ In July 1983 Shane Edward Herbert returned to the Bar. Since that time he has taken Silk and further reference to him in the report will be as "Herbert QC".

conversations were recorded in the first person. Some conversations which had occurred ten months earlier were written in such detail that one could have been forgiven for believing that the notes were a transcription of a tape recording of the alleged conversation rather than an unaided subsequent recollection. Saunders claimed that the notes were factual and accurate to the best of her recollection. The conversations paint the picture of Bull being jealous of Saunders because of Saunders's relationship with Lobegeiger. It also paints Bull to be obsessive, suicidal, and threatening towards Saunders and her mother. The notes also record supposed conversations in which Bull states that she was having sexual intercourse on a continual basis with Lobegeiger. I do not intend going into great detail concerning these notes as they contain extraordinarily personal and intimate details of what Saunders claims Bull had disclosed to her during the conversations. Bull denied in evidence before me having disclosed such matters to Saunders and she also denied the truth of some of the matters said to have been discussed.

I will however set out an extract of the notes which is representative of the majority of the 32 pages. This extract appears at page 2 of the notes titled "Information for Shane Herbert ... Cecily Bull c/e" and is dated 8 June 1982. They relate to supposed conversations between Bull and Saunders which were said to have occurred in September 1981, that is, approximately ten months before the notes were typed by Saunders.

Following AM. about 9 AM phone call from Bull.

CB. Lori please I have to talk to you. I couldn't go to work I've had some tablets. I've been drinking wine with them. I was going to kill myself. You know my identical twin sister did and my father. I might as well join them. I've been around to your place. I got your address out of the phone book. He was there last night wasn't he. When it was nearly daylight I walked around to your place. It's beautiful. I envy you your house and your youth. I was going to go through the paddock. I wanted to see the side and the back garage. Where is your bedroom.

LS. Upstairs why?

CB. I'm just interested. What's at the front downstairs.

LS. Lounge and spare room why?

CB. I've caught Allan in bed with a woman before. I climbed up and looked through in the bedroom at

Cleveland. I was coming around to see if I could see him or hear you. There was this awful noise coming from the paddock. I was frightened. My poor little dog was shaking.

LS. The neighbours cow had a calf. But we've got high fences. I could climb them but you wouldn't make it.

CB. Are you insulting about my age?

LS. No, not at all. You're too short.

CB. Did you? Did he have sex with you?

LS. For heavens sake Cecily I feel for you but I'm not discussing our sex life with you.

CB. There's nothing to live for. I'll kill myself.

LS. Don't be stupid. No-one is worth that. Pull yourself together.

CB. Will you come over and talk to me.

LS. No I can't I have to take Mother out. Allan has told me to hang up on you. I shouldn't even be talking.

CB. He was rotten to me yesterday. He can be so cruel. I've got no friends I can turn to. I can talk to you because you can understand. I swear he has been having sex with me all the way through.

LS. He denies that.

CB. He always does. Do you know a doctor I can go to.

LS. Haven't you got a family doctor?

CB. Not one I can go to like this. I need some more pills.

LS. No I don't. (I was worried she may try to get a double prescription).

CB. Could you come and take me to a doctor. We'll find one I don't feel like driving.

LS. I'm sorry I really have to take Mother out.

CB. Come over and talk to me.

LS. I can't. Look find a Dr. if you must. I'll ring you this afternoon and see how you are.

... I did as promised and the phone was answered by a woman who identified herself as Cecily's neighbour. She said Bull had gone to the Coast.

Sat. evening about 6.10 pm I was in the office at the Task Force.

- CB. *Lori come over. I'm going to kill myself. I've never been so humiliated in my life. Have you heard from Allan. Where is he.*
- LS. *I assume he is at Gatton. He was going there for the weekend.*
- CB. *I thought he might have told you about last night. I went to the coast. It's so humiliating I want to die. At least I would be with my Sister Myrna.*
- LS. *Cecily I have to go. I'm working. The boss wants me.*
- CB. *Don't go. Talk to me. Come over. If I'm alone I'll end it all.*
- LS. *He rang me this morning after you left. There's nothing I can say.*
- CB. *Did he tell you about last night.*
- LS. *He said you were down there upset. Ripped some of the curtains of the windows. Thought you were dead in the driveway. I have to go.*
- CB. *I know I saw the car. I was waiting for him to leave. I was going to make him pull up and talk to me. I wanted to tell him what I thought of him. I must have passed out. I woke up and he was gone. I'm sorry. Then I drove around and sat up near the bus stop. I had my little dog with me.*
- LS. *The Senior is looking for me.*
- CB. *I need your help. Isn't part of your oath of service preservation of life. After I talked to you yesterday I went to the doctor and got some tablets? Mogodon. I drank some wine, quite a lot of wine. I don't know how but somehow I drove to the coast. I was in the drive waiting for him to come from work. I told him I was going to kill myself in the driveway. He told me to get in the house they'd see us from the station. That's all he was worried about - the Dept. How would he explain my dead body in the driveway. We argued. He ran out and got his gun and unloaded it. He was so frightened. Then he hit me. He's good at that. Does he hit you?*
- LS. *We've had a few arguments.*
- CB. *Then he hid the empty gun. I took all my clothes off. He told me you always go to bed without clothes so I thought if you can. I can. He made a*

point of telling me how you always slept naked and how much he enjoys it. I got into bed. He was telling me to get out. He was panicking. He thought I was going. I had so much. Then I pleaded with him to make love to me for the last time. He wouldn't and then through the night I felt him check if I was still breathing. I was holding my breath and he touched me. I wanted him so badly. Oh Lori I feel so awful and he took me. He didn't care. All he wanted was to satisfy himself. He hurt me. There was nothing and he rolled off and snored like a big pig. I feel so dirty. I can't live. If my dear sister could see me. Please come over. I implore you.

LS. I'll ring you later. I do have to go. There's a conference on. Don't do anything stupid.

Bull vehemently denied this specific conversation had occurred. Bull stated that she had attempted to call Saunders on only one occasion, that being a different one from the one Saunders described above. I reject Saunders's account completely for the following reasons:

- I accept Bull as a reliable and truthful witness and her denials were consistent with her previous account of events in her statement and in evidence to the Stipendiary Magistrate;
- The conversations as recorded included details which no person could recall after ten months;
- Some of the supposed conversation to my mind is absurd and unrealistic, for example, the claim by Saunders that Bull stated, "I need your help. Isn't part of your oath of service preservation of life." I do not accept that Bull would have spoken in such terms; and
- This conversation supposedly occurred after, at best, a handful of conversations between Saunders and Bull. I accept Bull's evidence that she would not have divulged such matters to Saunders. To me it would be extraordinary that any person who had such little previous contact would make revelations to a virtual stranger. It is even more unlikely when the person to whom the revelations were purportedly being made was the person who had been ostensibly thwarting Bull's continued relationship with Lobegeiger.

I am fortified in my views by reference to other parts of the 32 pages of notes where similar unrealistic conversation and far more intimate details are supposedly exchanged between Saunders and Bull. Another significant factor was the way in which Saunders gave her evidence concerning Bull. Although the notes make out Saunders to be a compassionate and caring person expressing feelings of concern for Bull, on many occasions before me she spoke of Bull in a contemptuous and venomous fashion. On most occasions the volume of her voice increased dramatically. The demeanour of Saunders in the witness box was completely at odds with the role that she was supposed to have played in the notes.

I have no doubt that the conversations recorded by Saunders, where they conflict with the evidence of Bull, were a fabrication designed to show that a sexual relationship had been in existence between Bull and Lobegeiger, that Bull was obsessed with Lobegeiger and that Bull was suicidal. I reject completely these implications. I am also convinced that Saunders believed that Bull and Lobegeiger had had a sexual relationship in the past and that the relationship was to some extent continuing whilst Saunders was endeavouring to extend her relationship with Lobegeiger. It is this belief that caused Saunders to detest Bull and no doubt is to some extent responsible for Saunders making up the conversations recorded in the notes. It flows from this conclusion that I also consider that Saunders was jealous of Bull, not vice versa, as suggested by Saunders. I am satisfied of this notwithstanding Saunders's denial that she was jealous of Bull.

There is ample support for my conclusions that Saunders detested Bull and was jealous of her. I will now set out in some detail a number of matters which support this. They are:

(a) A letter written by Saunders to Lobegeiger in February 1982

In the Whitehall material is an undated letter from Saunders to Lobegeiger which commences:

*Allan, firstly I'd like to explain why I phoned you
on Wednesday evening 24/2.*

A check of the hundred year calendar confirms that the only Wednesday evening which was the 24th day of February in the early part of the decade was in 1982. At page 2 of the letter the following appears:

I don't blame you for being angry with me - but

Christmas/New Year and then your birthday, your preference for another's company, can you understand the hurt and then your holidays - I can understand the work you have to do - I respect that in you. What has upset me is that she is able to go up [to the property at Gatton] and help you and share your plans - your future.

The "she" referred to is clearly Bull. The passage is the strongest indication that Saunders had been jealous of Bull notwithstanding her claim before me that she was not.

(b) Knight's evidence concerning his perception of Saunders's association with Bull

The following exchange between Knight and Counsel Assisting appears in the transcript of evidence:

Yes, okay. Well, that is the only occasion you have seen them in each other's company apart from being on duty as police work, is that correct?---That's all I can remember.

Yes, okay. So you have got a recollection that when you were working together that Saunders was making phone calls to either Lobegeiger or Bull, is that right?---Yes, well, she would make phone calls. I never went with her.

When you say 'she made phone calls', what, do you stop the car - - -?---Yes.

- - - she would go to a public telephone box?---I normally drove and she'd be talking or something and say, 'Look, I've got to make a phone call', so I'd pull up at a phone box and she'd make her call.

Because of what she said, either before she went away or when she came back, you would assume that the call was to either Lobegeiger or to a woman called Bull, is that right?---That's right.

And the position seemed to be that she was checking on whether there was a relationship, sexual relationship, between Lobegeiger and Bull?---That's right.

Because the impression you had was that she was jealous of the possibility of there being another woman; she did not want to share Lobegeiger?---That's right.

Is that the position?---Yes.

Later in the transcript the following exchange occurs:

All right. You said Sergeant Saunders was always checking on people. What do you mean by that?---Well, she wasn't certain whether Lobegeiger and Bull were still an item.

I see?---And when she rang Bull's house I assume it was to check to make sure that a female answered the phone and when she rang Lobegeiger she was checking to make sure a female didn't answer the phone.

*Well, why record - still got no idea
- - - ?---Beg your pardon?*

- - - why record this particular one?---I don't know.

You see, she was asking you to do something unusual, I suggest to you: that you start off recording a telephone conversation that she wanted you to initiate when she came on and started to talk to Lobegeiger?---Mm.

Did not you get any explanation as to why you were being asked to do something unusual like that?---I think she was just trying to catch him out in a lie.

What, catch him out in a lie on the phone and then

record it; is that what you mean?---It's the same thing. Record the conversation and then have some sort of evidence - well, not evidence, but some sort of copy of what was said.

I see. And what was the lie that she was trying to catch him out at?---I don't know.

Although Saunders claimed that Knight had not recollected the events correctly and had made unjustifiable assumptions about the telephone calls that she had made, I reject her evidence in this regard and accept that of Knight. It is clear that Knight believed Saunders to be jealous of Bull and he also believed that she had tried to keep a constant eye on Bull's whereabouts by making telephone calls to Bull. This is in accord with Bull's account in her statement of 28 July 1982 where she stated:

On other occasions, mostly late in the evening, my telephone would ring but no-one spoke when I answered it.

It is also consistent with Bull's evidence before me where she said:

For some reason she [Saunders] seemed to think that I was, in fact, the reason that it [the relationship with Lobegeiger] wasn't progressing as well as she had hoped.

I have no difficulty in accepting that the calls were from Saunders who had been trying to ascertain whether Lobegeiger was with her or whether she had left her home and presumably gone to see Lobegeiger.

(c) The evidence of Saunders's co-accused, Colin Stanley Cooper

Cooper in his record of interview with police on 8 September 1982 had stated the following at question 105:

On Monday, that was two days ago, myself, Sue and Lorrelle, arrived at the airport at about ten to five pm, sat in the bar at the Ansett Terminal, when Lorrelle spotted her she said here she comes get a

good look. She said, look at the old bitch, isn't she ugly. We finished our beers and followed her out of the airport, got into our car in the car park, paid the thirty cent fee, and caught up with Cecily along Sir Kingsford Smith Drive, where we followed her over the Story Bridge.

And then at question 106:

Q. What happened after you followed Cecily Bull over the Story Bridge?

A. She turned up one of the Freeways over the Story Bridge a fair way down and we continued to follow her and she turned off the Freeway to her left and we continued to follow her off the freeway for two or three miles before Lorrelle turned off and we just drive, back to her place then.

Although Cooper claimed in evidence before me not to have been able to recall all of the events of 1982 because of an alcohol problem, in his statement to the Commission dated 12 March 1993 he stated that he believed that he did attend the Ansett Terminal as described in question 105 so that Saunders could point Bull out to him. He could not however recall the contents of question 106. I accept Cooper's account as it appeared in the record of interview. It (including the answer to question 106) was corroborated by Bull in a statement to police on 18 November 1983 in which she says:

Saunders was driving the vehicle. There was a young female in the front passenger seat and a young dark haired person in the rear of the vehicle. When I turned into River Terrace, the accused followed behind. I again looked in the rearview mirror and saw Saunders, who appeared to be highly elated, laughing and turning and talking to the persons seated beside and behind her. She raised her right hand and shook it.

This was extraordinary behaviour on the part of Saunders. It is a clear example of Saunders's attitude towards Bull.

(d) **The incident which occurred at Mount Berryman on 31 March 1984**

Although occurring some time after the nolle prosequi had been entered in respect of the final charge against Saunders this incident at Mount Berryman was of some significance. A statement was provided by Bull on 6 April 1984 and by Lobegeiger on 9 April 1984. Bull's account before me was consistent with her statement. Their statements are not inconsistent with each other in any great respect. It is not in dispute that on Saturday, 31 March 1984 Lobegeiger and Bull were at Lobegeiger's home at Mount Berryman. Lobegeiger claimed to have seen a car travelling very slowly past his property. It caused him to suspect that something untoward was occurring. He obtained his rifle from his motor vehicle and placed the scope to his eye. He claimed to have seen a male person on the ground holding what he thought to be a small handgun pointed in his direction. He then decided to return to the house to ring the police. As he drove back down the hill he recognised Saunders rise up to her feet in some lantana which was situated on his property. She was waving her arms around but he could not see whether she was armed. He returned to the house and asked Bull to ring the Laidley police and said that Saunders and a mate were around; one of them being armed. Lobegeiger claimed that Saunders and her companion then drove towards them, stopped the vehicle and Saunders alighted, putting on a police hat. He told her to get off his property but she ignored the warning and kept coming up to the front of the house and halted a short distance from the bottom step. Lobegeiger claimed that once again he told her to get off the property but Saunders indicated that she had every right to be where she was. A conversation between Saunders and Lobegeiger then took place. According to Lobegeiger Saunders then spoke to Bull and said:

Listen Lady, I've just started on you, I am having you investigated right now for all your bird smuggling and drug running. I met someone while I was in the Boggo Road jail who knew all about you and your heroin deals in a wine bar in Melbourne. I haven't finished with you yet, I've just started.

After repeated calls for Saunders to get off the property Saunders maintained a stream of abusive conversation which Lobegeiger

ignored. Saunders then walked back to the car and drove off.

Saunders in her statement dated 12 July 1984 stated that she was looking at property in the area and had gone to the top of Newmann Lookout for this purpose. She stated that she was aware that Lobegeiger had a property in the Mount Berryman area but not aware of its specific location. With her was Roy Coomer. She claimed that a shot was fired at her and she went on to the property to investigate it. (Neither Bull nor Lobegeiger claim to have heard a shot.) The statement records the following conversation occurred after she had settled Lobegeiger down:

Allan said to me, 'I don't want to talk, you wrecked my life, you ruined my career.'

I said, 'Garbage, your lies did it. I spent ten months in Boggo Road because of them and your friend there, high class prostitute, drug dealer and bird smuggler. Wake up, Allan, she set us both up or are you involved too. I've never wanted to believe you were corrupt. Where did you get all your money and property.'

And later in the statement:

At this point Bull returned and said, 'I feel sorry for you.'

I said to her, 'Not as much as I do for you. I recall you using those words in the Magistrates Court. Went well with the rest of your lies. Allan ask her about John Howell and Roberts and her boss at Ansett and let's not forget Cecily, you're a high class pro, well known in Ansett if you have the position and money you are available and of course there's the drugs and the birds.'

Coomer gave evidence before me but had little useful recollection of these events. Indeed he stated he was terrified throughout and only wanted her to leave. Saunders maintained before me that her statement was accurate. I do not accept that Saunders was unaware of the specific location of Lobegeiger's property. I am supported in this by reference to a copy of a memorandum dated 21 September

1983 on a police file titled "Complaints Against Police" tendered before me. The memorandum signed by the Deputy Commissioner asked for urgent investigation to be carried out on the owner of a vehicle who had been spoken to by Lobegeiger on his property at Mount Berryman on 16 September 1983. The registration number of the vehicle had been provided by Lobegeiger. It was owned by Joy Hallett a close friend of Saunders. The driver had, according to the memorandum, approached Lobegeiger on that day and told him that Saunders wanted to see him. Lobegeiger had told her to leave the property. Hallett was interviewed by police at the time but denied having driven to the area. She claimed Lobegeiger had made a false complaint. One is forced to wonder why Lobegeiger would have had any cause to falsely complain about Hallett's actions and I doubt that he did. It would seem Saunders knew very well where Lobegeiger then resided.

It is clear that in her statement dated 12 July 1984 Saunders had made very serious allegations against Bull (and Lobegeiger). When Counsel Assisting questioned Saunders about these allegations the following exchange took place:

I mean, that was just absolutely defamatory and ridiculous accusations that you were hurling at Bull?--Well, she and I have hurled a lot of defamatory accusations at each other over the years.

But you had not the slightest evidence that she was a high-class prostitute, a drug dealer or a bird smuggler, did you?--I'd hear rumours about her?

You heard rumours, and was that your attitude - you would go there and you would shout these abusive rumours at people, you, a - at that time you were a sergeant of police again?--No, I wasn't a sergeant.

Senior constable?--I was just reinstated, still in a very bad emotional state. I wasn't having any counselling, and a verbal altercation developed between the three of us.

These were clearly defamatory, ridiculous and vicious accusations made by Saunders against a person whom she detested. There was not a skerrick of evidence to support the allegations. To my mind they were designed to humiliate and belittle Bull who Saunders thought had replaced her in Lobegeiger's affections. Once again it was extraordinary behaviour by a member of the Police Force even if one allows for the emotional state in which she claims to have been. This was a clear example of the harassment by Saunders of Bull and Lobegeiger.

(e) The references to John Howell

There are numerous references to a John Howell in the Legal Aid material and other previous statements written by Saunders. His significance in relation to the charges originally laid against Saunders is not at all obvious. The only significance seems to be that Saunders believed he may have had an illicit relationship with Bull. Presumably Saunders wished her solicitors to question Bull about Howell in an attempt to embarrass Bull and to try to establish to Lobegeiger that Bull had an illicit association with another person. The following entry from the Legal Aid material in the notes referring to Crown Witness - Cecily Bull and headed "Recent information re Bull" is an example of a reference to Howell.

(A few police officers who don't want to get involved in court proceedings have been keeping a patrol around 75 Denham Tce [Bull's residence] when possible ...)

From Friday evening 25th Feb 83 until Sun afternoon 27th Feb 83 Ford sedan registered number 086-OOA parked in Bull's driveway.

This vehicle is registered to John Wilson Howell of 17 River Terrace, Surfers Paradise.

Bull's vehicle was absent from Fri 18/3/83 to Sun 20/3/83.

On the 26th March 1983 Saturday veh. reg. no. PZK-606 was in driveway .. still waiting on check.

*Approx 6/2/83 vehicle in drive late at night
337/OEF or 337/OCF reg. to the Dept of Welfare.*

*John Wilson Howell is the ex-licensee of the
Queensport Hotel and her 'man' for about 30yrs.
Story around was that he got out of the hotel when
all this started to blow up because worried of what
would be uncovered and that he and the hotel
would become involved*

I would have thought these details had absolutely no relevance to Saunders's defence. They relate to events which apparently occurred many months after her arrest. The name Howell, of course, appeared in Saunders's statement relating to the Mount Berryman incident described above where she ostensibly tells Lobegeiger to ask Bull about Howell and another person, Roberts.

(f) The "Dear Snow" Letter

Interestingly enough the name Howell turned up in one of the letters in the Whitehall material. It was located by Lobegeiger's daughter with the other correspondence from Saunders. It is dated 8 September 1987 and strangely enough it is typed but not signed; there is no indication of the author other than from the contents. It is addressed to "Dear Snow," which was apparently a nickname given to Lobegeiger. It is worth setting out in full.

London. U.K.

8th September 1987.

Dear Snow,

*It was my intention to visit you before the wife and
I left Australia.*

*However, what with the last minute preparations
and the inquiry I thought it better to write.*

*I have managed to obtain some papers from home
and it would appear from the press items that there
is much to come out.*

*I can't help but think of our early days in the Force
and how idealistic we all were, you especially.
You and Atkinson were such good mates. I don't*

know how you feel about things now but I want to pass on to you some of the information (for want of a better word) I gleaned over recent months. I'm sure you'll understand that I can't be as explicit as I could be if I had seen you personally as one can't trust mail or telephones. I do believe, however, that telephones are the worst.

Firstly, don't trust Syd or any of his followers. They're looking for sacrificial lambs.

Matters being 'looked at' which may be of interest are: Overseas travel by Cecily Bull and John Howell (Surfers)... this is being checked back to at least 1973.... shortly before my retirement I inadvertently saw a file and I made a note of a few details to pass on to you.... I have always admired you and know how you have been used.

Arrived and departed Sydney

1973 - 3 June - 17 June - Bull and Howell Pan Am flight 812.

1975 - 27 September - 14 October - Bull and Howell Qantas flights 723/728 Arrived and departed Eagle Farm.

1977 - 3 July - 18 July - Bull and Howell - Departed Eagle Farm New Zealand Airlines Flight TE 954 and returned Qantas flight 43.

1979 - 8th May - 10 May - Bull - departed Qantas flight 723 Eagle Farm and returned Qantas flight 728.

1981 - 30th April - 7th May, Bull departed Sydney Cathay Pacific flight 100 and returned to Sydney on Cathay Pacific Flight 101.

Travel by Bull to Norfolk Island in 1985 and 1986 from Brisbane.

Inquiries are also being made as to why Bull consistently changed current passports in 1971/73/79/85 and the last one G853648 which was issued on 16th October 1986 for travel in November to Norfolk. I'm sure the obvious explanation does not elude you.

It would appear that Bull and Howell have been involved in many things from the running of the Australian National Hotel, East Brisbane to the Hemmant Hotel to interests in the Airways Hotel, Hamilton and the Zebra Motel, Brisbane. I understand their interest also extended to other areas but I only took details of the above.

You have been through enough and I don't want to see you the 'scapegoat' in this current mess. Before I close, another thing, Murphy arranged for young Saunders to be set up by Dodd. Atkinson was also involved.

I'm sorry things didn't work out for you there. There were many of us who thought that with her you'd find the happiness you so richly deserved. It seems that there were people very determined to ruin your chances of happiness with her and thought nothing of ruining her life in the process. You may have heard that she is now a sergeant at Oxley. She is a fine young woman and much admired for the way she handled the ordeal. I understand that she is very unhappy and refuses to mix with her fellow officers. I'm sad for both of you and for what they did to both of you. I know that many of my colleagues feel the same.

Many of them envied you - able to have the love of a woman so much your junior that would have the total understanding of your profession. Anyway mate, good luck. I'll be in touch when I return.

The letter's reference to the author leaving Australia with the author's wife, the extract "what with the last minute preparations and the Inquiry I thought it better to write", the fact that it was not signed, coupled with the date of the letter, and that it obviously came in an envelope posted from England, no doubt intended to give the impression to Lobegeiger that it had been written by Jack Herbert whilst in England, where, it was then rumoured, he had fled from the Fitzgerald Inquiry. Herbert of course had retired from the Police Force in the late 1970's and this makes one wonder about his possible knowledge of the enquiries "being made" as to

why Bull had "consistently changed current passports" in 1981, 1985 and 1986. Saunders did not consider that it could have come from Herbert. Significantly, the date of the letter and the postmark indicate that it was sent at a time when Saunders admits she was trying to re-establish a close relationship with Lobegeiger, further reference to which I will make later in the report. Comparison of the content with undoubted and admitted expressions of Saunders make me think that this letter was written by her with a view to rekindling Lobegeiger's affections. First of all it was aimed at establishing extensive contact between Bull and Howell. This was no doubt so that Lobegeiger would believe that Bull and Howell had some form of illicit relationship. It was also designed to show that Saunders loved Lobegeiger and that there would be great support within the Police Force for such a relationship. Furthermore the letter was designed to show that Saunders had been set up by alleged corrupt police officers, thereby leaving Saunders blameless in her previous dealings with Lobegeiger.

There were three other factors which have assisted me to conclude that the letter was written by Saunders. First, when Counsel Assisting provided the letter to her to read Saunders was obviously shaken. Her voice was barely audible and her head sank. The letter had been fingerprinted beforehand to see whether any fingerprints were located on it. No such prints were located; but it would have been clear to Saunders from the pink dusting powder on the letter that it had been fingerprinted. When asked whether she had seen the letter before and not knowing whether there were fingerprints on the letter she provided the explanation that Lobegeiger may have shown it to her at some time. It would indeed be extraordinary if, it having been shown to Saunders by Lobegeiger, she made absolutely no reference to it either to the Fitzgerald Commission or in her extensive claim for compensation made to the Government in 1989. If the letter were to be believed here was Jack Herbert confirming that she had been set up by allegedly corrupt police. I reject her evidence that it may have been shown to her by Lobegeiger.

Secondly, the information relating to Bull and Howell could only have had relevance to one person (with the possible exception of Lobegeiger), Saunders herself. The possibility that anyone else would have retained this information and then communicated it to Lobegeiger is too remote to be accepted.

Thirdly, Lobegeiger had obviously kept the letter with all Saunders's other correspondence to him which suggests he concluded that Saunders was the author.

(g) **The Hemmant Cemetery drawings**

In the Legal Aid material there was reference to a visit by Saunders to the Hemmant Cemetery on 18 August 1982. As part of that entry are drawings made by Saunders of gravestones of the Bull family. She had drawn a plan as to where the graves were situated and had copied down their epitaphs. In examination in relation to these entries by Counsel Assisting the following exchange takes place:

Why, yes, why did you do that. What possible interest was that to you?--Because she gave evidence that I just turned up at her house. I had gone there because she was suicidal. I knew that from what Lobegeiger had said and what she had said that there was suicide, and I was looking for, I guess, just going to prove it.

You were trying to establish the fact as to whether there had been any suicide in her family, is that right?--Yes, I think so.

Okay. And you also went to the public library on the same day and started to consult The Gympie Times, did not you. Was it The Gympie Times you consulted to look back, and having found the date of death of the relations, to try to find out - - - ?--Well, I don't recall that. In fact, I had completely forgotten about this, you know.

Yes, yes?--But, yes, I would have gone to the state library.

That is right. And that is the way you came into possession of the fact that unfortunately there had been some suicides in their family. Is that right?--Oh well, I believed them when they told me there had been.

Yes?---But I wanted to prove it.

Okay you wanted to prove it. But for what possible purpose, to sort of discredit her with Lobegeiger?---No.

It had nothing to do with your case?---Yes, it did.

Did it?---To ask her about it. Look, I just didn't turn up there, I went there because I was totally sick and actually vomited because I really believed that she was going to kill herself.

Yes?---And then she certainly gave very conflicting evidence just before this about that visit, and about suicides.

This is 18 August, this is well after the visit when you claim she was going to suicide?---But she did not give evidence in that until about, what, 14 August, or something.

Yes, I see. Well, what relevance did it have to your case?---Well, at the time I thought it had relevance. I mean you keep going back to what relevance and how I acted.

Yes?---But what about the mental state I was in when I was doing all this, you know, you tell me.

The information that was gathered there, of course, found its way into the Legal Aid material we saw yesterday, those pages of material that deal with Bull, do not that?---Oh I don't know.

Well, you could sort of look at it again, if you like?---I would need to.

Yes. And what I am suggesting, it is the old verbal again, that you researched all this material in August and then typed it out saying it was something that Bull had told you much earlier in

the year?---Rubbish, Mr Hampson.

It is rubbish, is it?---MM.

Once again this confirms Saunders's bizarre preoccupation with Bull. The matter had no real significance to her defence.

In the above exchange reference is made to a conversation in which Saunders was supposed to have been told by Bull of the deaths in the Bull family. This is the conversation of 4 September 1981 which Bull described in her statement to police on 28 July 1982 and subsequently to the Stipendiary Magistrate. As previously indicated in the report Bull had stated that Saunders had arrived on 4 September 1981, uninvited, at her home in a distressed state and disclosed to her details of her (Saunders's) relationship with Lobegeiger and the difficulties the relationship was experiencing. Bull conceded that she had only a slight recollection of the conversation as she had been on sedation because she had been ill. On the other hand Saunders stated that she had attended Bull's house as a result of the telephone conversation to which I have previously referred. Saunders claimed that during the visit to Bull's house Bull was crying whilst relating to Saunders her medical history, intimate details of her romance with Lobegeiger and other information such as suicides of members of her family.

Bull was examined by Carew concerning this meeting with Saunders. The following exchange took place:

Now, did you often take sedatives?---No, I did not.

How often?---Very rarely.

How rarely?---Well, Mr Carew, it was probably when I needed them when I was in a stress situation in my employment. It was very, very rare indeed.

Well, can you just give me some idea? Was it once a year, once a month, once every six months?---About - I don't know, it's hard to estimate, but I didn't really approve of it. It was only to make me sleep when I had a lot of problems. I would say perhaps maybe twice a year.

All right. Now, on those occasions when you have conversations, when you were in that - under the influence

of the sedatives, you would have problems remembering the conversations, would not you?---I'm quite sure, unless I talk in my sleep, if I were sleepy and I felt - - -

*No, before you were asleep, I am suggesting, obviously?---No, I don't think so. No. I would not have any problem at all remembering that. I'm a lucid person
- - -*

No, no. When you - - -?---And unless I were asleep.

So unless you were - - -?---My voice might be a little bit affected and slurred, but I would remember the conversation.

You would remember the conversation, even though you were under the influence of the sedatives?---Of course.

But you did not remember, did you, the conversation that you had with Lorrelle Saunders on 4 September 1981?---I remembered part - the beginning of it until I went to sleep. I certainly - - -

Well, I am suggesting that that is not what you have said closer to the event?---Closer to what event?

The event of 4 September 1981. Can you look at the committal transcript? Do you still have that there?---I have. Which page? to which page are you - - -

If you go to page 427?---Yes, I have that.

Okay. Now, go to the second - or the first question on that page:

Well, how much detail did you go into?

Answer:

I don't recall very much detail. She - I could hear her voice, but I cannot honestly say I remember very much of what she said at all because I was fighting to stay awake.

?--Following the original conversation where - which, if you turn to page 426, you would say she began to talk after I had offered her hospitality. She began to discuss how they had become friendly - worked with her, of course - and I don't recall much, but it was enough to convince me that their relationship was an intimate relationship. And I suggest to you, Mr Carew, that I would not want to remember the details.

Well, Miss Bull, just go back to 426. Now, it is apparent, is not it, that you are saying there that she began talking - see the second question:

Right. And you say she began talking. What was said?

And you have said there:

I don't recall in detail what was said because I had taken a sedative and was almost asleep, but she seemed very upset and I was trying desperately to stay awake.

?--Correct.

So I ask her if she'd eaten because I had nothing to eat and she said, no, she hadn't, so I offered her some supper - - -

?--Correct.

I made some sandwiches and we drank some wine.

?--Correct.

I offered her some wine and she started talking about her relationship with Allan.

?--Correct.

Now, earlier, you said that you may have been talking to her for about two hours?--Correct.

Well, if you go over the page, then, back to where I directed your attention before, the first question on page 427:

Well, how much detail did you go into?--I don't recall very much detail. She - I could hear her voice but I cannot honestly say I remember very much of what she said at all because I was fighting to stay awake.

?--Correct. I - - -

Now, that relates to that two hour period, possibly two hour period, does not it?--Yes, and the question, "How much detail did you go into?" I assumed was the two of us. She did the talking.

Well, you did not say that there?--Well - - -

You spoke together - - -?-- - - - very foolish of me, perhaps.

You spoke together for approximately two hours, did not you?--Well, I think it was two hours.

Yes?--It's a long, long time ago.

All right. Okay, Miss Bull. I am fully aware of that but I am suggesting to you that you had a conversation that perhaps lasted two hours?--Possibly.

Now, a lot of conversation can occur in that period of two hours, cannot it?--Possibly, yes.

I am suggesting that there may have been other occasions when you had telephone conversations with Lorrelle Saunders when you were in a similar state?--No, I deny that. I was not, as you recall, a similar state; in other words, fighting the effect of a sleeping tablet.

I accept that although Bull was affected by the combination of the sedatives and the wine and could not recall all the conversation, she was not the main speaker. I am satisfied that it was Saunders pouring out her

heart to Bull; the relationship between Saunders and Lobegeiger was at a low ebb. I reject Saunders's account of the meeting.

Bull was also questioned by Carew as to the possible source of Saunders's knowledge of her personal details. In relation to this the following exchange took place:

Now, you mentioned before that you had a cousin who was not accepted by the family?---Certainly not by my family.

Now, this is a woman named Beverley - - -?---Beverley.

Beverley Heddles. Now, you are not suggesting, are you, that she would have known anything about your personal medical records, are you?---I wouldn't know what she knew about my personal - I had had no contact with her.

How would she have found out about your personal medical records?---I didn't say that she did find out about my personal medical records.

Well, I thought you said you did not know whether she knew or not?---I - I don't know if she did know or not.

Well - - -?---So how would I know.

All right. Well, where would she have found that out, do you suggest?---I don't know. I've never checked on people's medical records.

You see, what I am suggesting - - -?---I would not know where one would go to look into medical records.

What I am suggesting is if Lorrelle Saunders knew about your personal medical records it could only have come from you?---Not necessarily, no.

Perhaps during this long, two hour conversation that you do not remember the details of?---For all I know, it could have come from people who did know about my personal records, and there were many people who did that.

Discussed - - ?---Personal medical - the fact that I had been in hospital and what was wrong with me when I had very severe surgery on one occasion. Allan Lobegeiger would have been one of them, and his family. Are you suggesting that he, in fact, told her.

Well, I am not, actually, but do you think that is a possibility?---One wouldn't know. I think anything is a possibility these days.

In this passage Bull claimed not to have told Saunders about her personal details although she recognised the possibility that Lobegeiger may have told Saunders. In a statutory declaration dated 1 July 1993 by Beverly Heddles to the Commission she denied being the source of these details. I suspect that Lobegeiger may have been the source of some general facts and, like the Hemmant Cemetery incident, Saunders pursued them privately herself. There was evidence before me that Saunders was proficient at obtaining information on people from sources other than from their own mouths. For example the "Dear Snow" letter showed that extensive research had been done by Saunders on the travel details of both Bull and Howell. The information that had been obtained, whilst Saunders was in prison, about the vehicles outside Bull's premises shows that much information was also available from police colleagues. It was also clear from the Legal Aid material that Saunders had gone to The Gympie Times and to the public library in August 1982 for the purposes of research. In any event I am totally satisfied that Bull was not the source of this information and Saunders's account in the Legal Aid material, which was adopted before me by Saunders as the truth, was false. If Bull had been the source of Saunders's knowledge the matters communicated would probably have all been true, but according to Bull, and I accept her, many matters were incorrect.

3.5 The commencement of the relationship between Saunders and Lobegeiger

In Saunders's statement to the Commission she explained that she first met Lobegeiger in 1973 when he was a Police Prosecutor at Inala. She claimed that at that time he tried to take her out but she would not agree. She claimed that the next contact with him was also at Inala where he was the Duty Inspector. Once again she claimed that he often asked her out but she always refused him. She stated that the next contact with Lobegeiger occurred at the Task Force where Lobegeiger was the Inspector in Charge.

Saunders's account to her solicitors in the Legal Aid material and her 67 page statement is consistent with this although more detailed. Again it is most apparent from this material that according to Saunders it was Lobegeiger who was seeking to become socially involved with Saunders and not vice versa.

Saunders in evidence before me stated that when she arrived at the Task Force in August 1978 Lobegeiger was the Inspector in Charge and she was required to do clerical work for him and act as his driver. Saunders stated that she took objection to performing menial tasks so she approached Assistant Commissioner MacDonald to enlist his assistance in having her taken from clerical duties and placed on full Task Force duties. Saunders stated that notwithstanding MacDonald's direction that she should be placed on full duties Lobegeiger insisted that she remain on clerical duties and continue as his driver. Saunders stated that she then returned to MacDonald who once again took up her cause and she was placed on normal Task Force duties. Saunders claimed that this did not upset Lobegeiger who had continued to ask her out. Saunders went on to say that a couple of months prior to Lobegeiger going to Cairns a sexual relationship commenced.

In Saunders's 67 page statement to her solicitors a detailed account appeared of the events leading up to the relationship. Saunders stated that on 16 June 1980 there was a farewell party for a Senior Constable who was on transfer from the Task Force to Caboolture. She claimed that Lobegeiger had requested that she be his driver on that evening. At about midnight Saunders claimed that Lobegeiger indicated to her that he was ready to leave the party. She claimed that Lobegeiger sat in the middle of the front seat, unfastened his seat belt and became "very friendly." In the vicinity of Vulture Street he stated he was okay to drive and that he would take her home and take the patrol car from there. She claimed that when they arrived at her residence he asked her to show him through it and she agreed. She offered him coffee and whilst they were consuming the coffee she claims he took hold of her and told her that he was in love with her and had been for some time. She went on to say that they talked about their feelings for each other during which time he continued to hold and kiss her. At about 4.00 a.m. Lobegeiger left after Saunders's flatmate had arrived home. After this Lobegeiger called her daily and they made arrangements to meet at his home on Friday night, 20 June 1980. She claimed that this was the commencement of the relationship and they continued to see each other daily prior to his departure to Cairns.

Lobegeiger in evidence at Saunders's committal hearing on 12 August 1982

stated that their relationship was not close whilst she was under his direct control at the Task Force. On 15 November 1982 when asked in cross-examination as to when the relationship commenced he replied that it was prior to going to Cairns after he had driven her home from a send-off. He gave a consistent account when giving evidence at Cooper's trial.

Lobegeiger was neither questioned about nor gave any evidence of any prior attempts to take Saunders out socially.

It seems reasonable to assume that their relationship commenced after a send-off just prior to his transfer. According to Saunders the date of this was 16 June 1980. This meant that the relationship commenced approximately 3 weeks prior to Lobegeiger's transfer to Cairns on 7 July 1980.

I should note at this stage that the associates of Lobegeiger and Saunders were of little or no assistance to me in determining the date of the commencement of the relationship.

Bull stated before me that Lobegeiger had been a very private man who valued his privacy. In examination of Bull by counsel for Saunders at the committal hearing on 12 August 1982 she expressed a similar view as the following passage indicates:

You said on the seventeenth of February, nineteen eighty-two, when you were told that the defendant and Mr Lobegeiger were acting like a pair of love birds, you said you didn't believe it?

I didn't ..

Is that your version?

I didn't say they were acting like love birds ..

No, when you were told ..

..the caller did.

Yes, when you were told, did you say: I didn't believe it?'

That's right.

What .. you said I didn't believe it on the basis that he always confides in you .. ah, always confides in you his intimate relationships?

No, that isn't right.

Well, why did you said 'I didn't believe it' .. You didn't believe it?

I know Allan very well ..

Hmm.

.. I think, after seventeen years; he's a very private person

..

Hmm. Hmm.

.. and I couldn't imagine him behaving like that in a public place.

Hmm. Did he .. well, if you know him so well, did he tell you about his relationship with the .. with the defendant throughout nineteen eight-one?

No, he didn't.

I accept Bull's evidence that Lobegeiger was not publicly effusive of his emotions. Bull told me that she found out about the relationship when Saunders advised her. She then stated that she confirmed its existence with Lobegeiger but never saw any signs of a relationship between them. I accept this evidence as well.

Lobegeiger's daughter, Whitehall, in a statutory declaration to the Commission stated that prior to the charges against Saunders in 1982 she had no knowledge of a relationship between her father and Saunders although he had spoken about her in the context of her being a workmate.

Saunders's partner, Knight, gave evidence before me that Lobegeiger in discussions with him had "more or less intimated that he and Saunders were going together." He acknowledged that the majority of his knowledge of the relationship came from Saunders rather than what he had seen himself.

Barry Donald Krosch, another associate of Saunders who worked with her in the Emergency Squad in late 1981/early 1982, confirmed in evidence before me that his total source of information about the relationship between Lobegeiger and Saunders was Saunders. Yet another work associate, Sergeant Mervyn John Bainbridge, could give no first hand evidence of the relationship between Lobegeiger and Saunders although he stated he believed that the relationship was a secret one, at the instigation of Lobegeiger, and that only a few people knew; his sole source was also Saunders.

3.6 Lobegeiger in Cairns and on the Gold Coast

Lobegeiger remained in Cairns until 1 June 1981 when he took charge of the Gold Coast Police District on promotion to Superintendent Grade 3. All accounts of Saunders and Lobegeiger have the relationship continuing

for at least some months after his return from Cairns. In his evidence before the Stipendiary Magistrate on 12 August 1982 Lobegeiger stated that Saunders had come to Cairns on two occasions: first with another policewoman and secondly with her mother. During these visits he claimed that she visited him at his house and also at the office. Lobegeiger went on to say that when he visited Brisbane on a number of occasions and while on holidays in February of 1981 he would visit her at her premises at Wishart and she would attend upon him at his premises at Passage Street, Cleveland.

In evidence before me Saunders confirmed that these two trips to Cairns did take place. She also confirmed meetings with Lobegeiger whilst he was in Brisbane. She also claimed that there were many phone calls between the two.

At the committal hearing on 12 August 1982 Lobegeiger stated that after he had been transferred to the Gold Coast Saunders visited him at the police house at Broadbeach and he visited her at her home at Wishart. This was confirmed by Saunders's account. According to the 67 page statement to Saunders's solicitors and the Legal Aid material it was Lobegeiger who was the person pursuing the relationship with vigour and not Saunders; however on 15 November 1982 whilst being cross-examined by Saunders's counsel Lobegeiger claimed it was Saunders who initiated the commencement of the affair and added in relation to the relationship:

I was never as keen about it as she was, ever.

He had previously given evidence at the committal hearing on 12 August 1982 that he had purchased a property in Gatton in April 1981 and Saunders had asked to visit it. He claimed never to have invited her as he "never wanted her there." On that date he also gave evidence that when he resided at Broadbeach she often called upon him unexpectedly, notwithstanding that he had told her on the telephone not to come to see him.

Lobegeiger's evidence at the committal hearing is confirmed by the contents of an undated card written by Saunders to Lobegeiger. The card was located in an envelope dated 14 September 1981. It was part of the Whitehall material.

On this card the following passages appear:

Maybe I'm young (& stupid) enough to believe if we could

spend time together - the barrier you have on your heart would come down.

...

I need you so much darling - & need your understanding so very much - need to spend time with you. I will always love you - & you alone. Please try.

I have no doubt that Saunders, if not the initiator of the relationship, was certainly the one pressing for it to continue.

3.7 Lobegeiger's account of the termination of the relationship with Saunders

Although Saunders claimed her relationship with Lobegeiger had continued until her second arrest on 9 September 1982 Lobegeiger consistently had given an account that the relationship had finished by late 1981. In his statement to police on 28 April 1982 he stated:

I had terminated my association with Saunders in the latter part of 1981. However, she still persisted in continually ringing me and wanting to visit me.

In the committal hearing of Saunders on 12 August 1982 Lobegeiger gave the following evidence concerning his association with Saunders:

Well did you terminate your association with the Defendant?

I did later in that .. of last year, towards the end of last year.

Alright. Well do you recall what month?

As far as I can remember about November, December.

Well was there any further contact between yourself and the defendant?

Yes, the defendant used to ring me on a number of occasions.

Right.

I did purchase a property in April of 1981 ..

Well just before ..

outside of Gatton.

.. We go into that. You say the defendant rang you on a

number of occasions after you'd terminated the association, how frequently was she ringing?

Oh sometimes two or three times a week.

And what were those calls about?

Mainly to see whether things could be patched up and whether I would be prepared to see her or whether she could come down.

How .. What was your association like in the period up until when you terminated, did it run smoothly?

Not always, quite a few differences and had a number of arguments.

Interestingly enough on the same day the following exchange occurred during cross-examination of Lobegeiger by Counsel for Saunders:

Is that .. that's your opinion that she had a terrific obsession about you?

That's right.

What, you were .. and you were a bit cavalier about her, were you, she was just one of two or more, hey, were you cavalier about her, were you?

I was not .. certainly wasn't as obsessed as she was.

Not as obsessed, you use the word obsessed.

Yes.

The .. you knew she had a .. you knew by Friday of that year, February of this year that she had a stable happy relationship with a Mr Coomer, you knew that

She had never told me that.

Are you saying that you didn't know out of all these phone calls and all you knew about her and .. that she had a stable happy relationship with Mr Coomer in February of this year?

I am sure I did not know.

Saunders in evidence before me stated that these questions were put by her counsel without her authority and not on her instructions. She denied ever having a stable, happy relationship with Coomer or a sexual relationship with him. She stated that one of the reasons why she decided to change her solicitors and counsel was because of this exchange.

When Lobegeiger was recalled at the committal hearing on 15 November 1982 he stated that the relationship had been brought to an end as far as he was concerned by about October 1981. He added that he certainly did not

ring her after September of 1981 in pursuit of their personal relationship. Later on in the transcript the following exchange occurs between Lobegeiger and Saunders's new counsel:

Yes, all right. Eventually, as I understand what you're saying, you tired of it.

Not entirely. I was .. I wanted out, I didn't want any part of it.

You wanted out.

That's right.

I see. You not only tired of it you wanted to end it completely.

That's right.

And you communicated that to her, is that what you say?

Not in as many words, no.

I see. Well, when was that communication, in whatever words.

Shortly after I returned from Cairns.

Which was when?

In June last year.

June last year. Yes. And, what, you just sought to cool things down a bit, did you?

No. She kept insisting on coming to live with me.

Mm.

Which is something I wasn't happy about at all and didn't want to happen.

I see. So you kept insisting that she couldn't.

That's right.

In the subsequent committal hearing of Saunders Lobegeiger again gave evidence. On this occasion he stated that the relationship with Saunders terminated at the end of 1981.

When Lobegeiger gave evidence at Cooper's trial commencing on 18 April 1983 he again claimed that the association ended at the end of 1981. He went on to explain to counsel for Cooper the difficulties associated with the relationship in the following way :

While the friendship after that was smooth sailing for a time, it came into difficulties?-- That's correct.

Were those difficulties because Saunders was a jealous type of person as regards you?-- Partly.

She was more or less obsessive about you, wasn't she?--

Yes.

And possessive?-- That's correct.

If you saw any person with any regularity of the opposite sex, such as your old friend Cecily Bull, it used to promote an altercation?-- Yes.

This obsessiveness of hers led to the stage where you decided it couldn't go on, and you terminated your relationship?-- That was part of it, yes.

Was there any other reason?-- There was other reasons.

3.8 Saunders's account of the termination of the relationship with Lobegeiger

Saunders gave evidence on oath before me that her relationship with Lobegeiger continued right through until the time of her second arrest in September 1982. That is she claimed to have continued the relationship with Lobegeiger at a time when she was subject to a bail condition which required that she "refrain from making contact with" Lobegeiger. The detailed conversations and events recorded by Saunders in the Spirax notebooks and the Legal Aid material also depicted a relationship which continued until her second arrest.

In evidence before me Saunders claimed that the on-going relationship with Lobegeiger culminated in an act of sexual intercourse which she stated she believed occurred just prior to her second arrest on 9 September 1982. She claimed she went to the police house at Miami and saw Lobegeiger whilst she was on "holidays" with Coomer, Cooper and his girlfriend Gray on the Gold Coast. She claimed that during a telephone conversation with Lobegeiger before she went to the Gold Coast she told him that she was going to go to Tallebudgera on holidays and he responded:

Well why not come to Miami and when there's no vehicle around and if we can see each other, we can do it on foot, where there's no vehicles to be followed.

She told me that when she arrived on the Gold Coast she rang Lobegeiger at work again and he went home early and they met. She claimed that she stayed with him for a few hours after dark. When asked by Counsel Assisting to describe the conversation that had occurred she responded that there hadn't been a great deal of conversation and added:

We were involved in our relationship.

I asked her whether by this she meant that she had sexual intercourse with Lobegeiger on this occasion. She responded in the affirmative. Saunders then gave evidence of an incident from which it was possible to date the day on which Saunders had claimed intercourse with Lobegeiger had occurred. She gave evidence that shortly after she had left the police house at Miami she was walking back along the Esplanade when she saw Coomer's vehicle driving back towards the caravan park at which they had been staying. As she continued to walk back to the caravan park she saw a police car driven by Sergeant Michael Webb (brother of Brian Webb) do a u-turn and follow Coomer's vehicle back to the caravan park. She claimed that she then followed the vehicles on foot to the caravan park and covertly listened to a conversation which had ensued between Sergeant Webb and Coomer. Counsel Assisting in an attempt to clarify why she had not made her presence known entered into the following exchange with her:

And were they both standing near their vehicles?---Yes, I think so.

And did you go up and join the conversation?---No, I just stayed back.

Was there any reason why - you knew the police officer?---Yes, I did.

What was his name?---Mick Webb.

Mick - - ?---Webb.

Webb. And you knew him and he was, what? Stationed at Miami or Broadbeach or what?---Gold Coast Mobile Patrols, I think.

Yes. And was there any reason why, knowing him, you did not go up and join the conversation?---I didn't want to particularly talk to him.

What, did not you like him or what?---He's Brian Webb's brother.

She then told Counsel Assisting that she could not hear any of the

conversation but later Coomer advised her that Sergeant Webb had asked for his driver's licence. In her statement to the Commission she had claimed:

... I walked back to their vehicles and was standing listening to the conversation. Mick WEBB didn't see me. He just checked out the vehicle and the registration. He claimed that the reason he stopped the vehicle was he had seen oil dropping from the vehicle. It was pitch black so it was not possible for this to be the case.

I do not think there is any significance in the inconsistency between these two accounts in view of the effluxion of time since this event occurred.

Saunders went on to say before me that Sergeant Webb left the caravan park and she walked back down towards the police house because she believed it was odd that the police car had followed Coomer. When she arrived there she saw Lobegeiger and Sergeant Webb talking on the footpath. Saunders stated that she then rang Lobegeiger and asked him what was going on and he responded that he had to cover himself just in case somebody had reported her being at his house that night.

When questioned by Counsel Assisting Coomer stated that he did not believe there was anything sinister in the Sergeant Webb incident. He stated that he was of the view of Sergeant Webb had been genuinely concerned that something had been running from the back of his four wheel drive. According to Coomer once Sergeant Webb had satisfied himself that everything was alright he just moved on. He denied any knowledge of Lobegeiger's premises on the Gold Coast and also denied Saunders had told him that she was visiting Lobegeiger there.

Lobegeiger gave evidence at Saunders's committal hearing in November 1982 that he did not see Saunders between 12 August 1982 and 9 September 1982. He did however describe an incident which he claimed occurred on 25 August 1982. On that day he summoned Sergeant Webb, a Sergeant on mobile patrols, to do a patrol of the area around the police house as he suspected that there was something going on. He had heard voices coming from the back of the house and had also repeatedly heard knocking on his rear and front door but found no-one present when he checked to see who was there. Lobegeiger claimed that he advised Sergeant Webb that if he came across any suspicious vehicles he was to check them out.

At the committal hearing Sergeant Webb described responding to the request by Lobegeiger and patrolling the environs of the police house. He also described speaking to a person in a four wheel drive (Coomer) but denied going back to see Lobegeiger after having done so.

Lobegeiger and Sergeant Webb had clearly made reference to the same incident which Saunders had described before me. If Saunders is believed the act of intercourse with Lobegeiger occurred shortly before this incident on 25 August 1982 and Sergeant Webb was called in to cover for the possibility that Saunders had been seen at the police house. If Lobegeiger is believed he had not seen Saunders since 12 August 1982 and had called Sergeant Webb for assistance against persons unknown who were apparently harassing him.

Before proceeding to discuss where I consider the truth lies it should be noted that Lobegeiger and Sergeant Webb had given their accounts of this incident at the committal hearing in November 1982, prior to the Spirax notebooks and the other Legal Aid material having been provided by Saunders to her defence lawyers. Saunders had to explain why Lobegeiger had called in Sergeant Webb at a time when Saunders claimed that the relationship with Lobegeiger was continuing. On its face Lobegeiger's evidence, in conjunction with that of Sergeant Webb, was consistent with Lobegeiger's evidence earlier at the committal hearing, namely that the relationship had terminated towards the end of 1981.

Some assistance in ascertaining which account was correct can be derived from the Legal Aid material. In the Legal Aid material is a one page document titled "Crown Witness Michael Thomas Webb Sergt 1/c of Police." It refers to the evidence of Sergeant Webb at the committal hearing and comments upon it for the benefit of Saunders's defence lawyers. It is worth setting out a number of passages from it.

At approx 8pm on Wednesday 25/8/82 I left the company of Allan Lobegeiger at 51 Redondo Ave, Miami.

I was on the eastern side of Marine Parade and a marked patrol car was driving towards me (proceeding north). I turned and I saw a Toyota, I knew to be Coomer's, being driven south. The eastern side of Marine Parade is about 50 metres wide. I was in shadow.

I saw the patrol car do a 'U' turn. The Toyota turned right (west) which would take it past the phone box I had just

vacated.

I saw the patrol car parked facing west behind the Toyota. I saw a Sergeant 1st class alight from the patrol car. I had previously observed he was alone in the patrol car. I moved to a position no more than 3 metres from the driver's side of the Toyota. I could hear the conversation. I saw Coomer check underneath the vehicle.

Webb said 'Are you here on holidays?'

Coomer replied, 'I'm down for a week.'

I made notes of the conversation at about 11pm that night.

Sergt Webb then got into the patrol car, went west and then north (another break in the fence). He then proceeded north into Redondo Ave.

I had a quick conversation with Coomer and then jogged back along Redondo Ave with Coomer.

The patrol car was parked outside the police house. It was unoccupied. I took up a position on the corner of Redondo Ave and Santa Monica Ave and saw Webb come from the police house. I stood in the shadows and the patrol car turned left into Santa Monica Ave, drove past where Coomer and I were standing (should have been visible) and turned right into Marine Parade.

I did not know the name of the Sergeant that night (found out following day did not know until the committal that he was Insp Brian Webb's brother. There was nothing on the roadway.

From this passage it can be seen that in preparation for her trial Saunders told her legal advisers that she did not know Sergeant Webb when initially she saw him with Coomer. However she gave the contrary evidence before me. More importantly she stated to me that she made a conscious decision not to speak to the officer because he was Brian Webb's brother. I consider that she had tried to give the false impression to me that she secreted herself because of some genuine concern that somehow Brian Webb had some connection with the appearance of Sergeant Webb. I reject this evidence. It may be that she did not reveal herself because she then knew she was in breach of her bail condition that she was to refrain from making contact with Coomer. I will return to this issue of breach of bail later in the report.

It will also be noted that Saunders told her legal advisers that Coomer had accompanied her back to Lobegeiger's premises, whereas Coomer's account to me of the Sergeant Webb incident left no possibility that he and Saunders followed Sergeant Webb back to the police house as Saunders had claimed in the Legal Aid material.

Critical to Saunders's account were the two Spirax notebooks which she stated on oath she had written contemporaneously with the events described in them between 11 August 1982 and 9 September 1982. Saunders also swore on oath that the notebooks were true and correct to the best of her recollection. If these notebooks were to be accepted as genuine then Lobegeiger's account of the termination of the relationship and of this particular event was false and he had given perjured evidence at Saunders's committal hearings and, necessarily, at Cooper's trial.

Later in the report I will devote considerable attention to Saunders's account of the history of these notebooks. For present purposes however I wish to refer only to the entries for 25 August 1982 as they relate to Saunders's evidence before me that she had sexual intercourse with Lobegeiger as late as August 1982.

There are over 13 pages of notes relating to conversations and events on 25 August 1982. Saunders claimed before me to have recorded the notes "very close to the events" or in "short proximity" to them. In relation to the period that Saunders was at Miami (which included 25 August 1982) with Cooper, Coomer and Gray she claimed to have written up the notes on a bench in the laundry in the caravan park and on the toilet. In this way she explained no-one was to know of their existence.

If the notes were written at the same time that Saunders claimed in the passage from the Legal Aid material referring to Sergeant Webb, namely 11 p.m., she must have spent most of the night and the following day in the laundry or on the toilet.

Of these 13 plus pages 9 pages record the conversation that Saunders claimed to have had with Lobegeiger on that night. As well as detailed conversation in which Lobegeiger ostensibly admitted having perjured himself at the committal hearing in August the following conversation is said to have ensued:

AL Do you still love me - you'd better.
LS I don't know what I feel - I probably will always
love you but whether its the same as before.

AL *Do your mates know where you are.*
LS *Sort of.*
AL *Better say you didn't see me. You waited and I wasn't here - just in case - or I was here and you didn't talk to me.*
LS *Back on me again - you're incredible.*
AL *Who are you with - the 4th person. Is it Coomer.*
LS *I've told you before - it doesn't matter - & Coomer and I never were more than friends.*
AL *Don't give me that fucking shit - he wouldn't have been hanging around for nothing.*
LS *All men aren't animals like you.*
Took hold of me - arm lock - grabbed me -
AL *I want you. Pushed me back over the truck (red Inter.)*
LS *Let go you bastard - Let go -*
AL *Keep your fucking voice down.*
LS *Let go you're hurting. Scratch marks LAS neck & shoulder. 1 deep mark.*
AL *Seeing you're here - no point wasting it - feel that - wouldn't you like it in you or are you getting too much from that other cunt.*
LS *Stop it. (Started to cry) I'm leaving - just leave me alone -*
AL *I'm sorry.*
LS *Next time you take key to Uncle Montys - leave my house key there - get out of my way.*
AL *Don't go - not like this.*
LS *Leave me.*
AL *I'll find out if you're with Coomer.*
LS *You do that.*

This is a very different picture from that painted before me. This account left three competing stories; Saunders's account to her legal advisers of attempted rape, Saunders's account to me of a continued loving relationship, and Lobegeiger's complete denial of having met Saunders at this time. I do not accept that the inconsistency in Saunders's accounts could be attributable to the mere effluxion of time. I have no doubt that if an attempted rape had occurred Saunders would have recalled it.

When Saunders gave evidence before me regarding this aspect of her association with Lobegeiger she was most unconvincing. I thought she answered untruthfully questions put to her by Counsel Assisting.

This in conjunction with Saunders's inconsistent accounts to her legal advisers and me, not only in relation to the alleged sexual activity but also the Sergeant Webb incident, satisfied me that Saunders's evidence on this point should be rejected and Lobegeiger's account preferred. I also accept Coomer's evidence from which it follows that there was no possibility that he and Saunders followed Sergeant Webb to Lobegeiger's premises on the coast.

I have no doubt Saunders's account in the Legal Aid material and the Spirax notebooks was a false one designed to explain away the evidence given by Lobegeiger and Sergeant Webb at the committal hearing. It follows from what I am saying that I conclude that the Spirax notebooks were written whilst Saunders was in jail awaiting her trial and that they were not written contemporaneously in the laundry or on the toilet at the caravan park. As I have previously said I will return to an analysis of the Spirax notebooks later in the report.

3.9 Evidence supporting the conclusion that the relationship did not continue until Saunders's second arrest

There is a substantial body of evidence before me which supports the conclusion that Saunders's relationship with Lobegeiger had come to an end by the final months of 1981. I will now point to some of the significant areas of the evidence which are supportive of that conclusion and, by necessary implication, corroborative of Lobegeiger's evidence.

(a) The evidence given by Thomas Terrence Flanagan and Brian Patrick Webb of Lobegeiger's attitude to Saunders

Flanagan and Webb, who were charged with the responsibility of investigating the original allegations against Saunders, gave evidence which was clearly inconsistent with a continuing relationship between Lobegeiger and Saunders.

It should be noted at this stage that in her statement to the Commission Saunders stated of Flanagan that she did not:

even know of any rumours involving any possible impropriety by him.

She then went on to say:

I do not suggest that he did anything improper in relation to the way that he dealt with my charges. As far as I am concerned, he would have been their weak link and it appeared to me that they left him behind when certain things were happening.

It would seem from this that Saunders considered Flanagan to be trustworthy and honest. In examination of Flanagan by Counsel Assisting the following passage appears:

I think you said in your evidence that he gave the impression that he didn't really want the charges to go ahead?---No, I didn't say that. I said he wanted the whole matter to go away. He didn't want to be involved. As I said, he was terrified. Well, no, well, he gave me the impression of being terrified.

Except that he had not complained to anybody prior to giving this statement to you about being terrified?---I think I'd been told by others that he said that he was frightened that she was going to shoot him.

And where do you think that information came from? Who gave that to you?---There again, like, see, I can't recall that at all. It would be common knowledge round the place, like, that Lobegeiger is frightened that Saunders is going to shoot him.

Is that before or after this occurred though?---I'd say before.

See that is the problem?---I'd say before.

Okay. Yes - - -?---Because I - I knew why he was in such a state; because he felt that Saunders was going to shoot him.

Or - or was it just the breakup of a long-standing relationship?---No. I tell you what; he wished her well away.

Webb and Saunders each gave evidence that when Webb arrived at the scene of the theft of the guns on 7 March 1982 Saunders had been on the telephone to Lobegeiger and she had passed the telephone to Webb so he could converse with Lobegeiger. When Webb was asked by Counsel Assisting what conversation took place Webb stated:

Well, he said, 'What's the trouble there?' And I said, 'Oh, well, there's some pretty high-powered firearms been stolen here.' I said, 'She's with a fellow named Coomer. He's drunk; she's not far behind him.' And he said, 'Well, be careful of what that bitch tells you.'

If Flanagan and Webb are to be believed Lobegeiger was speaking about Saunders in a fashion which made it obvious that they were no longer lovers. In fact the only sensible inference that could be drawn from Webb's evidence was that Lobegeiger considered that Saunders could not be trusted.

Flanagan's evidence of Lobegeiger's condition is supported by the testimony of Albert Thomas Pointing, who was the officer in charge of the Internal Investigations Section at the time that Saunders was being investigated for the theft of the guns. Pointing was no lover of Murphy and there was no suggestion by any person that he was involved in any impropriety in relation to the investigation of Saunders. Pointing in examination by Carew volunteered his recollection of Lobegeiger's state of mind immediately before Flanagan obtained his statement of evidence. The relevant passage of Pointing's evidence is set out in its entirety:

Would it be normal in the situation where he was said to have had a relationship with Sergeant Saunders for a period of time? He was the complainant in relation to one charge, or at least the alleged intended victim. Would it be normal that the tape would be played to him to see if he could comment on the female voice?---Well, I think it would but I'd like to point out here that I was involved in an interview with Mr Lobegeiger. Mr Duffy asked me, when Mr Lobegeiger came to the office, for me, as a superintendent, to speak to

Mr Lobegeiger, a fellow superintendent, and to settle him down before Mr Webb and Mr Flanagan obtained a statement of evidence from him. When he did come to the office apparently he saw Mr Duffy first and Mr Duffy phoned me and told me Mr Lobegeiger was coming down, and he again asked me to have a talk to him, settle him down until the statement was obtained, and Mr Webb was not in - was not in my office at the time. I don't know where he was. I was of the view that Mr Lobegeiger, having been a detective in his day, and a senior officer, if he were willing to produce evidence of his allegations he should certainly have been in a position to make a report or a statement himself. He came to the office and I did speak with him, and I found him most strange. He would appear very, very much ill at ease one moment; he would appear terrified when he started talking about the - the matters in question, and every so often he would go off on a tangent about his under and over firearms to the extent that he would hold the firearm up and go pshu, pshu, pshu, 'My great under and over, Tom.' Then he would start talking about his horses - I forget the breed of them, some German horse. And then he'd start telling me about his pig dogs. See, you could not contain him on to the matter in issue, and I found it very, very difficult to talk to him. But anyway, after some time he did settle down, and Mr Flanagan commenced to take a statement from him and I left the office.

(b) The evidence of Trevor Graham Menary that Lobegeiger feared Saunders

Trevor Graham Menary and Lawrence John Pointing, who were assigned to investigate in 1983 the fabricated tape produced by Dodd, interviewed Lobegeiger as part of their enquiries. Menary in his statutory declaration dated 14 May 1993 to the Commission stated that Lobegeiger told them that he was afraid of Saunders and kept a loaded gun in the house. Menary went on in his statutory declaration to say that he was of the opinion that Lobegeiger had a real fear of Saunders although he believed this fear was misplaced.

In questioning by Counsel Assisting Menary confirmed under oath his previous statement.

(c) **Evidence that Lobegeiger was terrified whilst at the Miami Police House on the Gold Coast**

A number of passages in the statutory declaration dated 7 June 1993 of Lobegeiger's daughter, Whitehall, indicate that Lobegeiger was fearful for his well-being and that of his family:

I can recall during the school holidays in Easter or August 1982, whilst my father was residing at Miami, my three children, the eldest of whom was seven, and I went to spend the holidays with him. My father was distressed when he came in after we first got there and he demanded that the children and I stay away from the windows, especially at night, and that we put sheets up on the windows because of the sheer curtains. My father also kept a close eye on us when we were in the yard during the day time. He told me that he feared for his life and ours as threats had been made against him. I cannot recall whether my father advised me of who had made the threats. This was the first occasion that I saw my father on edge. During this period I saw him on a couple of occasions pick up a rifle for everyone's protection after the dogs had started to bark.

In relation to the events referred to in the previous paragraph I can recall that BULL was already at my father's place on the day that we arrived. However, after a discussion between my father and BULL, she decided to leave the next day. My father told me that BULL's presence would only aggravate the threat to everyone.

After this my father feared for his own safety for the rest of his life. He was also concerned for our well-being until he died.

The statutory declaration continues:

My father never really discussed SAUNDERS or her charges with me. He never said that it was SAUNDERS that he feared but he knew that I believed it was her and he never denied it. From the circumstances surrounding her being charged at that time, it was obvious to me that she was the one he feared.

Later in the statutory declaration the following appears in possible explanation of Bull's early departure from Miami:

I can recall my father telling me in around 1982 that he was concerned for BULL's safety as SAUNDERS considered her to be my father's partner.

It was not sought on behalf of Saunders to challenge Whitehall's account.

In evidence before me Bull gave a consistent account of the events at Miami, although she believed that they occurred some time before the publicity involving Saunders. In Bull's evidence she stated:

Oh, he was almost paranoid about the fact that she (Saunders) was harassing him and he was very nervous about her. He seemed constantly vigilant

- - -

Yes?--- - - - against uninvited visits from her."

And later on:

Did you - were you present at one time a Miami when Sue was there with the children?---Yes, sir, I was.

Was there something that you observed about his behaviour on that occasion?---Yes. He had been on duty at his office, I think, at Surfers Paradise where - on that occasion, and Sue and I had spent the afternoon with the children on the beach. I was there to help her with the children, and he

came home in the - early in the afternoon, towards dusk, very agitated and said that Saunders, as he referred to her, was in the area and he feared for our safety. We were not to go outside or leave the house.

(d) . The evidence of Colin Stanley Cooper

On Cooper's arrest after having been found outside Lobegeiger's police residence at Miami he was interviewed by Webb on 8 September 1982 in the form of a record of interview. Questions and answers 103, 117 and 118 bear upon the issue of the relationship between Saunders and Lobegeiger. Those questions are set out in full.

Q.103 Did Lorrelle Saunders ever tell you when she had ceased her close relationship with Lobegeiger?

A. Yes, she claimed it was earlier this year, I think it was before the incidents in February.

Q.117 Had you ever seen Lobegeiger before you saw him in his yard yesterday afternoon?

A. Yes, when me and Lorrelle were jogging along the beach one morning, when we were down there for the week, he drove past going to work and by the time Lorrelle said, here he is, it was too late and I could only see the back of him. She was purposely waiting for him so he could see her, and she was hoping that with his poor eyesight he would mistake me for Dodd. I think her exact words were 'If he mistakes you for Dodd that will really put the shits up her.' She always refers to Lobegeiger as 'she' or 'her' or 'it'.

Q.118 Has she to your knowledge contacted Lobegeiger on other occasions recently?

A. She has been ringing him three or four times a week, at work and at home. When we were down there for the week Lorrelle and Coomer,

- *myself and Sue went on the Lady Lindeman Cruise and we got pretty plastered. When we got off the boat, we caught the bus back to the Caravan Park where Lorrelle grabbed a couple of cans of beer out of the gas fridge and said she was going up to see Lobegeiger. She claims she knocked on his back door, and he wouldn't answer the door and he repeatedly told her to go away or you'll get us both hung. When he refused to open the door, she said she laid under the back steps drinking and beer and playing with a little german shepherd puppy. She said he hadn't turned on any lights and was creeping about the house. After a while she said she went up and knocked on the door and he wouldn't even acknowledge the knocking. After a while she said she gave up and went back to the tent.*

Cooper repeated this account in a statement prepared on 17 November 1983 for the purposes of subsequently giving evidence at Saunders's trial relating to the conspiracy to pervert the course of justice charge. By this time he had been convicted and sentenced to a term of imprisonment for his involvement in the conspiracy.

In support of the view that the answers given to Webb by Cooper were accurate one can refer to Cooper's instructions to his solicitors for his defence in 1982, access to which was provided after Cooper had waived legal professional privilege in relation to the material. At page 2 of those instructions the following passage appears:

She told me about Lobegeiger and that he had gone back to another woman called Cecily Bull.

At page 3 of the instructions the following passage appears:

I say that Sue and I treated the stay at the Gold Coast as a holiday but it quickly became obvious to me that Saunders was using the opportunity while we were down there to personally conduct a campaign of harassment against Lobegeiger. I state that she would telephone him daily several times and go around to his house it appeared to me that Coomer was not involved with the

harassment which Saunders was concerning herself with.

If Cooper is believed there was no on-going relationship. This is consistent with the evidence to which I have already referred that Lobegeiger had a genuine fear of Saunders. The reference in Cooper's instructions to "Coomer not being involved with the harassment which Saunders was concerning herself with" is not surprising when one considers Coomer's evidence that he was not aware that Saunders attempted to see Lobegeiger whilst they were on the Gold Coast.

In Cooper's statement of 11 March 1993 to the Commission he was asked to consider the accuracy of the answers he had apparently given to Webb in 1982. He stated in relation to answer 103 that as far as he was aware it was accurate and, in relation to answers 117 and 118, they accorded with his recollection. He then added that he could specifically remember Saunders referring to Lobegeiger as "she," "her," or "it." It was never suggested by Counsel for Saunders that Cooper was either lying or mistaken in his answers to these questions although in general terms it was suggested to Cooper by Counsel for Saunders that at the time he had been drinking very heavily. Cooper accepted that he had been.

I should add that the mere fact that Cooper was detained at gun point outside the Miami police residence by Lobegeiger on 7 September 1982 suggests that Lobegeiger had genuine concerns for his safety. Lobegeiger's subsequent telephone conversation with Saunders in which he claimed to have told her to "keep your henchmen away from here" was completely inconsistent with an on-going relationship. Lobegeiger's act of handing over to police an envelope containing a letter written by Saunders was also inconsistent with an on-going relationship. I will return to this letter and telephone call later in the report. Suffice it to say that the contents of the letter did not suggest an on-going relationship.

(e) The Whitehall material

I have already referred in this chapter to an undated card written to Lobegeiger by Saunders which was located in an envelope postmarked 14 September 1981 and furnished to the Commission by Lobegeiger's daughter. It would seem from this

correspondence, coupled with the undated letter to Lobegeiger from Saunders which commences, "Allan, firstly I'd like to explain why I phoned you on Wednesday 24/2", reference to which I have also already made in this chapter, that the relationship was at an end by the end of 1981 and Saunders had been writing to Lobegeiger in an attempt to re-establish the relationship.

There was no indication in any of the other scores of cards and letters in the Whitehall material that the relationship existed after 1981.

In conclusion on consideration of all the evidence I am satisfied that Lobegeiger terminated the relationship with Saunders in late 1981 and that notwithstanding persistent overtures from Saunders the relationship was never re-established. I should add that I am also satisfied that although Lobegeiger may not ever have said in as many words that their relationship was at an end, he had given every indication that he wanted no further part of it. For example he had refused to divulge the address of his property at Gatton to Saunders and had refused to disclose to her the telephone number of the adjoining property through which he could be contacted. Lobegeiger had given evidence to this effect under oath to the Magistrate on 12 August 1982.

3.10 The obsessive nature of Saunders's affection for Lobegeiger

It is quite clear from the extracts of the transcript of Lobegeiger's evidence at Saunders's committal hearings and at Cooper's trial that he considered Saunders to be jealous, possessive and obsessive.

Counsel Assisting canvassed with Saunders the nature of her relationship with Lobegeiger:

Would it be fair to say that at that stage you were obsessed with Lobegeiger?---I was never obsessed with Allan Lobegeiger.

You were not?---No. It seems to be a male terminology that's come in to the whole proceedings, started off by Allan Lobegeiger using the word "obsessed".

Obsessed, yes?---He tended to use the word "obsessed" where most normal people would use the word "love".

I see. Well, I think what it normally means, I think, in this particular expression is that it is unrequited love, you see, that the expression that is intended, anyway, is that the love is all on one side and it approaches, therefore, because of its passion and strength, an obsession because it is - there is no corresponding or reciprocal affection, do you follow?---Well, that wasn't the case with Allan and I.

Was not. I see?---No.

Notwithstanding Saunders's refusal to acknowledge the true nature of her relationship with Lobegeiger I have little doubt that Saunders was obsessed, and I use the word advisedly, with Lobegeiger. I had the benefit of having before me a letter written by Saunders to Lobegeiger which was delivered to him by Gray and Cooper on 7 September 1982. At the beginning of the investigation a request was made by Saunders that the contents of this letter remain confidential because of its intimate details. Out of respect for those wishes I do not intend to publish any of that letter. However it is fair to say that it is an extraordinary piece of correspondence. It can only be described as a letter written by somebody who was completely besotted with Lobegeiger. If this letter stood alone one could possibly dismiss it as a letter from an infatuated person seeking desperately to re-establish a relationship. It does not however stand alone. Amongst other things there were the trips by Saunders to Gatton with Dodd, to which I will refer later in the report; the trip with Coomer to Mount Berryman, to which I have already referred; the "holidays" to Miami with Coomer, Cooper and Gray whilst on bail; the harassment of Bull; the "Dear Snow" letter and the Whitehall material. All of this was strongly indicative of Lobegeiger wanting no part of Saunders's affections despite attempts by her to thrust them upon him.

Also relevant to this question was Saunders's evidence before me which suggested the continuation of the relationship in 1987:

When did you start to become friends again?---We had a lot of telephone contact.

I think - sorry, I cannot hear you, at time, I am afraid?---Sorry. We had a lot of telephone contact

Yes?--- - - - commencing after I issued his daughter with a traffic offence notice on radar - - -

Yes?--- - - - and he initially rang me and abused me and thought that I'd just booked her, and then he found out it was a radar, and it was just pure coincidence.

Yes?---And from then on, we started to phone each other, and in July of 1987, we actually started to see each other.

Yes. How - in what sense do you mean see each other?---Just as friends.

To what, to go to the movies - - -?---No.

- - - or have a cup of coffee, or what?---Just go up and talk about everything that had happened and was happening.

I see. And it was - and how long did that last? That - - -?---Till about 6 months, or 10 months before he died.

Yes. Okay.

Later in the transcript the following passage appeared:

But you do not say that - after your imprisonment and all the things that happened, you do not say that the relationship resumed again, as it was formerly, do you, in 1987?---No.

No?---No.

All right. You did speak to each other, but - but it was not the sort of relationship it was before?---No.

Still later in questioning of Saunders Counsel Assisting suggested to Saunders that she had painted a picture of this subsequent association with Lobegeiger as being one in which they "were again on terms of considerable intimacy - not lovers any longer, but considerable intimacy." Saunders did not demur to this suggestion.

I believe that Saunders overstated the nature of this subsequent association although there would seem to be no doubt that she made every attempt to

reunite herself with Lobegeiger.

The clearest support for the proposition that there was no meaningful, subsequent association between Saunders and Lobegeiger was the Whitehall material. As part of the Whitehall material was a large number of letters and cards written to Lobegeiger by Saunders and spanning the period from September 1981 to June 1989. I have already discussed some of this correspondence which suggested that the relationship had ceased as early as September 1981 and certainly before Saunders was charged. The first letter of significance to Lobegeiger after the nolle prosequi had been entered upon the final charges against Saunders is one written shortly after 2 August 1985. In that letter the following sentence appeared:

I can't understand your intense bitterness towards me.

An undated letter, which from its contents was written subsequent to the letter to which I have just referred, is also instructive. In this 27 page typed letter the following passage appeared:

I can't understand your hatred for me.

The letter which bore the latest date in the Whitehall material was one dated 15 June 1989. It included the following line:

Please let's try, I love you, now and always - Lorrelle.

This once again suggests that Saunders's feelings were unrequited. In between the letter written shortly after 2 August 1985 and the letter dated 15 June 1989 the correspondence from Saunders to Lobegeiger is consistent with a long, painful, unsuccessful attempt by Saunders to regain Lobegeiger's affection.

Saunders suggested that those letters to Lobegeiger which expressed her loneliness and which beseeched Lobegeiger to try were not uncommon as they had had an "on-again off-again relationship all the time." Saunders claimed that Lobegeiger wrote letters to her in a similar vein after arguments had occurred between them. Counsel Assisting questioned Saunders in relation to these supposed letters from Lobegeiger:

I see. Now, do you have any of his letters?--I burnt them on his death.

Oh I see. You do not have any of his letters at

all?---No.

How many letters did you get from him over all this time?---Quite a lot.

Quite a lot, and you can remember burning them?---I certainly can.

Yes.

THE JUDGE: When was it that you burnt them, sergeant?---After his death, your Honour.

I beg your pardon?---After his death.

After his death.

HAMPSON QC: And, he died, remember, in June - 18 June 1990?---That's correct.

And, that was at a time, of course, when you were making a claim for compensation, was not it?---Oh, possibly.

And, it was therefore at a time when it was relevant for you to be able to prove what the real relationship between yourself and Mr Lobbeiger was?---I don't care. I would never have produced letters. It was embarrassing enough that - one letter turning up in evidence without other letters between us.

Well, the only letter that is in evidence here, the only letters that are in evidence here are letters that you wrote to him?---It is certainly not all the letters. I just - when I went through it rather briefly, it's only very few probably of letters that we've written or I've written.

Yes. Well, all right, the only letters in evidence here between you and Lobbeiger are letters written by you to him and they represent only a minority of the letters that you wrote to him over the years?---I would think so.

Okay, but unfortunately, you are not able to show us any of the letters that he wrote to you because you burnt them

all some time subsequent to his death in June 1990, is that so?---That's correct - no, sorry, on his death.

Well, on the 18th, was it? 18 June, I think, was the exact date. You burnt them on 18 June?---Oh no. I don't know, some - that's sort of around that period.

Okay?---Yes.

Well, like I said, subsequent to it, not years later. You burnt them some little time, some short time, after 18 June 1990. That is right? That is what you are saying?---Yes, that is correct.

And, that was also, I suggest, a very cautious move on your part because you were at that stage wanting to make a claim for compensation and a very material point was going to be the relationship between you and Lobegeiger, is that so?---Not at all. I really don't know what sort of material point that would have been in the compensation claim.

Was it the significant point though, of course, that you wanted to make at all times is that really Lobegeiger loved you and you loved him even though you might have had your ups and downs and that continued even right through the time of the trial and that the evidence he gave against you was, therefore, perjured evidence, but unwillingly perjured because he really loved you. Is not that really the thesis that you advance?---I don't really think so.

Well, had you been able to produce the letters he wrote to you, to his Honour, you would clearly have been able to give a better picture of his attitude towards you over the years than you can give without them, is not that so?---That's true, but I would never have produced those letters anyway.

You would never have produced the letters.

THE JUDGE: But, you produced them to your solicitors over the years that we have been interested in, not at all?---No, your Honour. As far as - they were terribly

personal. As I said, I was totally distressed with that other letter. He was distressed that other letter was public.

Did you appreciate at the time of your original trials that your relationship with Lobegeiger could be quite important?---I know, your Honour, but I still couldn't have brought myself to have those letters published.

But did you appreciate that that relationship - a finding as to what the true relationship was was important?---I did, your Honour.

But you did not show any of this correspondence to your solicitors?---No, your Honour.

I do not accept that the letters or cards which implored Lobegeiger to "try" were written during a relationship which was continuous although it had periods of coolness as well as of warmth. It appears to me that any relationship between the two persons concerned after the end of 1981 continued to be a relationship of pursuer and pursued. I do not believe that there were any letters from Lobegeiger for Saunders to burn. If any such letters had existed I think she would have discussed them with her solicitor who would have appreciated the significance of her relationship with Lobegeiger.

I consider Saunders's overstatement of the nature of the subsequent association with Lobegeiger indicative of her overall obsessiveness and possessiveness of him. Her strong desire to be always the winner would cause her to put forward any view of the relationship with Lobegeiger save the true one, that he had tired of her and wanted nothing more to do with her.

Within five months of the date of the last letter in which Lobegeiger's unwillingness to enter into another relationship with Saunders is evidenced Saunders sent a typed report dated 14 October 1989 to Detective Superintendent O'Sullivan, then of the Fitzgerald Commission of Inquiry. It made allegations of corruption against Lobegeiger. The following passage from this report is significant:

Since the recent publicity concerning my case for compensation, a female person contacted Oxley police stating she had information for me. My solicitor contacted this person and she gave information which suggests that

Allan Lobegeiger was linked with members of the Rat Pack in the 60's. We have made checks and property dealings by Lobegeiger at this time are not in keeping with police salaries or any family monies.

With the report was a schedule listing Lobegeiger's apparent property acquisitions and sales over the previous years including two properties sold to Bull. When questioned by Counsel Assisting as to the timing of the report the following exchange ensued:

What was the purpose of writing this letter accusing Mr Lobegeiger of corruption and laundering money with Cecily Bull if, in fact, this relationship had been re-established and so on?---As I told Allan on many occasions that I'd never cover for him if I found there was corruption; if I was ever asked if I believed there was. I did believe he'd been involved in something.

Who asked you to - who asked you whether he had been involved in corruption? Nobody?---I really don't know the basis of this. I know I was - I had an interview at the CJC and I was asked to go home and put the facts down.

I suggest to you this was a completely unsolicited accusation against your former lover, Lobegeiger?---I'd say you're completely wrong.

All right. Well, just have a look at it, the way it starts off:

Re: Harassment. I have found a general attitude among colleagues that police that gave evidence to the inquiry were disloyal to the department. I suffered much criticism for my comments on the Fitzgerald Report which were published in part in the newspapers. There have been some number of incidents designed to indicate my home is under some type of surveillance.

Then you mention some of these things about that.

Since the recent publicity concerning compensation, a female police officer contacted Oxley police station.

Then you go into the accusation against Lobegeiger which you return to in the connection of Bull on the third page. That is a case where he presumably laundered - she had committed perjury, you say?--Well, she certainly did.

And that she, apparently, laundered money for him by buying two properties for well short of what their value was?--No. My suggestion was that was a payoff for the evidence she gave.

I see. That is the suggestion, all right, that Lobegeiger bribed her. That was your suggestion?--It was a payoff.

All right. Now, why did you make these unsolicited accusations against a man that you were writing to - letters saying that you wanted to get back to him, and you loved him, and so forth?--Because, as I told you, I mean, even today, I still believe he was involved in corruption.

I see?--And that's a totally different thing, whether - you can love a person, but I'm not going to cover for him, if he is involved.

But no one was covering for him. I mean, you had to go out of your way to make these searches. You had to do the leg-work to find this out?--No, I think that was done back at the time of my - - -

But it does not say that; it says - - -?--No, well, it mightn't say that, but obviously every time I write a Police Report I should get legal advice.

Was the truth of the matter that, in fact, he did not want to have anything to do with you, and in a piece of vindictiveness you thought that you would accuse him of corruption in this manner?--No, that's not correct.

That is not true?--No, certainly not.

One is left to wonder what information Saunders had at this time which she had not possessed say on 15 June 1989, the date of the last letter in the

Whitehall material. She gave no evidence before me of the information that her solicitor had allegedly received concerning Lobegeiger and his supposed connection with the Rat Pack in the 1960's.

I should note that in response to that report of Saunders, O'Sullivan prepared a memorandum to the then Chairman of the Fitzgerald Commission, Sir Max Bingham QC, advising that:

no further action is required at this time.

Further support for the proposition that the relationship was not what Saunders claimed can be seen in Bull's evidence and Whitehall's statutory declaration. I have already referred to that part of Bull's evidence in which she stated that Lobegeiger continued to be:

almost paranoid about the fact that she was harassing him and he was very nervous about her. He seemed constantly vigilant.

She also stated that she was not aware of contact between Saunders and Lobegeiger around the period of the Fitzgerald Inquiry or subsequently to it, although she did say that Lobegeiger told her that Saunders continued contacting him almost to the time of his death. In Whitehall's declaration she stated that she had no knowledge of any contact from 1986 to 1989 between Saunders and Lobegeiger until she located the correspondence from Saunders after her father's death.

In conclusion I am satisfied that Saunders commenced 1982 without Lobegeiger as a partner. She was obsessed with him. Although she was desperately seeking his affections they were not forthcoming. Bull, she thought, had replaced her in Lobegeiger's affections.

CHAPTER 4

THE INTRODUCTION OF ROY ALFRED COOMER AND DOUGLAS MERVYN DODD TO THE SCENE

4.1 The nature of the association between Saunders and Coomer

It is necessary to consider the true nature of the association between Saunders and Coomer as it is critical to the assessment of Coomer's credit as the original complainant in the theft of the guns and as co-accused with Saunders and Cooper on the charge of attempting to pervert the course of the justice. A number of lengthy statements written or signed by Coomer in 1982, 1983 and 1984 were put before me in the course of the investigation. At first glance they appeared to have been in such detail and presented in such a manner that it suggested they were drafted originally by Saunders. If their relationship had been a sexual one the possibility of Coomer adopting a draft prepared by Saunders, especially if it did not contain the truth, was to my mind greater.

There was no dispute that Saunders first met Coomer towards the end of 1981. There was also no dispute that they had an association until some time after the Mount Berryman incident in 1984. What was greatly in dispute was the nature of this association. Coomer stated it was a sexual relationship until September 1982 whilst Saunders denied that there was ever any sexual involvement.

Saunders stated that she first met Coomer when she was on either the VIP Squad training course or the Emergency Squad training course at the Belmont Rifle Range towards the end of 1981. Coomer, who was an aircraft refueller for the Caltex Company, acted as a range safety officer on a part-time basis when police were shooting there. Saunders stated that at their first meeting Coomer was carrying a large firearm which he offered to Saunders to use. She stated that she put the firearm's sight to her eye and discharged it but because of the power of the recoil she obtained a black eye. She went on to say that Coomer felt bad about it. Their subsequent discussions of the incident led to their becoming friends. Saunders said that over the following few months Coomer took her out to the range and gave her instructions on how to use the weapons. She stated that they also went out and about in each other's company.

Counsel Assisting asked the following questions of Coomer concerning their relationship and he gave the following responses:

Okay, all right. Now, how close was the relationship?---I would consider it reasonably close.

Yes. Did you ever go and stay with her overnight anywhere?---At her place.

At her place?---Yes.

I see, and were you lovers?---I would say yes.

Yes. I mean, you shared the same bed and have sexual relations; that is what I mean?---Well, if we were not, I do not know what we were doing.

And later in the transcript this exchange occurred between Counsel Assisting and Coomer:

All right. Now, after this - after the arrest on this particular occasion, the relationship still continued?---Yes, not as - - -

The first arrest, you see?---Yes.

And she had bail. She got bail on this occasion?---Yes.

And, in fact, she was at liberty because of bail, she was at liberty until 9 September. So we have got from 29 April till 9 September when she was free?---Mm.

Did you still go over to her place on a regular basis?---Reasonably regular.

Yes. And, I mean, would you say you were still lovers at that time?---I would say things had cooled a little bit.

Things had cooled?---Yes.

Well, could you explain why they had cooled, Mr Coomer?---More - oh, I think she just had a lot of things on her mind.

I see?---And I think we were more just friends at that stage.

Coomer denied having sexual intercourse with Saunders during the "holidays" on the Gold Coast in August 1982 when Gray, Cooper, Saunders and he stayed at the caravan park and also when Saunders and he went to Tasmania on holidays in 1984.

In examination of Coomer by Fleming QC the following exchange occurred:

Mr Coomer, let us go on to another topic. You say that you have had an intimate relationship, a sexual relationship, with Lorrelle Saunders?---Right.

Over what length of time did that sexual relationship subsist?---A couple of years.

When do you say it started?---Not long after I met her.

And when do you say it finished?---I'd say when she was gaoled.

I thought that you said in your evidence yesterday that the relationship cooled when she was arrested?---Right.

Did you have a sexual relationship with her after she was arrested?---No.

So, in fact, it had finished by the time that she was arrested?---When she went to gaol.

And later in examination the following exchange took place:

All right. Now, she was in fact put in the lock-up overnight; you have a recollection of that do not you?---Yes.

Was there a sexual relationship after that day?---Yes.

All right, and when then did it subsist until?---Until she went to gaol.

In further examination of Coomer by Fleming QC, Coomer having acknowledged that on his account sexual activity had taken place over 10 months rather than 2 years, as he had originally suggested, the following

questions were asked and answers given:

How many times do you think you have had sex with Lorrelle Saunders?---I wouldn't know now - hell.

Was there a regular basis?---Not really, no.

How regular would it have been - well, sorry, you said it was not on a regular basis. How often?---Once a month.

About once a month. So you had sex with her, if it was nine months or ten months, about ten times?---Well, that's what it add ups to.

You did not - you went on holidays with her in a tent down the coast?---Mm.

You told us yesterday you did not have sex with her while you were on holidays?---That is right.

Is that right?---Yes.

What sort of protection did you use when you had sex with her?---Condoms.

And later in the transcript:

All right. Describe her bedroom for me?---Small - a window above the bed. Looking into the bedroom there is a window on the right-hand side going out onto the patio; wardrobes on the left.

What sort of bed?---Double bed, sliding door.

What colour is the - - - ?---It is as much - - -

What colour is the room?---Do you expect me to remember that after 10 years?

Are there are other unusual features of the room?---Not that I can remember.

Do you recall any operation scars on Lorrelle Saunders?---There is a small one on her knee. Nothing else that I can remember.

Any birth marks?---It is too long ago for me to remember that.

You never did have a sexual relationship with her, did you?---Yes.

It was never suggested to Coomer by counsel for Saunders that his descriptions of Saunders's bedroom and the distinguishing mark on her knee were erroneous. I should also say that Coomer gave both descriptions with very little hesitation and in a manner which gave me the impression that he was genuinely recalling from his memory rather than extemporising.

Fleming QC took Coomer to some evidence he had given at Saunders's trial in May 1983 where he had described their relationship as "just good friends." In relation to this the following exchange took place:

All right. And you are asked of your relationship with her and you say, 'Just good friends.' Just good friends. Are not you saying there that that is all you are: good friends?---Well, we were.

Yes, but you are saying you were just good friends - that is all?---It might be just a figure of speech.

You were placing a limitation on your friendship. You were saying that you were just good friends?---I don't think so.

Now Mr Coomer that happens to be a true statement, I suggest?---I think - well, I consider we were very good friends.

Very good friends. Well, when you were asked about this at the trial, your response was, 'Just good friends.' What I am suggesting to you is that that is, in fact, a truthful answer?---I think we were more than that.

Later in the examination Fleming QC referred to Coomer's evidence at

Saunders's committal hearing on 10 August 1982, where previously he had described the relationship as one of "very good friends." Subsequent to this the following exchange took place between Fleming QC and Coomer:

So you both went away after she came out of gaol?---Right.

Toured Tasmania together?---Right.

That shows a pretty good friendship still subsisting at that time?---We were friends; I don't know if we were pretty good friends, but I think it - we just both wanted to get away and that's the way it worked out.

Who paid for Lorrelle?---I did.

For the whole of the trip?---Yes.

There was no sexual relationship in that trip, was there?---No.

What sort of accommodation did you have?---From memory, I think it was Flag Inns.

And what, you would take - - -?---It was a fly/drive.

It was a fly/drive that you paid for. What, you would take a motel room, two single beds - - -?---That was all - all arranged.

Yes. What, you would have a twin motel room?---Yes.

You would share motel rooms - - -?---Yes.

- - - in that period of time. And there was no sexual relationship between you?---Not then, no.

No. All the opportunity in the world - - -?---Right.

- - - but no sexual relationship?---That's right.

Well, Mr Coomer, what I suggest to you is that that was in fact the quality of your relationship all the way through;

you were very good friends without - - -?---We were more than good friends at the start.

- - - it ever having developed into a sexual relationship?---No. We were more than good friends at the start. I don't know how many more times I can repeat that.

All right. You see, I come back to what you said in court in that transcript there:

Did any relationship develop between you?---Just good friends.

Indeed, quality friends?---That might be just the way I talk.

When Counsel Assisting in re-examination of Saunders put to her Coomer's account of the relationship for her comment the following exchange took place:

that you were on very close intimate terms, in fact, during that period, the period that I have just been mentioning, that is from your arrest up until the time - - - ?---I think Coomer must have got a bit carried away with his male ego, because he certainly has never had sex with me, not then, and not any time.

All right. Why did you go away to Tasmania with him after the whole thing was over?---For a holiday. Just for a holiday.

I see?---As far as I was concerned he was a friend, and I think most women in the room, at least, would understand that a woman can accept a male as a friend, but the idea of sex with that same male could be quite repulsive.

I see. I see?---And women certainly probably feel a lot differently between friendship and sexual relationships with a male.

Well, you are a psychiatrist, are you, or a psychologist?---No, but I know how women feel.

Do you, all right.

THE JUDGE: Well, now, getting down, not to how women may generally feel, but so far as you and Coomer were concerned, did you think the idea of having sex with him was repulsive?--Yes, your Honour. He was no more than a friend, to me.

HAMPSON QC: So when he offered the holiday in Tasmania that he was paying for at the end, you saw as an act of friendship and that was all?--That is right.

Yes, all right. So you deny that he was seeing you as frequently as he gave in evidence here, that he was having intercourse with you and so forth during that time?--He has never had intercourse with me at any time.

Subject to my thought that Coomer was trying to avoid giving testimony which might damage Saunders's cause, I have no doubt that Coomer's account of the relationship was honest and substantially correct. I reject Saunders's account of the relationship in so far as it was inconsistent with his. She was a most unimpressive witness whilst giving this evidence. In particular I found her evidence regarding possible marks on her body in 1982 as most unconvincing. When Saunders gave evidence in re-examination she volunteered to Counsel Assisting that the scar on her knee, to which reference had been made by Coomer, was a scar resulting from an operation which she had had on her right cartilage after she went back into the Police Force in 1984. In the next answer to Counsel Assisting she made it quite clear that she was saying that Coomer was incorrect in his statement that she had a visible scar:

All right, so what you are saying is, prior to that date, you did not - in 1982 - 1981-1982, you did not have a scar such as the one to which he referred?--No. No visible scar.

Notwithstanding this claim by Saunders a document on her prison file disclosed that she had as at 10 September 1982:

scar left knee, scar under left eye, scar on nose, own teeth, moles on back, mole on left breast.

Saunders confirmed that it was her signature on the certification on this

document which stated that the information was true and correct but added that she probably would have signed anything at that stage whilst in jail. She denied that she had moles on her back, her left breast or nose but confirmed that she had her own teeth and had scars which had faded from under her left eye. When she was specifically asked by Counsel Assisting whether she had a scar on her left knee as at 10 September 1982 she replied:

Oh I could have had a cut,

and then later in response to a question from me she stated:

I said I could have, your Honour, I certainly haven't - recall ever having a scar on my left knee.

It would seem to me that Coomer's description at Saunders's committal hearing and trial of their relationship being one of "just good friends" did not exclude the possibility that sexual activity had taken place. After all, he was not asked specifically either at the committal hearing or the trial whether sexual activity had occurred. Furthermore I think it is fair to say that Coomer did not present as an erudite person with mastery of the English language. I accept what he said to Fleming QC when being pressed about his evidence at Saunders's trial and committal hearing that they had been "just good friends":

That might be just the way I talk.

I am fortified in my view by reference to another passage from Coomer's evidence at Saunders's committal hearing in August 1982 which was not put to Coomer by counsel for Saunders for his comment:

Now Mr Coomer, did you give any person permission to take those firearms on that night?

Well I told my girlfriend, Lorrelle Saunders she could have them any time she wanted them.

Well when did you tell her that?

I told her a stack of times that whatever belonged to me also belonged to her.

This is completely consistent with a very close relationship between the two of them. Interestingly enough, when Coomer was interviewed by his solicitors on 27 September 1982, notes record that he told them that he saw Saunders "2-3 times a week - she was girlfriend." It was not suggested

by Saunders or put to Coomer by her legal representatives that Coomer had a motive to lie about the nature of their relationship. Saunders suggested that he was confused in giving evidence before me and added that his male ego must have been responsible. I dismiss both possibilities. I do not consider it likely that Coomer would risk perjuring himself before me because of some misguided view of his "male ego," especially in relation to activity which occurred over ten years ago. I also reject the possibility that he could have been confused or honestly mistaken about the matter. Such matters are not the type which lend themselves to honest mistakes or confusion. The manner in which Coomer gave the description of Saunders's bedroom and the mark on her knee also confirms in my mind that he was telling the truth. The notation in the prison file was confirmatory of Coomer's evidence whilst, as I have previously stated, Saunders's answers to me and Counsel Assisting concerning it were particularly unconvincing.

My view is further supported by the statutory declaration dated 6 May 1993 of Herbert QC who was Saunders's solicitor for the first part of her committal hearing in August 1982. As indicated in the previous chapter, at Saunders's committal hearing on 12 August 1982 the then counsel for Saunders put to Lobegeiger that Coomer and Saunders "had a stable, happy relationship." It will also be recalled from the previous chapter that Saunders in evidence before me stated that she did not give instructions to her then counsel to this effect, and this was one of the reasons why she changed her solicitors and counsel before the committal hearing recommenced in November 1982.

In Herbert's QC statutory declaration the following paragraph appears:

Also in paragraph 41.6 of her statement, Saunders says that she was 'unhappy with the way Howell⁴ [Saunders's counsel] had run the first part of the committal.' As to that, I say as follows:

- (a) *What Saunders refers to as the 'first part' of the committal occurred on 9, 10 and 12 August 1982 (11 August 1982 was the Brisbane Exhibition holiday). Saunders was represented by Alex Mackay & Co. I was present throughout the committal instructing counsel on behalf of*

⁴ Warren Howell is currently a Judge of the District Court.

Saunders.

- (b) *At no time during the committal, or subsequently, did Saunders inform me that she was unhappy with the way in which the committal was conducted.*
- (c) *For my own part, I was very satisfied with the performance of counsel on behalf of Saunders. Nothing which occurred in the course of the committal gave me the slightest reason to suspect that Saunders was unhappy with counsel's performance.*
- (d) *In particular, Saunders never advised me and I had no reason to suppose that Saunders was unhappy with the way that questions were being asked by counsel of witnesses, on the basis that a personal relationship existed between Saunders and Coomer. As far as I was concerned, it was the fact that such a personal relationship existed. Those were the instructions which Saunders gave me.*

Significantly, when Saunders's partner Knight gave evidence on 12 August 1982 as the fourth witness after Lobegeiger had been in the witness box, it was suggested to Knight by counsel for Saunders that Coomer was Saunders's boyfriend. Sufficient time had been available for Saunders to advise her counsel that he had been putting incorrect instructions to Lobegeiger. This clearly did not occur as can be seen from the following passage of the committal hearing:

And Coomer of course you knew as the defendant's boyfriend?

Yes.

And been the boyfriend ever since you started working with her..you started with her working as her partner in work on the 1st of January..was that the first day you worked together?

No, we'd been working together for about 3 years.

Yes. Well, when you say about three years, does that mean all of last year you were working with her as a partner?

Yes.

Right. So the..was it obvious from what you saw and what she told you that she'd formed the relationship with

Coomer late last year?

Well, they were friends.

Hm, but it was obvious to you that it was..he was the boyfriend by late last year. Is that right?

No, I wouldn't say that.

Hm. When did it become obvious to you that he was the boyfriend?

It's a hard point to answer. I.

Certainly well before you went to Alpha you knew it was a good stable girlfriend/Boyfriend relationship?

I'm not too sure.

Hm. When did you..when did you..did you ever see Superintendent Lobegeiger's motor vehicle at the defendant's residence?

Yes.

How many times this year have you seen his motor vehicle at the defendant's residence?

About twice.

Twice. What month, January, February or what?

I'm not too..it would be December, January, somewhere around that time.

What time of the day or night?

Oh late at night.

Late at Night. Ah when did the..when did you become aware that the relationship between the defendant and Superintendent Lobegeiger had finished?

Well, I wasn't aware it had finished.

Yes. Ah ha. As a result..I suppose as a result of seeing his vehicle in December, January, a couple of times at the defendant's residence late at night, that caused you to think the relationship was still going?

Oh that plus other things.

Hm mm. But it was pretty obvious by the 7th of March of this year that she'd formed a stable..a good stable relationship with Coomer and Lobegeiger was a thing of the past?

Well, I don't see it that way.

What do you mean by that, sorry?

Well, I think Lobegeiger was still in the picture and Roy was more of a friend.

Hm mm. Alright. You, of course,..you've been transferred to Alpha?

Yes.

How far is Alpha from Brisbane?

A thousand and 54 kilometres - by road.

Yes. How far is it from the nearest town?

The nearest town of a few thousand?

Well, Emerald's the closest..the closest large town, 160 kilometres.

It can be seen from this examination that not only did counsel for Saunders put questions to Knight indicating that a steady relationship had existed between Saunders and Coomer but when Knight gave answers which were not fully consistent with this, counsel questioned him with a view of explaining away his account on the basis of his posting away from Brisbane. I cannot accept that a very experienced and competent counsel, as Saunders's counsel was, would act in this manner without instructions.

If any further confirmation is necessary it can be found in the statement of Cooper dated 11 March 1993 given to officers of the Criminal Justice Commission in Sydney.

Whilst I was in Brisbane in period August/September 1982, Saunders and Coomer were girlfriend and boyfriend. I can recall they slept together in the one bed on numerous occasions at her home and also in the tent on the Gold Coast. They also slept together in the one room at Byron Bay.

Although Cooper was later to tell me that he had lied to the officers of the Criminal Justice Commission with a view to giving an exculpatory account of Saunders's conduct during 1982, there was no suggestion that he lied to them in this regard. It would appear to me that Cooper gave a truthful account of Coomer's relationship with Saunders in his statement to officers of the Commission because he did not see that to do so would have been inimical to Saunders. I will return to Cooper's evidence in far greater detail later in the report. I should also add at this point that Coomer had no recollection of going to Byron Bay, although I am satisfied that he did go.

In conclusion therefore I am satisfied that at the time Lobegeiger was rejecting Saunders's advances towards the end of 1981, Saunders had commenced a relationship of an intimate nature with Coomer. If Saunders's evidence before me that the idea of having sex with Coomer was "repulsive" was truthful, one wonders why the association continued until 1984. She may have had little respect for Coomer and it is

interesting to note that Tutt in his statement dated 1 April 1982 stated that he did not consider that Saunders held Coomer in high regard at the time; whatever were Saunders's feelings for Coomer I have no doubt that Coomer thought that he and she were in love. I also formed the view that the affection that Coomer had felt for Saunders has not completely abated. I considered that wherever possible in giving evidence before me he gave, whether subconsciously or not, a response which placed Saunders in the best possible light.

4.2 Coomer's character

I gained the very strong impression that Coomer was a person with a weak character who could very easily be led. From his lengthy stay in the witness box he also gave me the impression that he was not particularly intelligent. He stated that he had gone to eighth grade before leaving school and that from what he could recall he thought he was an average English scholar. He conceded that he had never had a job in a clerical capacity or a job that required him to write a lot. He added that recently he had been doing a lot of writing in the nature of invoices but conceded that he did not compose letters or other forms of prose. When asked whether he was a good letter writer he said he was average but acknowledged that he would only write about one page at any one time. I formed the view that he was not capable of writing statements of 20 pages or longer unaided and certainly not statements of the type that had been produced before me which recorded alleged events in chronological order in great detail with only minor corrections.

When Coomer was originally questioned by Counsel Assisting concerning the association between Saunders and Lobegeiger the following exchange took place:

Okay. At that time when you heard that she was being charged with trying to procure the murder of Lobegeiger did you already know of Lobegeiger?---Heard of him.

Right. You had never met him?---No.

And what had you heard of him, up until that time?---Just that she was going with him and I believe she was trying to break it off.

I see?---Break the relationship off with him.

So all you knew was what she told you?---Yes.

You never spoke to Lobegeiger or got letters from him or anybody?---No.

But she had told you that she had been going with Lobegeiger and she was trying to end the association; is that the position?---Yes. That's right.

And later in the examination this exchange occurred:

Okay. Up until this stage now - this is the trip down there [to Miami on holidays with Cooper, Gray and Saunders] - had you heard anything more about Lobegeiger? I mean, all you had heard up until the stage that she had been first arrested was that she had been having an affair with Lobegeiger and she was trying to break it off?---Mm.

Had there been any development?---Only what I read on and off in the papers.

Nothing she had told you?---Just - she kept trying to break it off.

That is what she told you, I mean?---Yes.

Yes, all right, and she was saying what, that he did not - he was not keen to break it off but she wanted to break it off?---Yes.

And still later in the transcript the following exchange between Counsel Assisting and Coomer appears:

Now, if I could ask you some bits and pieces around the place, as it were, when you were down the Gold Coast that time - remember this, again, was in that month, August, early September 1982?---Right.

The tent holiday, right? Did you observe whether Lorrelle Saunders made any contact with Mr Lobegeiger?---Not while she was with me she did not.

No. Did you know that Mr Lobegeiger, at that time, was

living at a police house, I think, at Miami, not far from where the caravan park was that you were living in?---No, I did not.

You did not know that?---No.

She did not tell you that, and she did not - or, did she tell you that she had been trying to make contact with him or he had been in contact with her or anything of that sort?---No, not that I can recall, no.

You knew nothing about that? You were still, at that stage, of the view that she had broken off with him although he was trying to rekindle the association?---Yes.

It was quite clear from Coomer's answers in these exchanges that he claimed to have had very little knowledge of Lobegeiger and was adamant that he was not aware of Saunders seeing Lobegeiger whilst on holidays on the Gold Coast with Cooper, Gray and himself. These exchanges assist in an assessment of Coomer's character and the way in which his thoughts and attitudes would have been governed by what Saunders had told him.

In complete contradiction to this evidence was a number of statements, some of which were very lengthy, which had been written or signed by Coomer, which suggested that he knew a great deal about Lobegeiger and contact between Saunders and Lobegeiger, including contact whilst on the Gold Coast on holidays. Counsel Assisting questioned Coomer in relation to this apparent contradiction with the statements and in the course of this the following exchange took place:

And you were - you were - you knew - you were assisting because you, in fact, loved her at the time?---Yes.

Is that right?---Yes.

And, you were happy to assist her in any way you could to get her off the charge?---Yes.

Is that fact?---Yes.

All right, and in fact, this statement that she typed out for you, the first one you looked at, she typed it out - - -

?--Yes.

- - - and she asked you to make a copy of it because it looked better, in fact, if you had a copy in your own handwriting?--Yes.

That is right?--Yes.

And, insofar as there were things in the statement that you did not know, you, loving her as you did, would have been prepared to get into the witness box and say that those things were true, is not that the case, Mr Coomer?--I would say so, yes.

At the end of questioning in chief by Counsel Assisting Coomer had clearly admitted that he had copied in his own handwriting or signed statements drafted by Saunders and had been prepared to get into the witness box and say things that were not true to assist her.

However in examination by Fleming QC Coomer resiled completely from what one could only consider a very strong statement of position:

Yes. Look, in your evidence yesterday, when you were saying that - agreeing with things that Mr Hampson was putting, were you really saying, well, I do not remember that, or were you saying that could not have happened that way?--No. I don't remember that.

All right?--I think I've said it a couple of times: it is a long time ago.

Yes, it is, and one would expect that you would have this - sort of better recollection. Now, Mr Coomer, you are just not the man to make up - you are not the sort of man who would make up stories, are you?--No.

No. You try to be - you are an honest man?--I consider myself one, yes.

Yes, of course. You attempted to give honest evidence. You gave honest evidence in the courts below?--Yes.

It was not - it was not that you were prepared to make up

stories for Lorrelle Saunders benefit, was it ?---No.

No. You just wanted to give honest evidence as you understood it?---That is right.

Yes. It was not the case that you decided that Lorrelle needed a bit of assistance, and therefore we will, sort of, sit down and make out some sort of story which was less damaging to her. That did not happen, did it?---No. Well, I am not going to lie for anyone.

And later in the transcript this exchange with counsel for Saunders occurred:

You - yesterday it was put to you that you were prepared to go along with some inaccurate statements because you loved her. You - you were not - you would not tell lies for anybody would you?---No.

And you certainly have not told lies for Lorrelle Saunders, have you?---I don't believe so.

No, so that when Mr Hampson suggested to you that you went along with stories because you loved her that is - that is not right?---Well, I wouldn't say I went along with stories. I helped her out I believe to the best of my ability.

Yes. On what you knew, you did not make things up for her though, did you?---On what I knew.

Yes, on what you knew to be factual and - and that is - that is the way it happened. You are a good friend?---Yes.

You were not such a friend that you would tell lies for her?---No.

No. And you were sticking by her in tough times?---Yes.

Later in re-examination of Coomer by Counsel Assisting the question of his knowledge of Saunders's association with Lobegeiger was again raised. By this time two further statements had been obtained from Coomer's

solicitor's file after legal professional privilege had been waived by him. These statements had been originally provided to his solicitors for his trial in 1983 on the charge of attempting with Cooper and Saunders to pervert the course of justice. As it turned out a nolle prosequi was entered on his charge as the court considered that there was insufficient evidence to place him on his trial. The following questions were asked by Counsel Assisting and these answers were given by Coomer concerning his previous statements and in particular the two recently obtained ones:

Yes. Now, do you remember yesterday you told me that you did not believe that there was any communication going on between Sergeant Saunders and Lobegeiger at the time of her arrest - at the time you went down the Gold Coast, and particularly in that month of August/September?---Right.

Before she was arrested the second time in 1982 - remember that?---Yes.

You are quite clear, you remember you said that yesterday?---Yes.

Remember I asked you about going to the unit for example, the sister's unit?---Yes.

So you said no but you did not know anything about it being in touch with him. You are quite clear on that?---As far as I can recollect, yes.

Now, let us get it quite clear that you are completely sure that yesterday you gave evidence that to the best of your knowledge there was no communication, and certainly no regular communication between Lobegeiger and Saunders in let's say August and September of 1982?---As far as I can recollect, no.

Yes - absolutely. And you would have a reason, because you were her lover and he had been the former lover. You would be a bit interested in any communication between Saunders and Lobegeiger, would not you?---Depends if it had anything to do with police investigation or not.

Or anything to do with sexual closeness - or are not you a

jealous man?---Not overly jealous, no.

Not over jealous - so you would not really pay much attention as to whether or not she was meeting again her former lover, even though you were now her lover. Do you follow what I mean?---Yes. I believe she wasn't.

She was not. So that was your - that is what you told us yesterday, and that is your firm recollection that she was not in communication with him at that time. Is that right?---That is right, yes.

Okay. Now - so this is - now Colin and Sue come into it, that is Cooper and Gray, is it?---Yes.

Is that right?---Okay.

And they first arrive up here in mid August 1982, do not they?---I'm not sure of the date now.

All right. Well, I did not give a date

THE JUDGE: Well, I thought it was Exhibition Week you went away?---That's right, yes.

HAMPSON QC: Okay. We will come to that later, because the dates is given in these documents, you see. And - see, so:

She told me she'd promised to drive Colin and Sue to Byron Bay. I asked if I could come and Lorrelle suggested I meet her at her place but on the understanding she and I were not to discuss the court case. She also told me Allan had asked her to check out the drug scene in the Surfers Paradise beer garden.

All right?---Where are you up to now?

I am still on the first page; it is about the fourth last line?---Okay.

Do you see that?---Yes.

So, here was a suspended police officer, as you knew, all right?---Okay.

Supposed to be in communication with her former lover, a police inspector, who was supposed to have asked her to check out the drug scene in the Surfers Paradise beer garden at a time when according to you there was no communication between them?---I believe there was no communication.

Well, why did you write this down here then? Look at the next sentence:

Lorrelle told me she'd told Allan about Colin and what a good dog he was, so she said she would try and make Surfers for lunch.

You see that?---Yes.

All right. Look up at the next page:

And went to Byron Bay via Rathdowney.

Did you ever go to Byron Bay with Saunders, and Cooper, and Gray?---I can't remember where I went now; it's too - too long ago.

All right. Take your time.

Colin was drinking heavily, and Sue only needs a couple and she's way out. We set up a drug deal at Byron Bay.

Are they your words, "We set up a drug deal"?---No, they're not my words.

Well, that is - they are in your handwriting?---Yes.

How did they get there in your handwriting? Where did you get it from?---Probably her.

And what did you mean by it when you said, 'We' - when you wrote down, 'We set up a drug deal'?---Well, it

wouldn't have been me and her.

No. Well, who would it have been? What do you mean by, 'We set up a drug deal;' what does that mean?--It means that someone set up a drug deal.

No, it does not; it does not mean someone set up a drug deal; it means we set up a drug deal, whatever that means. What does it mean, 'We set up a drug deal'?--Well, it wasn't me.

But that is what it says, Mr Coomer?--It might be what it says, but that's not the way it's meant to read.

Well, how is it meant to read? What is it meant to say?--I would say it - it's meant to say her and someone else.

Oh, is that what it is meant to say?--Certainly not me.

Once again Coomer had changed his evidence and now contradicted the previous answers he had given to Fleming QC which had indicated that he was not prepared to make up an account for Saunders. A reading of the transcript of Coomer's evidence before me shows that he contradicts himself upon important matters. I have to evaluate his evidence then in the light of my assessment of him when answering questions. On what parts of his evidence can I rely?

There is no doubt in my mind that the statements, to which reference is made by Counsel Assisting in re-examination, had originally been drafted by Saunders and provided to Coomer to adopt. I will return later in the report to a consideration of the statements of Coomer in greater detail with a view to highlighting first, the fact that they had been originally drafted by Saunders and secondly, that they contained untruths. Suffice it to say it was a clear example of Saunders attempting to "rewrite" history and have others adopt it. However I do not believe that Coomer consciously perjured himself before me. I am satisfied that his answers were given in an attempt to be truthful. To my mind the inconsistency can be put down to his weakness of character and his lingering affection for Saunders, coupled with his somewhat limited intelligence. It is interesting to note that the single, significant exception to this tendency by Coomer to give answers which were favourable to Saunders was the question of the sexual nature of their relationship. He at no stage resiled from or equivocated in

relation to this.

4.3 Coomer described as a possible defence witness by Saunders

As part of the Legal Aid material is a 5 page document headed "Possible Defence Witnesses and Evidence." At page 3 of that document under the heading "Other witnesses that are in actual fact Crown witnesses, ev. for defence under c/e" appears the following:

Coomer, Roy Alfred. Complainant and was co-accused conspiracy.

It is clear from this entry that Saunders considered that Coomer would give evidence favourable to her. Bearing in mind that she had drafted his statements one may well think that she had a good basis for believing this. In a typed note for her then solicitor, Peter Sorensen, which was also located in the Legal Aid material is the following extract:

Coomer will give ev. Prefers to be prepared ... wants deps and statement he gave to Herbert to refresh his memory prior to trial.

This entry shows that there had been contact between Coomer and Saunders, independent of her solicitor, before all her charges had been determined and probably whilst she had been in prison.

4.4 Dodd's credit as a witness

Before embarking upon a consideration of the association between Dodd and Saunders in early 1982 I should say something about Dodd's credit. In evidence available to me Dodd had been variously described as a "terrible criminal," a "shocking liar," a "perjurer," and "one of the worst type of criminals a police officer would be unfortunate enough to meet." I have no doubt all these epithets are accurate. He has a lengthy criminal history dating back to 1971 involving many offences of dishonesty and violence, as well as sexual offences. On 5 February 1985 he was convicted of perjury in relation to evidence he had given at Saunders's committal hearings and trials. He was sentenced to 6 years imprisonment with hard labour. At that time he was serving a number of other concurrent sentences for offences he had committed in late 1981 and early 1982. Having given so many contradictory accounts in statements and in

evidence on oath prior to giving evidence at this investigation I am not prepared to accept any of his evidence unless it is uncontested or there was independent support for it. In this regard I accept the submissions of Saunders's solicitors. In light of this attitude to his evidence I will not make slavish reference to it in the report. Reference to it will only be made when I consider it necessary to do so. I should add that I gained the impression that Dodd on occasions would answer a question with the first thing that came into his head. That is to say I considered that he was not intentionally telling lies but it seemed he could not help saying the first thing that came to mind. Sometimes he would reject or contradict evidence that he had previously given which had been accepted, was uncontradicted and was clearly correct. I also formed the view that he was not particularly bright.

4.5 Saunders's dealings with Dodd as recorded in her Official Police Diary

I should also comment upon Saunders's account of her dealings with Dodd as recorded in her Official Police Diary. Saunders had previously relied on the diary when giving evidence for the Crown at Dodd's trial for perjury in January 1985. She then claimed it was an accurate and contemporaneous account of the events recorded in it for the period of 16 February 1982 to 21 April 1982. In that trial she had relied upon the diary to refresh her memory. It should be noted that Counsel for Dodd tendered the relevant part of Saunders's diary at Dodd's trial after Saunders had sworn on oath that she had completed the diary contemporaneously with the events recorded therein.

In response to questions by Counsel Assisting requesting details of the frequency with which she had met Dodd she responded that she needed to look at her Official Police Diary in order to answer the question. Saunders stated that the diary was a record of dealings with Dodd and some of the other things that were then happening to her, such as threatening phone calls. The following exchange then took place between Counsel Assisting and her:

Yes, I see, and when would you have made those notes?---Well, within - you know, a day of him telling me about it, I suppose.

Yes, so that police notebook that you were looking at last time you were giving evidence, that would have a reference to that and you say that would have been made within a

day or two after Dodd telling you of it?---That's correct.

Is that right?---That's correct.

I see, and when was it you started to write that notebook?---I can't recall. It wasn't when I first met him. It was - - -

No?--- - - - some time later.

It was some time after you became suspicious of him I think you told us last time. You became a bit concerned about him?---Yes. Not only that, I also thought that he was just not going to give us one lot of information; he sort of kept getting in contact so I thought, well, look, this fellow probably is going to supply information that I'm going to have to recall to do reports on.

I see. All right, so it could have been - in fact, it could have been not until, say, the beginning of March that you actually started to keep that diary?---Whenever the diary starts is when I started keeping it.

Whenever the diary starts is when you started to keep it?---That's correct, on Dodd.

And later in the transcript the following exchange appears after a question from me:

THE JUDGE: Just while you are on that, what was your practice in relation to the keeping of the diary for that period, or the periods that you did keep it. Did you do it daily or - - -?---Well, mainly only when I had contact with Dodd, or other, something else significant, sort of, happened, your Honour.

Why did you restrict it to Dodd, when you had contact with Dodd?---Well, the reason being that he'd approached me to give information that I might inform the prosecutor so I wanted an accurate record of what information he'd given us and what action we'd taken as a result of it and also if it became necessary to prepare a report to the department to have him paid any monetary reward for any drug

information, that it was accurate record I could photostat or take notes from to prepare my report.

Given the stated purpose for the entries in the diary there is very little record of conversation with Dodd or information from him.

There are several points which indicate that the notes in the Official Police Diary were not written contemporaneously with the events recorded in it, as claimed by Saunders, but rather at some time after allegations had been made against her by Dodd. I should indicate at this stage that the diary was furnished to a handwriting expert, Gregory Keith Marheine, for his comments. He was unable to make any conclusions in relation to it. I will now explore some of these points.

- (a) The diary was issued to Saunders on 3 December 1976. The first entry relating to Dodd is recorded as occurring on 16 February 1982. The previous entry related to events on 18 May 1977. Therefore there is something like a 4½ year time lapse between these entries. Saunders explained this gap by saying that Dodd was her only informant during this period and as she was not required to maintain a diary she did not do so until this time. When asked by Counsel Assisting whether she had kept a similar log of events for other informants she indicated that she may have done so once in the early 70's and possibly on one other occasion.

Inspector Matthews, who was in charge of the Task Force, in his statutory declaration stated that he remembered Saunders having an informant who on more than one occasion visited the Queensland Police Depot Establishment where the Task Force carried out its operations. Although he could not now remember the name of that informant he did recall telling Saunders not to have this informant around the Police Establishment. There is no suggestion of course that this person was Dodd. This is clearly inconsistent with the evidence given by Saunders that she had no other informant during the period 1977 to 1982. It seems to me that it would be extremely co-incidental that the first informant she had in this period turned out to be a person who made allegations against her.

- (b) Counsel Assisting raised with Saunders the question of why she did not have the diary signed or reviewed by a senior officer. Her responses were most unconvincing. I will set out the relevant passage in full:

Yes. Did it occur to you it might be wise to get a senior officer to review that book from time to time and sign it?---No.

Initial it?---No.

I mean, that would have proved its authenticity, would not it?---It's just not something you'd do.

Why not?---You're flat out getting your police books and diaries, the official ones, inspected. I mean, it's just one of those things that goes by the book. I don't think my note book at the moment now has been inspected for probably a couple of years.

No, no. I am not saying that you wait - I am not suggesting you just wait until somebody complies with regulations and looks at your book, but that you go to your sergeant, for example, and say, 'Well, look, I'm a bit worried about this fellow, so much so in fact that I'm keeping a record of the contact with him'?---No, I wouldn't do that.

'And I would just like to - you know, I'd like you to initial it every so often so that there can't be any argument in the future about in fact I wrote it up a long time after the event'?---It's not something I would have thought - ever thought of doing.

Even though you were a bit worried about Dodd being - Dodd worried you?---Oh, you know, any informant should worry you. I mean, you've got to be worried when you're dealing with informants.

On Saunders's evidence she was faced with the situation where she had been concerned or worried about Dodd and yet she did not consider that the diary was worth bringing to the attention of a more senior officer.

(c) In an entry in the diary for 17 February 1982 it is recorded:

Gave Dodds home phone number - only in

emergency.

I must say that I find it odd that in such a diary is recorded "-only in emergency." One wonders what relevance that would have been in the early stage of her discussions with Dodd. I would not have thought that such an entry would have been necessary in a diary in which she was to record information from Dodd. One of the concerns raised against her subsequently was that she had given Dodd her private home telephone number in circumstances which suggested the existence of an association something more than that of the normal police officer/informant relationship. One could be pardoned for thinking that Saunders, having heard the suggestion, attempted to explain the conduct by writing in her diary that she had given him her telephone number but only for emergency purposes.

- (d) In the same entry Saunders refers to the woman "Jocelyn" as a pusher. "Jocelyn" according to Saunders could only have referred to Joslyn Spires, Dodd's mistress at the time. The question arises, why would Dodd give information to Saunders suggesting that his then mistress was a drug pusher? Although Spires had been convicted and fined \$500 on 28 August 1980 for cultivating a prohibited plant, it would be extraordinary, even for Dodd, to have 'dobbled in' his mistress.
- (e) In the diary there is an entry for 26 February 1982. It states:

Leaving hotel talked to Bernie (neighbours mate) re mother and massage chair and spa pool or heating our pool - DODDS overheard - obviously - offered to build me spa pool \$1000.00 Very persistent about looking at garden -

It is strange that a conversation with her next door neighbour about her mother's massage chair and spa pool is recorded in the diary. Once again it records Saunders's conversation, not Dodd's. I would have thought it would have been of little or no significance at the time. Counsel Assisting questioned Saunders about the entry. I will set the exchange out in full:

Why on earth would you put that in there - that Dodd apparently overheard this conversation about your mother's massage chair and spa pool or

heating the pool? Why would you record that?---Because he became very persistent about wanting to come around and say, 'Oh, you could put a spa in here,' and wanting - be very persistent about wanting to come to my home for some reason. And he obviously was listening to what I was saying to Bernie because he picked it up off that and that worried me.

Well, you could not even say that he, obviously overheard. We said that he obviously overheard. But you see the other theory - the other theory about it is simply that, at a later point in time when he started talking to the police, he claimed that you had suggested to him that your mother needed such a massage chair and so forth and that, you know, he should steal one. I mean that is what he claimed, was not it?---I think she already had one back then.

What is that?---I think she had it.

No. You agree with me that that is the claim he made to the police at a later time?---I don't know whether he mentioned a massage chair. I think he said a bed or something.

Well, massage bed or chair, I just forget exactly what it was. But he made that claim later to the police. You know that, do not you?---Yes. That's correct.

You know that?---Yes.

And, you see, that could be a very good reason then for somebody to say, 'Ah ha, now I can remember, I think, that I spoke to Bernie, a neighbour's mate -' not Bernie Hannigan - 'I spoke to Bernie.' This conversation here about mother and massage chair and spa pool or heating our pool. 'Dodd overheard obviously and so forth.' Do you follow?---That's correct. I follow what you're reading here.

Yes. So, the point is - it is, sort of, a bit like a verbal in a sense that you, as it were, say - a lot of people would have said, well, how could Dodd know that your mother needed this massage arrangement unless you told him?---She didn't need it. She had it.

All right. How could he be putting up that she needed it unless you told him?---I don't know.

And, therefore, the way out of that, the verbal, is to go back and write some time, weeks before he tells the police that, circumstances in which he could have got that information by eavesdropping when you spoke to Bernie, the neighbours mate, on leaving the hotel?---That's how it happened. That's how I wrote it.

I consider Saunders's responses to Counsel Assisting most unconvincing. Not only does Saunders include in the diary that Dodd overheard these discussions but that he overheard them "obviously." To my mind the expression "Dodds overheard - obviously," if written contemporaneously as Saunders claimed, would have been recorded as "Dodds heard," or alternatively, "Dodds present." It would seem to me that the expression "overheard - obviously" would only be written after an event to explain why someone was possessed with information he/she would not otherwise be expected to have. As at 26 February 1982 the date on which this conversation ostensibly occurred with Bernie her neighbour Dodd had made no allegations in relation to her mother's massage chair or the spa pool. However on 28 April 1982 Dodd did make an allegation that Saunders wanted him to steal an orthopaedic chair for use by her mother. One could be excused for thinking that Saunders, knowing Dodd had made this allegation about the orthopaedic chair, inserted in her diary the particular entry to explain how he had become apprised of her mother's interest in a massage chair.

- (f) Following immediately on from the previous entry is the following one:

Not/Int. seems a strange sort of guy - real grub.

Saunders was questioned by Counsel Assisting about this entry as well:

But what I am suggesting to you is a classical piece of verballing, is not it?---Well, I don't think so but, you know, you've got your opinion and I've got mine.

Okay. Is there any reason why you would write, 'Seems a strange sort of guy, a real grub'?---Well, he was. That was my - I would imagine, perhaps, in my report, I would have had to give an impression of him. So, that's how I found him.

But that would be in your mind and it would be a matter that would develop and change. Why would you have to write it down here?---Well, I wrote it down.

Again, that is not part of the verbal, in the sense that, later on, you decided he was a grub because he made accusations against you and you thought - - -?---No. I decided from the minute I met him, he was a grub, Mr Hampson.

A police officer's subjective view of an informant would not normally be of relevance or admissible in evidence in court. It could be argued that the notes were not recorded in the diary for court but as an aid for preparing a report to a senior officer, as Saunders claimed. I reject this possibility. If a diary had genuinely been used as an 'aide memoire' then one would not expect to find the author's subjective views on the character of a person. I do not consider that this is the type of information one would forget. The impression would stay with the author irrespective of it having been recorded. It is also surprising that such a description of Dodd is to be found in an entry dated 26 February 1982 when Saunders had known Dodd for approximately one month and had, as she stated before me:

decided from the minute I met him, he was a grub.

(g) Another entry which could be considered unusual is one for 1

March 1982; Saunders recorded that at approximately 6.30 p.m. Dodd phoned and asked whether they could talk as he had some information. It goes on to record that she suggested the Mansfield shops at 7.30 p.m.. The following then appears in the diary:

I'd be with a friend

suggesting that she told Dodd that she would be with a friend. The question arises why would there be a reference in the diary to her being with a friend? The diary continues to record what would seem to have been as at 1 March irrelevant and insignificant details. When asked by Counsel Assisting who was the friend, Saunders could not recall suggesting it was "possibly Coomer" but adding that "it could be anybody."

- (h) Another matter which I consider is indicative of the fact that the diary is not a contemporaneous account of events is a 12 page entry relating to the theft of the guns from Coomer's vehicle. Saunders gave evidence before me that after an altercation with police officers at the scene of the theft of the guns she went home and wrote up on pieces of foolscap the conversation which had occurred between herself and Coomer and the police officers. She claimed that the following day, which she believed was a day-off, she copied the notes from the foolscap into her Official Police Diary. She claimed that she did not record the events directly into her diary as it was in her locker at work.

On Saunders's account, having taken what must have been a considerable time to record the notes on foolscap, the following day she transcribed all of them into 12 pages of her Official Police Diary, a diary which had not previously been used since May 1977 other than to record communications with Dodd. This is indeed strange as Saunders had claimed before me that she did not think at the time that Dodd was a suspect for the theft of the guns and accordingly had made no reference to him as a suspect to the investigating police at any stage. It is difficult to accept that there could have been any reason for Saunders to re-write the notes; after all they were not ostensibly created for court use. The foolscap pages could have been provided to Webb when she spoke to him when she returned to duty on 9 March 1982. She did have a meeting with Webb on that day which was arranged on the Sunday night.

Also of interest is Saunders's response concerning this matter to counsel for Dodd during Dodd's trial in 1985:

Now, any particular reason for putting the notes relating to the events of 7 March, which is the stealing of the guns, in the same diary that you had notes about meetings with Mr Dodd?--There was only 2 places I could keep the notes. I was worried, you know, the foolscap could go astray or it could be alleged if there was a departmental charge by the sergeant I could have written the notes somewhere later, so I wanted them in context. I didn't feel it appropriate to put them in my official police notebook and that was the only official document I had to put them in. I wasn't working that night so I couldn't put them in the log book.

Why was it not appropriate to put them in your official police notebook?--Well, it was an internal police matter and - well, it would be subject to other police officers having access to that notebook and other persons in court, perhaps, and it was an internal police matter.

As I have previously noted if Saunders was concerned that it could be claimed that she wrote the notes after the event why not provide them to Webb on 9 March when she had the perfect opportunity to do so?

- (i) For a diary that was primarily intended to be kept for recording communications with Dodd and to a lesser extent the noting of other significant events, I find it unusual that for 8 March, the day after the theft of the guns, Saunders has recorded in it the following:

AL ph. had to see D/Comm.

One wonders what possible relevance that event would have had to anything other than her personal life. Such entries suggest that the diary was written up some time subsequent to the actual events to explain not only her conduct with respect to Dodd but also to form a basis for defence to a possible charge in respect of the theft of

the guns. .

- (j) I also consider strange the entries for 9 March. It is not in dispute that Saunders had two lengthy discussions with Dodd, one alone and one in Krosch's presence on the evening of 9 March. The very diary which was supposed to have recorded the information which had been communicated to her by Dodd has only two lines relevant to the information which Dodd had allegedly obtained in Stanthorpe the previous weekend. On the other hand the steps taken by Saunders to locate Dodd on that evening took approximately 25 lines of her Official Police Diary. When allegations were subsequently made against Saunders the timing of this meeting with Dodd and the circumstances of it became of great importance.

I have pointed out a number of matters which indicate to me that notes in the Official Police Diary were not recorded at the time that Saunders had sworn they were. I should add that the whole diary and all of its entries when read together leave me in no doubt of this. I am of the view furthermore that many of the entries in the Official Police Diary record events or conversations which did not occur.

4.6 Dodd's association with other police

Relevant to any conspiracy theory involving Dodd and police officers was whether there had been any prior association between Dodd and police officers who were prepared to enter into some unlawful arrangement with him to have Saunders 'set up.' As part of my investigation I considered all possible associations between Dodd and those police nominated by Saunders. On the evidence no other police officer arose for consideration in this regard. There is no doubt that Saunders was suggesting that it was Dodd's association with Tutt and Williams which was in some way responsible for her predicament.

(a) Saunders's assessment of Tutt and Williams

Williams was the Sergeant 1/c at Cleveland where Dodd had previously resided and Tutt a Constable 1/c there. Saunders had previously made allegations against these two officers. She had given detailed instructions to this effect to her solicitors as evidenced by the Legal Aid material. She had also given evidence in 1992 before The Honourable W J Carter QC during his inquiry

into Operation Trident. At this inquiry Saunders had been questioned by Counsel Assisting, Jerrard QC, to ascertain the nature of her allegations against Tutt and Williams. In an attempt to encapsulate her evidence Counsel Assisting suggested to Saunders that the allegation she was making was that Tutt and Williams "had acted improperly in arranging the fabricated tape." She agreed that this was the allegation she was making. She indicated that the evidence to support the allegation was with her solicitor.

For the preparation of her statement dated 3 February 1993 to the Commission Saunders was requested to provide any relevant information which suggested a motive for any police officer to have her 'set-up.'

In reference to Tutt she referred to the following matters in her statement:

- Whilst Tutt worked with Saunders at the EDLU he continued to try to "win on" to her. Saunders having refused, Tutt ostensibly continued to make a nuisance of himself.
- During her period in the EDLU a telephone call was made to the 000 number and threats were made to the lives of both Tutt and Saunders. She stated that she could remember listening to the tape of the threatening call, which was recorded, having been a 000 number and remarking that the voice was that of Tutt. She suspected that the call was made by Tutt with a view to giving him the opportunity to offer Saunders lifts to and from work. Saunders agreed to Tutt driving her but when he was driving her home he continued to try to "win on" to her. She was not willing to have a relationship with him and did not.
- During a drug raid on one occasion she saw Tutt urinating over the bedding in the house. Saunders was so disgusted she made a complaint to Superintendent McIntyre. Shortly after, Tutt was transferred from the EDLU to Caloundra. The complaint was not in writing. Since that event Tutt has never discussed the incident with her and she has no knowledge that he was ever told that she was the

complainant. He has never indicated to her, either expressly or impliedly, that he knew that she was the complainant.

In evidence before me Tutt denied all three claims.

Furthermore in her statement Saunders made references to Tutt from which one could only assume she was implying that he had acted improperly or gained information which was subsequently improperly used in the investigation against her. The majority of these matters referred to Tutt in connection with Dodd. For example:

Tutt went to great lengths to convince me that Dodd was a good informant and that I should use him. He felt that Dodd would be more likely to speak to me than him and urged me to be the "middle man."

Tutt stated before me that he had no reason to convince Saunders as Dodd was known to her and was her informant.

The statement also recorded that on the day that Dodd first met her she contacted Tutt at the Cleveland CIB and he indicated that he had previously known him and, further, that Dodd was on a bail reporting condition. Saunders added directly after this:

At my committal hearing Williams denied knowing Dodd before March 1982, but at the trial he admitted that he had known him.

This implied that Williams had lied on oath about his association with Dodd.

The following passage also appeared in her statement:

Arthur Pitts came and saw me after I was suspended and said that everyone at Cleveland Police Station was talking about Tutt going to extreme lengths to set up an alibi for the weekend of 6 and 7 March. In Tutt's own statement of 1 April 1982, he admits he was in Stanthorpe, but says he didn't know Dodd was there and didn't

have any contact with him. I also understand that Bernie Hannigan was up there, but I do not know whether he saw Tutt. Bernie Hannigan, of course, later gave evidence at my committal and my first trial, in which he claimed that I had approached him to find somebody to tell Dodd to shut his mouth after Dodd had been arrested. I deny this completely. When one looks at Tutt's statement, he goes into great length about his activities on 6 and 7 March 1982. I just do not know why they were relevant and why he included them in his statement. This fact has greater significance when one takes into account that during the drug raid, which was based on Dodd's information, that took place on 30 January 1982, of which I have already spoken. Dodd was arrested for dangerous driving and Tutt intervened and had him let go. It also has greater significance when one takes into account that, on one occasion, after I had given Williams and Tutt some information about an armed robber, [nominated by Saunders in her evidence before me to be a person named Burns] that had been passed to me by Dodd, and had been expressed as having come from Dodd, I was never told that the information was false by either Williams or Tutt. The normal procedure is that if a police officer ascertains that information coming from an informant is false, they as soon as possible notify the police officer to whom the informant gave the information, so that that police officer can be wary of any further information coming from that source.

Tutt denied that he had ever attempted to set up an alibi for that weekend and Pitts provided a statutory declaration dated 5 June 1993 to the Commission in which he denied ever telling Saunders that Tutt had been trying to set up an alibi for that weekend. Tutt also denied the incident concerning Dodd and the dangerous driving charge. On the evidence before me neither Williams nor Tutt were able to apprise Saunders that the person named by Saunders as the armed robber, namely Burns, did not in fact commit the robbery as he (Burns) was not interviewed until after Saunders had come under suspicion for the theft of the guns. In

the Official Police Notebook of Detective Mervyn James Neilson it is recorded that he and Williams interviewed Burns in Grafton some time between 28 March 1982 and 31 March 1982. This was after Saunders had been interviewed concerning the theft of the firearms. In any event I do not see that anything turns on it.

In the statement after describing how Tutt was shown firearms in the back of Coomer's car at some stage prior to 7 March 1982 Saunders added:

This clearly gave Tutt the knowledge of the firearms being kept in the rear of Coomer's vehicle.

I should say at this stage that Tutt, when giving evidence before me and when giving evidence at Saunders's committal hearing in 1982, could not recall having been shown firearms by Coomer.

When initially questioned by Counsel Assisting Saunders was taken through her statement and she enlarged upon those matters to which I have already referred. Yet when examined by her own Counsel the following exchange took place:

Sergeant, at the outset, I want to ask you a couple of questions about the people who are mentioned in the first part of your statement; people, for example, like Mr Webb and Mr Williams. Now, the incidents that are recorded in the first part of the statement, do you claim that they somehow or another implicate them in any sort of set-up?---No.

Have you ever made a complaint to that effect?---No, I haven't.

And shortly after:

Do you have a complaint against Mr Tutt in that in some way or another he is implicated in any set up of you?---No, I do not.

It was strange to hear Saunders make this concession after the impression that I had previously been given by both her statement and her evidence when being questioned by Counsel Assisting.

If there had been any doubts in my mind that I had misunderstood the significance of the matters relating to Williams and Tutt referred to in Saunders's statement to the Commission and in her answers to Counsel Assisting they were dispelled after I read the Legal Aid material. In the Legal Aid material there were 13 typed foolscap pages attacking the credit of Tutt and many more attacking Williams's credit. For example at page 6 of the material relating to Tutt it is recorded:

January I met Dodd and phoned Tutt straight away ... knew him well, real grub ... I specifically asked Tutt if he was a sex offender because just in that short meeting at Bernie's I got bad vibes ... Tutt very emphatic that he had no prev. for sex. offences and it wasn't until some weeks later that I actually checked his history and saw just what he had ...

A further example appears on a document titled "Some facts re Greg Tutt." It is as follows:

Tutt phoned me one day and told me that Holland Park Juvenile Aid were looking for Dodd to question him in relation to an unlawful carnal knowledge ... he maintained told that he told them he hadn't seen Dodd around for some time. They were aware Dodd was on a reporting condition to Cleveland. I told him I'd let Barry Krosch know which I did and to the best of my knowledge Krosch contacted Holland Park and they interviewed Dodd.

Immediately after this passage appeared an extract from the Police Rules relating to an offence against discipline of the Police Force, where a police officer conceals the location of a suspect or offender. Tutt denied the truth of both matters.

When Saunders went into the witness box for the second occasion she was questioned by Counsel Assisting in relation to the references to Tutt and Williams in the Legal Aid material. Her responses were not only unconvincing but fatuous. For example in relation to the last passage the following exchange took place between her and Counsel Assisting:

All right?---That's correct.

Now, what - it seems to be pretty clear here that what you are saying is that Tutt falsely denied to the Holland Park JAB police his knowledge of the whereabouts of Dodd and you were forced to go behind his back, as it were, through Krosch so that the Holland Park police could find him?---Not at all, Mr Hampson.

That is not what that says?---No, it is not what that says.

You then go on, you see, to quote rule 80(2)(a)(iv) of the police rules which the effect is - - -

...

I will not read the lot, but this is an offence, you see. So it is an offence, in other words, if you know the whereabouts of a wrongdoer, to fail to report it, let alone to mislead people?---Not only is it an offence, it is - that's pointing out that you should do it.

Yes, but why quote? What is the significance of that? If Dodd had not told you, according to you - that Tutt had not told you that he had, in effect, lied about his knowledge of the whereabouts of Dodd, what is the point of - - - ?---I'm not saying that Tutt lied. I'm saying Tutt - and Tutt probably at the time may not have known exactly Mr Dodd's whereabouts. I would have thought though he would've supplied Holland Park JAB with - - -

But then there would be no point in offence under - - - ?---No, all the address that Dodd may be at.

- - - rule 82(a)(6)? There would be no offence committed under that particular rule, would there?---I'm not saying he's committed an

offence.

Well, why quote the rule?---I don't know what I was doing in 1982, Mr Hampson.

A further example can be seen in relation to the following passage from the Legal Aid material concerning Tutt:

Arson and wilful destruction of property. In full view of everybody he sat in the middle of the police canteen and proceeded to write his notes up off his statement and my arson notes with the intention of telling the court they were notes made at the time. Thought - thought it was a great joke in telling all and sundry in the canteen - was up too. Of course, I got the blast over it.

Counsel Assisting questioned Saunders concerning this passage:

Okay. Now, you are telling your lawyers here that in fact Tutt had quite blatantly started to manufacture evidence?---No I'm not.

Are not you?---No.

What does that mean?---He was writing the notes up then that he was going to say were written up earlier I - - -

That is not manufacturing evidence?---Well, what was in it was correct.

But it is still manufacturing evidence, is not it, if he is going to write up notes which, when the court says, 'Have you got an independent recollection?' or 'You want me to consult my notes?', he will get permission to look at them. It does not matter whether, in fact, the notes are true or not. The fact is they are fabricated?---Well, I suppose it would have - depending on - if he ever gave that evidence but he didn't.

Well, he said he was going to? He - - -

?---Well, you know, what he says he's going to and what he does, I can't be responsible for that.

Well, why did you put it in here? Why was it if it was such - if it did not matter, why did you put it in?---Because I was asked to go through and put down - try to split up people and - what had gone on because probably just like this inquiry, they were trying to find some reason that I was in the position I was in.

All right.

THE JUDGE: One thing, how did you cop the blast as you put it? I mean - - - ?---I think - - -

- - - you had done nothing wrong whatsoever. You were there while, on what you say - - - ?---I know, your Honour, I can - - -

- - - Tutt was joking about what he did but why did you cop the blast?---Because I was the senior detective and I was sitting there while this was going on and I can't remember who it was but I know a detective inspector spoke to me about it.

Because you did not intervene and tell him not to carry on like that?---Yes, your Honour.

Notwithstanding Saunders's statement to her counsel that she did not complain that they were implicated in any 'set-up' of her, in view of the nature of the allegations made in the inquiry into Operation Trident, in the Legal Aid material and her statement to the Commission, I considered it prudent to satisfy myself of the nature of the relationship between Dodd and Williams and Tutt.

(b) The prior association of Dodd and Tutt

Dodd gave evidence before me that he knew both Williams and Tutt because he had lived in the Cleveland area for quite a while. In his statement dated 5 April 1993 to the Commission he was more expansive:

I knew Tutt and Detective Graham Williams for many years prior to 1982, in the sense that they were police officers in the Cleveland area and I lived in the area and saw them around. Tutt was involved in my being charged for stealing petrol in 1971. I was brought before the Cleveland Magistrates Court in relation to it and received a month's imprisonment. I also have been pulled up for speeding and other traffic offences by Williams and Tutt. I was never an informant to either of them.

Dodd's criminal history shows that he was convicted of stealing a portable gas stove and a small amount of money in the Magistrates Court at Cleveland on 21 October 1971 and received one month imprisonment. There is no other conviction in his criminal history for which he was sentenced to one month imprisonment except for an offence of stealing petrol which was dealt with in the Wagga Wagga Court of Petty Sessions on 7 September 1965. The QP9 or police brief for the offence for which he was sentenced on 21 October 1971 shows that the police involved were Detectives McNamara and Finlay. Tutt is not recorded as having been involved.

In his statutory declaration to the Commission Tutt gave evidence, which was substantially unchallenged, that prior to the first telephone call that he received from Saunders concerning Dodd his previous association with and knowledge of Dodd had been as follows:

- He had no previous dealings with him.
- He had known of his reputation as a petty criminal in the area.
- He would have spoken to Williams about Dodd but was unable to recall those discussions.
- Dodd had never been an informant for Tutt previously as he had never met Dodd before.

I accept this account of his prior association with Dodd.

(c) **The prior association of Dodd and Williams**

Bernie Hannigan, through whom Dodd first met Saunders, in his statutory declaration dated 25 March 1993 to the Commission stated that he had learnt from a number of people who did business with him at his workshop in 1982 that Dodd was a 'dog' for Williams. Hannigan could not remember who told him. Hannigan's evidence for reasons which I will give later has been of no assistance whatsoever to me but for the purpose of attempting to discredit Williams, Carew and Company chose to refer to it and so, I assume, to rely on it.

Saunders claimed that at her committal hearing Williams had denied knowing Dodd before March 1982 but at her trial he admitted that he had known him. At the committal hearing on 12 August 1982 Williams gave evidence of his knowledge of Dodd as follows:

Yes I know of Dodd. I can't say that I have had anything personally to deal with him. I know that he is a criminal.

The following exchange between counsel for Saunders and Williams appeared in the depositions:

*Did you know of Mr Dodd before 25 March? ---
Yes, naturally I know of Dodd and I know*

(Interrupted by his Honour) Yes but on that date though, the question was on 25 March, did you know him then? --- Yes I did.

By Mr Jerrard, Did you know something about him in relation to Det Tutt? --- Yes I did.

Did you understand that he was giving some information for Det Tutt, that he was one of his informants? --- That was my understanding, yes.

Did you also understand that he was an informant for Det Saunders before 25 March? --- Yes.

You would have learnt that through Det Tutt? ---

That is correct.

In the record of interview between Detective Inspector Pointing and Williams on 16 April 1985 where Pointing was investigating the fabricated tape Williams, in response to the question:

Graham, is there any further aspect of this matter that you wish to discuss with me?,

stated:

After receiving initial information from Dodd, I only paid a very minor part in the investigation against Saunders. I can say this, however, I have known Dodd for the past 7½ years, I consider him a habitual criminal, unmitigated liar, and he would go to any ends to satisfy his criminal instincts. It is fair to say that Dodd is one of the worst type of criminal a police officer would be unfortunate enough to meet.

This statement appeared after Williams initially had pointed out to Pointing that he had been at the Cleveland CIB "for the last 7½ years."

Williams' original account to me of his association with Dodd appeared in his statutory declaration dated 10 May 1993:

As far as I can recall I first met Dodd on 25 March 1982, a date to which further reference is made later in this statutory declaration. Once again, I may have met him in passing as I was a very active detective in the area, but there was no contact of any significance. I certainly never charged him and he was not my informant. I certainly knew of the family and that there were two boys who had been in trouble.

25 March 1982 was the date on which one of Coomer's stolen firearms was recovered at premises where Dodd was residing.

In examination in chief Counsel Assisting asked these questions of Williams and he gave the following responses:

All right. Now, you say there that that was - in there [the statement to Pointing] you say, 'I've known him for 7½ years,' but what you have said here in your statutory declaration and so forth is that you really did not know him until 25 March 1982 at all?--Well, I suppose that's one way of saying that, but, I mean, you know a lot of criminals; you know of them. I suppose that's a bit loose the way it's said there, you know.

What you say that you are meaning to say there is that you knew him by reputation for 7½ years?--Yes.

Is that what you are saying?--That's exactly right.

And the fact of the matter is you did not really know him to speak to until 25 March 1982?--That is correct.

Williams was examined by Counsel for Saunders concerning the statement he had given to Pointing and his prior knowledge of Dodd. It is worth setting out in full:

Well, now, that was his record, was not it, over those 7½ years - an habitual criminal?--Well, probably, as I said before when I was speaking to you, I'm talking about the present up - as I knew him then.

But what I am suggesting to you is that you are also talking about the past, because that was his record: he was an habitual criminal?--Oh, yes, of course.

And you knew that?--Yes.

And you knew that you had this man Dodd in your area for which you were responsible?--That's correct.

And he was a man who would concern you - - -

?---Well, he was a - - -

- - - within the scope of your responsibilities?---He's a criminal that was in the area. Yes, any criminal that's in the area is of some concern.

And he is a criminal who seemed to have some influence upon young people?---Well, as it turned out, yes.

But you knew that as well?---Well, I'm not saying that I knew that at all at that stage of the game. I'm telling you what I knew as a result of an investigation in 1982 in March.

Unmitigated liar?---That's correct.

And he would go to any ends to satisfy his criminal instincts?---That's correct, and I was aware of that at that time, and that is a true statement, I believe.

Yes, but you always knew that of him, that - and you were making a true statement there. You knew for the past 7½ years all those things about him?---What I'm saying is I've known of him in the last 7½ years like a lot of criminals who I don't deal with but other detectives do deal with - he and his family - and I've made a statement there about him which I believe to be true.

You knew prior to all of this blowing up that he was an habitual criminal?---Yes, I'd say that I knew that he was a criminal yes, habitual criminal.

You knew that he was a liar?---Well, most criminals are, of course, but that's fair comment, too.

Yes, and you knew that prior to this whole matter blowing up?---Yes. Well, I mean, I knew he wasn't a lay preacher and obviously a liar, a

criminal.

And you knew that he would go to any ends to satisfy his criminal instincts?---Well, I wouldn't say that. I wasn't aware of that at the time.

Is it fair to say that Dodd is one of the worst type of criminal a police officer would be unfortunate enough to meet?---And I reiterate that. At the time I told Mr Pointing that, Dodd had been proven a liar, a perjurer. He fabricated a tape, and I think that's a reasonable description of him.

So you did, in fact, have knowledge of him, I suggest, in those respects. You knew prior to March of 1982 that he was an habitual criminal and he was a liar?---What I'm saying to you is, now, and I repeat it again, prior to 1982 I knew that he was an habitual criminal and as far as the other statements - and obviously he's a liar. He's a criminal. Most criminals are. They're not the most truthful people. As far as the other statements, I stand by them because they were well and truly proven at the time, so I don't have to have a great imagination not to accept that.

Well, now, let us go back to the statutory declaration, then, that you swore in this matter. Do you have that in front of you still?---What page are you up to now?

I want you to go to - this is the statutory declaration for this inquiry, page 2, paragraph 4:

As far as I can recall, I first met Dodd on 25 March 1982, a date to which further reference is made later in this statutory declaration. Once again, I may have met him in passing, because I was a very active detective in the area, but there was no contact of any significance.

?---That's true.

Except now you are prepared to concede that you knew of him significantly more than that he was just somebody within your area?--What I'm telling you is I can't swear that I haven't come across Dodd somewhere in those number of years. That's all I'm trying to point out to the investigators there. However, I've got no recollection of it, and he is known to me as a criminal, like a lot of other criminals are known to detectives. When you've got an office - I had office of, I think, at that stage probably a dozen or 20 detectives, depending on what people were under my control. A lot of these detectives dealt with these people, but I didn't. I mightn't have been working, or I might have been somewhere else at the time, so I know them by reputation.

I consider Williams honest in his evidence of his prior association with Dodd. I am satisfied that prior to 25 March 1982 he knew of Dodd by his reputation as a criminal and a dishonest person. Although there may have been some contact between Williams and Dodd prior to 25 March, I am satisfied it was of a very minor and inconsequential nature. Williams's statement to Pointing must be judged in light of the extra information that had become known to Williams subsequent to the events of March 1982.

(d) Lobegeiger's prior association with Dodd

In the Legal Aid material is a one page typed account of a telephone conversation which ostensibly occurred on 25 March 1982 between Lobegeiger and Saunders. In that Lobegeiger is recorded as having said to Saunders concerning his association with Dodd:

I had dealings with him years ago.

Also in the Legal Aid material at page 4 of the typed notes headed "Crown Witness ... Douglas Mervyn Dodd" the following passage appears:

Clearly stated he knew Lobegeiger .. mentioned it to Knight at one stage, also. Lobegeiger in c/e by Breen on the conjoint hearing finally admitted he

knew Dodd.

Although it was not suggested by Saunders that Lobegeiger had recruited Dodd to 'set-up' Saunders from the Legal Aid material it is clear that Saunders was suggesting to her legal advisers that Dodd had previous dealings with Lobegeiger and may have had a grudge against him. In the Legal Aid material in a typed document headed "General" the following passage appears:

Allan alleged he had a very threatening call 2/3/82 at Brookings (night Dodd was late meeting Coomer and self at Shell Service Station).

Caller was male person, threatened he get Allan for setting him up years before, fix him and his horses and his women. Mentioned both Cecily and I. Call much along the lines of threatening calls I received. Said he owed him from years before at Cleveland (reason I was so sus. about letter from Potter ... and sub. Dodd when Allan told me he'd known him from years before).

In examination of Saunders by Counsel Assisting the following exchange in relation to the association between Lobegeiger and Dodd occurred:

Did Dodd know Mr Lobegeiger?---As far as I'm aware, he did.

Did Mr Lobegeiger ever tell you this or did Mr Dodd tell you that he knew Lobegeiger?---They both told me they knew each other.

All right. Under what circumstances was it told to you - how they knew each other?---Mr Lobegeiger told me that Dodd had done some work for him in relation to horses at some stage.

And later in the transcript the following appears:

Okay that is one piece of information. What other piece of information is there that Lobegeiger ever knew Dodd?---Oh, he told me that he knew of

him as a criminal when he was - and the fact that Allan lived in the - and had worked in the Cleveland area.

When did he tell you that?---I am not sure.

After your arrest?---I can't say. I really can't say.

Saunders claimed that Dodd had told her that following a motor vehicle accident Lobegeiger's nephew was let off a dangerous driving and possible drink driving charge. Saunders further claimed that Dodd had indicated that the accident had involved some of his associates. She stated that this information was communicated to her by Dodd in January or March 1982 and was therefore evidence that he knew of Lobegeiger.

On the other hand both Dodd and Lobegeiger denied knowing each other. In his statutory declaration to the Commission Dodd claimed that the first and only time he met Lobegeiger was at the property at Gatton when he enquired of Lobegeiger directions to Dodd's brother's farm. Dodd stated this was done at the request of Saunders in order to establish whether Bull was at Lobegeiger's Gatton property.

Lobegeiger at Saunders's committal hearing on 12 August 1982 was asked when he first encountered Dodd. He described the same incident as Dodd concerning the seeking of directions. He was never asked either in examination in chief or in cross-examination whether he had known or known of Dodd previously. When Lobegeiger again gave evidence at the conjoint committal hearing in November 1982 the following exchange took place between the Crown Prosecutor and Lobegeiger:

Now, do you know a man named Douglas Mervyn Dodd?

I do now, yes.

Did you ever see him on your property?

*Yes, on a Friday, towards the end of February.
I'm not sure whether it was the 19th or the 26th,*

but about 2 p.m. on that day I was working on the yard with the other members and men I had working there, and Dodd arrived in a whitish coloured Falcon sedan.

Well, at that stage, had you ever seen the man Dodd before?

I didn't recognise him at that stage, no, as..as the man Dodd.

Yes.

I had seen him many years before, whilst I was stationed at Cleveland, but I did not recognise him immediately.

I see. That was in the course of your police work, was it?

That's correct.

There was no reference to Dodd having carried out work in relation to horses for Lobegeiger. Notwithstanding Saunders's statement in the Legal Aid material, Lobegeiger was not cross-examined by her counsel at the November committal hearing, Breen, to elicit his prior knowledge of Dodd. The evidence he gave had been volunteered to the Crown Prosecutor.

When Lobegeiger was questioned by the Crown Prosecutor during the trial of Cooper he described his previous association with Dodd in the same terms as he had given at the November committal hearing. Once again there was no reference to work involving horses.

I am satisfied that Lobegeiger had known of Dodd prior to the theft of the guns. I am also satisfied that this knowledge was only minor and related to events associated with his police work which had occurred well in the past. I do not accept that Lobegeiger ever told Saunders that Dodd had carried out work in relation to horses for him. It would be extraordinary that Lobegeiger, having employed Dodd in the past, did not recognise him on the occasion that Dodd came to Gatton in February 1982. If Lobegeiger had

known Dodd as an employee there would have been no necessity for him to record the registration number of Dodd's car on a railing so that he could identify the driver of the vehicle, as the uncontradicted evidence established he had done.

(e) **The possibility of an association between Dodd and Murphy**

In evidence before me Saunders claimed that Lobegeiger had told her that Dodd had been an informant of Murphy at one stage. Murphy in his statutory declaration to the Commission denied knowing Dodd and added:

He has never in any way been an informer of mine and I have had no dealings with him in any way whatsoever.

Dodd in his statutory declaration to the Commission stated:

I did not know Tony Murphy by sight, although I had heard his name. The only time that Murphy was involved in the Saunders matter, as far as I was aware, was when I was brought back to the CIB after picking up the tape recording from Stanthorpe on 23 April 1982. Whilst there with Webb and Williams I heard the name Murphy mentioned and I looked up and saw someone that I believed was Murphy. I did not have any conversation with Murphy but someone in the room said to him, 'What are you doing here Murphy, get out.' He then left the room and that was it. I do not know who told him to get out of the room. I have never been an informant of his.

It would seem that the reference to Murphy by Dodd at the CIB is a reference not to Tony Murphy but to a B J Murphy, who signed the transcript of the fabricated tape, having sat through it with Flanagan, Webb, an officer from the Crown Law and other witnesses.

Other than Saunders's claim that Lobegeiger told her that Dodd was an informant there is absolutely no evidence to suggest that Dodd and Murphy were known to each other. Furthermore there is no evidence to suggest that Murphy worked in an area where Dodd

had resided. I accept Dodd and Murphy's evidence in this regard. I do not believe Lobegeiger told Saunders that Dodd had previously been Murphy's informant.

(f) The evidence of Gregory Brian Hyde

Gregory Brian Hyde was Spires's brother. He gave evidence that he did not know Dodd prior to Dodd entering into a defacto relationship with Spires. Hyde explained that this relationship occurred when he was in prison and on the day of his release Dodd and Spires picked him up from the prison. On his release Hyde resided with Spires at Ferry Road, Thorneside with his girlfriend, Julie Gregg and Wills. Hyde stated that his girlfriend now resided somewhere in Sydney. He described an incident which he claimed occurred at the Sunnybank Shopping Centre on a Thursday night when he was late night shopping with Dodd, Spires and his girlfriend Gregg. He stated that he was stopped by two uniformed police officers who thought that he might have been in possession of drugs. They demanded to search him. He claimed that in his possession was one of Coomer's firearms. He described it as a "butt" loading .22 Browning automatic. This presumably dated the incident between the theft of the firearms on 7 March 1982 and the discovery of the final firearm on 25 March 1982.

He stated that he managed to slip the gun that he had in his possession to Spires. He added that before the police could carry through the search Dodd had made a telephone call from K-Mart and a senior police officer arrived. He explained that Dodd did not ask to make the telephone call, he just left the others as the police were only interested in searching him. He claimed that the senior police officer who arrived was in a uniform which had "pips" or "a crown" or "something like that." He stated that this senior police officer first spoke to Dodd and then to the two police officers in the room to which he had been taken. He was then allowed to leave. Hyde stated that he could not hear anything said to or by Dodd because he had poor hearing. According to him the whole incident took between five and ten minutes. He stated that the incident had occurred in front of the shop owner who had given the police permission to use the room in which he was to be searched. After they were released Hyde stated that Dodd boasted about his "great connections" in the Police Force.

During questioning of Hyde by Fleming QC he stated that he saw

no evidence of Dodd knowing anyone "higher up" except for what Dodd had told him.

Dodd denied any knowledge of the incident. Spires in a statutory declaration dated 18 November 1993 stated that she had a vague recollection of an incident at the Sunnybank Shopping Centre but was unsure who was present. She was referred to Hyde's account of the incident and stated that she had no knowledge of Hyde carrying any firearm for Dodd and certainly had no recollection of a firearm being handed to her by Hyde. She said that she had a vague recollection of something happening in an office at the shopping centre with the police but could recall no further details.

Officers from the Commission were able to locate one of the police officers who acknowledged that he was present at an incident which occurred at the shopping centre around that time. The officer was Stalling who had coincidentally been the first uniformed officer called to the scene of the theft of the firearms on 7 March 1982. In his statutory declaration to the Commission he stated that in 1982 he was stationed at the Upper Mount Gravatt Police Station and whilst stationed there performed special duty at the Sunnybank Shopping Centre. He and other police officers were employed by the shopping centre management to provide a uniformed police presence on Thursday evenings for late night shopping. He stated that he had an independent recollection of an incident at the shopping centre involving a person known to him as Dodd and another male person and two females. He stated that he does not now recall how he knew the person to be Dodd at that time. Despite attempts by him to ascertain the name of the police officer who had been with him on that evening he could not locate any records which assisted him in that regard. It would seem that all relevant rosters have been destroyed.

He described that when he first confronted these persons they protested vocally claiming that the actions amounted to police harassment. When he suggested that he wished to search them they claimed that they were concerned that something was going to be planted upon them. He could recall that Dodd was the more vocal male. Both males subsequently agreed to accompany him to the centre management office where they could be searched. In view of their earlier protests he considered that it would be wise to seek the assistance of an independent person to be present whilst he spoke to them and undertook the search. He stated he obtained

the services of an independent person who accompanied him to the office for the purpose of the search. He could not recall what happened to the females during this time. When a search was undertaken a knife was located on the other male person; however no offences were detected so they were allowed to depart. He claimed that other than his partner no police officer was involved in the incident. He denied that he had received any instructions from any police officer on what action should be taken. He stated that because a knife had been found he made entries in his Official Police Notebook. He also made notes because of the initial protest made by Dodd and the other male when initially confronted in the car park.

Inquiries at the Upper Mount Gravatt Police Station located an Official Police Notebook No. B7966. In it is recorded the following:

Thurs 22-7-82 7.55 pm
Gregory Brian Michael HYDE
284 Greencamp Road
WAKERLY
14-6-62 DOB
Brisbane POB
Works for Mrs BARRINGTON
assist to train trotter
Four trotters.

Tattoes R/Shoulder Top half
naked squaw R/U arm 2 Bluebirds
R/L knife GREG AND BOLINDA
167 cm Brown Eyes
Brown hair
L/Shoulder cross BOLINDA
Dagger & skull Raised Hell & Lost
Top Half Naked Woman
Hawian girl dancing L/L arm.

Q. Who owns this knife.
A. John owns it.
Q. John who.
A. John DODD.
Q. Does he know you have it.
A. Yes.

Q. Why were you carrying it tonight.

A. It was in the car that we came here in & so I kept it with me.

Bevan LUCAS - 345 5317

The Commission obtained a statutory declaration from Bevan Alan Lucas who stated that he could recall an incident in the Sunnybank Shopping Centre one Thursday evening. He could not recall the date of it. At the time he operated a toy shop and a small accountancy practice at the centre. He was unable to recall whether there had been one or two police officers involved in the incident but he had a recollection of a uniformed police officer bringing a person into his office and asking him whether he would be a witness to the search. He stated that he had been present when the person had been asked to take his shirt off and possibly his pants. His recollection was that the person had a knife attached to his back. He recalled that after the knife had been located the young man dressed and left the office. He could not recall whether the knife had been taken from him. The whole incident would have taken about ten minutes in his estimation. He also had a recollection of a young woman being with the person but she did not come into the office where the man was searched. He stated that he had a telephone on a table in the office and this was the only telephone in the area. He could not recall if any person involved in the incident had made any telephone calls from that telephone. He could not recall whether any other person was searched during this time. He explained this was the first time that he had been called upon to witness a search by police and he had not been involved in a similar incident subsequently. He did not know any of the parties involved. He stated that he had no recollection of a senior police officer or another police officer coming to the scene.

It is clear from the date in the Official Police Notebook that the incident occurred well after the return of the firearms. Hyde's description of the firearm being a Browning was certainly not consistent with the description of the weapons that had been removed from Coomer's vehicle. There is no doubt in my mind that there was nothing relevant to my investigation in this incident. It is clear a thorough search was undertaken and a knife located. When no offences were detected the group was allowed to leave. It seems to me that as Hyde was allowed to leave the shopping

centre without having been charged Dodd took the opportunity to brag about his influence with the police. I am satisfied that he had nothing to do with the facts that no charges were laid and no arrest made.

In the submissions of 5 April 1994 of Carew and Company it was submitted that the incident to which Hyde had referred was not the same as that described by Stalling and Bevan. It was further submitted that the incident described by Hyde must have been an earlier one. The similarities of the account of events given by the different parties leaves me in no doubt that only one incident occurred. There was no evidence to suggest that Hyde had been involved in two searches at this shopping centre.

As no other police officer was nominated by Saunders as having previously been associated with Dodd, either as an informant or otherwise, and as no other prior association with a police officer was suggested by the evidence, I am satisfied that prior to the theft of the guns Dodd did not have an improper association with any police officer connected, either directly or indirectly, with her investigation.

4.7 Saunders's first meetings with Dodd

In 1982 Dodd was a single man aged 34 years. He had for some time resided at 59 Ney Road, Capalaba with one Helena Dodd, who was his brother's former wife. This association continued until some time around the weekend of 6/7 March 1982 when Dodd went to live at 49 Ferry Road, Thorneside with Spires and her children.

While residing with Helena Dodd in December 1981 Dodd had been charged with having in his possession a concealable firearm whilst not being the holder of a licence. This charge was still outstanding at the time that Dodd first met Saunders.

It is common ground that Dodd first met Saunders at the garage of Bernie Hannigan in about January 1982. Saunders stated that the date of the first meeting was 29 January 1982. There is no reason to believe that this is incorrect. The garage was located at Murarrie on the main road near the old Dandy Bacon Factory. Saunders took her vehicle there on a regular basis to be serviced by Hannigan. On Saunders's account the car had broken down earlier in the day and Hannigan had come to the roadside and carried out temporary repairs. Arrangements were made for her to drive it

to the workshop later in the afternoon. Whilst there she met Dodd. Saunders claimed that at an early stage Dodd recognised that she was a police officer and told her of his previous firearm charge, offering to supply her with information with a view to her advising the arresting officers on the firearms charge that he was assisting police. Saunders stated that she was willing to use him as an informant.

In Dodd's record of interview with Webb on 26 March 1982 he is questioned concerning the first meeting with Saunders. He stated:

I was getting some work done on my car and she drove in to get work done on hers. We got to talking and I found out that she was a policewoman. After a while, we became friends. She gave me a phone number at work to ring her and I used to ring her and give her bits of information and that.

At Saunders's committal hearing in November 1982 Dodd gave evidence that at the first meeting with Saunders at Hannigan's garage he told her that he was on a charge and that he had criminal convictions. She asked him whether he would like to help her with her work. He went on to say that a few days later he gave her some information on drugs. At Saunders's trial he when first questioned testified that he had not known that Saunders was a policewoman until two weeks after their initial meeting. Shortly after in evidence however he resiled from this and gave an account similar to that which he had given at the committal. He acknowledged that he had worked on Saunders's car radio on the day they first met. In cross-examination of Dodd at the trial by counsel for Saunders a series of questions was put to him on the basis that the first meeting took place on 3 February 1982 and that Dodd had prior to this given her information. Although Dodd agreed that this was the case it is clearly on all the evidence incorrect. There is no other evidence to suggest that Dodd provided information to Saunders prior to their first meeting at Hannigan's garage. There is no other evidence to suggest that Dodd had been in contact with Saunders prior to the first meeting at the garage. Certainly on Saunders's evidence that did not occur. This exemplifies what I have previously stated concerning Dodd's willingness to respond to questions without having properly considered them.

When Dodd gave his statutory declaration to the Commission he claimed that all his previous evidence concerning their first meeting was false. He stated that one day in January 1982 he was at home at Ferry Road when he received a telephone call from Bernie Hannigan who advised him that he

wished to see him. Dodd stated that he went to Hannigan's garage and Hannigan told him that there was a woman who wanted a job done. After about twenty minutes Saunders arrived in civilian clothes driving her own private vehicle. They went into Hannigan's office and started drinking alcohol and she told him that she knew that he was a criminal and that he needed money. She advised him that she had a job that she wanted done but would not tell him what it was. She indicated to him that she would contact him the following day. He then went home. The next day Hannigan telephoned him again and asked him to come to the garage at 4 p.m. because Saunders would be there. When he returned he spoke to Saunders who told him that Lobegeiger had thrown her over for Bull and she wanted Lobegeiger and Bull harassed and Bull set up with drugs. He said that this was all she asked him to do and there was nothing else mentioned. He indicated to her that he was happy to do the job because he wanted the money. He then left. When Dodd gave evidence before me he originally testified that the second meeting occurred after he had received a telephone call from Saunders at Helena Dodd's place. He then stated that it took place at Broadwater Park and not at Hannigan's garage. Later he returned to the account that he had given in his statutory declaration.

Bernie Hannigan's recollection before me and on oath at Saunders's trial and committal hearing was so poor that it could not be relied upon. According to him his lack of recollection was due to the excessive intake of alcohol at the time of these events, stress related to work and disinterest.

I have little doubt that Dodd entered the association with Saunders hoping to benefit from it with respect to his outstanding firearm charge. I am satisfied that in order to do this he stated that he was prepared to supply her with information. Notwithstanding Dodd's differing accounts of the initial meetings I believe that at the time Saunders met Dodd she had in mind that he might be an useful assistant in harassing Bull and Lobegeiger.

4.8 Dodd as an informant to Saunders

Dodd denied before me that he had ever been an informant for Saunders, claiming that the only information on criminal activity that he had been given had originated from Saunders. He stated that this was to give the impression that the relationship between himself and Saunders was a legitimate police officer/informant relationship. This was inconsistent with all Dodd's previous accounts. It was also inconsistent with Helena Dodd's evidence before me in which she stated that Dodd, having met Saunders, had advised her (Helena Dodd) that he was acting as an informant for

Saunders. However what he told Helena Dodd is consistent with the compact he said he had with Saunders; he was to pretend to be an informant.

Saunders on the other hand gave evidence before me that Dodd had supplied her on several occasions with information; the first information resulted in the arrest of Hnoudis on 30 January 1982. Saunders claimed in relation to this arrest that having been advised by Dodd that he had information she had asked him to telephone Tutt and notify him of the details. She added that Knight and she then went down to the Cleveland CIB where Tutt told her of the information Dodd had given him. The raid was then conducted.

In the Legal Aid material was a two page document which was typed by Saunders which purported to describe in great detail the above raid. This two page document was in the form of a statement written in the first person. The purported writer however was not Saunders but her partner Knight. When the document was shown to Knight for his comment he claimed never to have seen it before and had almost no recollection of the material described in it. In this document Saunders recorded that Knight and she had phoned Tutt and he had advised them that a job was on and so they drove straight to the Cleveland Police Station where they took up with Tutt and other police. There they were advised by Tutt of the information that Dodd had given him.

When Tutt gave evidence at Saunders's committal hearing on 12 August 1982 in describing the process of receiving the information for the raid he stated:

Later in January this year, Lorrie contacted me again in relation to some information from Dodd and I subsequently arrested a person by the name of John Andrew Honduris for the possession of drugs for a specified purpose.

He went on to say that Knight and Saunders were with him when Hnoudis was arrested. Before me Tutt gave evidence that he received the information mainly through Saunders.

I should add at this stage that at Dodd's committal hearing on 14 August 1984 it was put to Saunders by Dodd's solicitor that the information for the Hnoudis arrest had originated from Saunders.

Other information Saunders claimed that Dodd provided her with was the

name of "Burns" as the offender in an armed robbery. As it turned out "Burns" was not the offender. Reference has already been made to this matter in the report. Saunders also claimed that Dodd told her about some car stealing. She stated that she provided this information to Tutt who told her that the matter had already been handled. She added that she did not know as a matter of fact whether it had or had not been dealt with by Tutt. Saunders also referred to information that she obtained from Dodd after Dodd and she had gone to Gatton. It was during this trip that shots were fired on Lobegeiger's property by Saunders and Lobegeiger. Further reference to this trip to Gatton will be made later in the report; however it is enough to say at this stage Saunders claimed to have received a phone call from Dodd advising her that he had an informant in Gatton who was willing to give him information and requested Saunders to attend with her to Gatton. Saunders claimed that as a result of information Dodd received during that trip she returned to Fortitude Valley and arrested a person named Ogden. In relation to this the following exchange took place between Counsel Assisting and Saunders:

Okay, so anyway, the position was you went that night, you say, as a result of Dodd's information to the valley where, I suppose in combination with your partner, you found somebody whom you arrested on a charge of drugs, is that right?---No, on a - I said on a warrant, a drug warrant.

Yes, but you cannot remember what the drugs were?---No, because it was a warrant.

Yes?---It was not drugs as in drugs. It was a drug warrant, a warrant that had been issued for a previous offence.

Oh I see, so what you are really saying is that you were able to enforce a warrant that particular night in the valley. There was a warrant that had already been issued for a particular person and Dodd's information, you say, was that the person for whom the warrant had been issued, would be able to be found in the valley that night?---Yes.

Is that the point?---In a specific vehicle in a specific area.

Yes, I see, all right, so that was his - it was very good information on that occasion he was able to give you. He

*was able to point to the person in the area - - -
?--Oh, it was just pure luck.*

*Oh, it was pure luck. Why was it pure luck?--Well, find
the person, find the vehicle. I mean, even though the
valley is not that big, it was just lucky that we were there
at the right time.*

*Yes, and he had - you had to go to Gatton with him to get
this information?--I didn't know what information I was
going to get from Gatton.*

*Yes, I see?--He had been giving me stories about drugs
coming from Stanthorpe through Gatton.*

*Right, and you were unable to get your partner in the task
force or any part of the task force to accompany you on
this occasion, even though you were going to get the drug
information. You had to go yourself?--That's correct.*

*And, even though that put you at a substantial risk with a
person like Dodd?--I was armed.*

There were also references in Saunders's Official Police Diary to some other information that she claimed to have received from Dodd. For example the drug information concerning Spires to which reference is made elsewhere in the report.

A further entry recorded that Dodd contacted Saunders to advise her that he was at a party where drugs were being used. When subsequently questioned about this entry she claimed that she did not go to the party because of the problems associated with the detection of offenders at such gatherings.

There was a clear conflict of evidence as to whether the information Saunders claimed to have received from Dodd had in fact originated from him. Although I am not certain about the source of the Hnoudis information, I have no doubt that Dodd was not the source of the information for the arrest of Ogden. I also have no doubt that Dodd did not provide Saunders with the information concerning Spires. It seems to me that Saunders was attempting to establish the impression that a normal informant/police officer relationship existed between Dodd and her to justify their regular contact. I am also of the view that she acted as a

conduit between Dodd and Tutt as part of this process.

There also seems little doubt to me that the scantiness and poor quality of the information which Saunders claimed she received from Dodd belied her stated reasons for making entries in her Official Police Diary. It will be recalled that she stated that the diary was used because it appeared as if Dodd was going to give a lot of information to Saunders, that she wanted a record of the information to inform the prosecutor in Dodd's firearm charge in order that he could be treated more leniently by the courts and that it may have been necessary to prepare a report to the Department to have Dodd paid for drug information. Of course this supports my previously stated conclusion that the Official Police Diary was not a contemporaneous record of the events recorded in it and that it contained falsehoods.

At this stage I should also refer to some documents produced by Dodd to the police in 1982 which he claimed had been given to him by Saunders. This material was tendered by the prosecution both at Saunders's committal hearing and at her subsequent trial in May 1983. Dodd's account in relation to this material remained consistent throughout from the time he first made the allegation in a statement of 28 April 1982. No reference had been made by Dodd to this documentation in his first statement to police of 29 March 1982.

Dodd stated that during one of his meetings with Saunders on approximately 15 March 1982 she told him that she was having "hassles with the Police Force" and she had some information on certain officials in the Police Force who were "corrupt" and she wished the information to be given to either Kev Hooper or Rick Allen from The Sunday Mail. He added that she then provided him with some information about a priest who she said was arrested for drink driving at Surfers Paradise but the case was stopped from proceeding. He stated that after he told her that he would not be able to remember the information she had just given him he handed her a small notebook that he had and she wrote the following details:

*Rick Allen S/M
Priest
.15
SP
Ch's dropped.*

It was explained that the "SP" referred to Surfers Paradise and the ".15" the relevant alcohol level. This notebook was handed to Webb and

subsequently tendered, as I have previously stated, at her committal hearing and trial. At her trial a handwriting expert stated that it was probable that the handwriting, which Dodd claimed was that of Saunders, was the same handwriting as in the mobile logs which from other evidence it was established Saunders had completed.

Dodd went on to say that a couple of days after he had been given this information Saunders telephoned him and asked whether he had given the information to either Hooper or Allen. Dodd stated that he lied to her and told her that he had lost his notebook and added that she said to him that she would meet him at the park and give some more information to him. He claimed that night they met at the park and she gave him a piece of paper that was typewritten and one that was handprinted. They were identical in content and referred to the circumstances surrounding the priest's driving in more detail. At Saunders's trial a handwriting expert gave evidence that the typewritten document had been typed on a typewriter which from other evidence it became clear had been obtained from Saunders. He also stated that the handwritten document was not in the same handwriting as that in the mobile logs.

Dodd stated that approximately a week after this incident he met Saunders again and she gave him some further information. It was originally written down on a piece of paper that she had brought with her but he claimed that she was not prepared to give him the paper as it had been done at work. He claimed he pulled a piece of paper out of his briefcase on which was written some poetry that he had composed. He claimed she wrote on the back of it two lots of information. She told him not to do anything with the first lot at that time as there were further details to come. The second related to a very senior police officer. Dodd claimed that Saunders told him that the wife of this senior officer had been set up on a shop-lifting charge and if the senior officer did not resign his commission his wife would be prosecuted. Dodd claimed that she went on to say that the only reason they wanted this senior officer to resign was to make an opening for Murphy, who was one of the "biggest crooks you'd ever meet." Dodd subsequently furnished this document to Webb and it was tendered against her at her committal hearing and trial. There was no issue that the handwriting was that of Saunders.

Saunders was questioned about some of this documentation by counsel for Dodd at Dodd's trial. She denied that the handwriting in his notebook was hers. She did however admit that the writing on the back of the poetry written by Dodd was hers. When asked to account for her handwriting having been on the back of a document with his handwriting she claimed

that Dodd had given her the page of poetry (presumably earlier) and she had placed it in a book somewhere and "just used the back of it to write this information." The following exchange between counsel for Dodd and Saunders then took place:

You told him you wanted him to pass on some information with the view in mind that you wanted to cause some senior police some hurt?

I certainly didn't. The superintendent mentioned on this was one of the finest officers in the Queensland Police.

Saunders was not questioned at this time concerning the typed document or the other handwritten document which was identical in content.

Saunders had also referred to Dodd's evidence concerning this documentation in the Legal Aid material at page 15 of the notes titled "Crown Witness ... Douglas Mervyn Dodd ... Civilian." In that document it is recorded:

Never mentioned to Dodd that I'd like him to pass info. on to Hooper or Allen ... if I wanted to tell Kev anything I'd ring him. Dodd was carting around a letter to give to Hooper about his treatment by Upper Mt Gravatt CIB. (gun ch prior to my meeting him.)

As for the information ... I did have a few calls about what was happening and if it was correct so possibly could have written it down .. if I was supplying info.. had a lot more than that ... This was around the time Nationwide were doing programmes on police corruption, I think ... there were a great deal of things happening ... I tend to get info and write it on pieces of paper ... Dodd had plenty of opportunities to take things from my car.

I found three love letters from Dodd .. didn't see any of them placed in my bag .. would have told Knight and possibly Tucker.

After tavern found poem .. letter in bag.

Letter in denim bag after Gatton..

Handbag after Dodd in police vehicle.

I always parked my car in the driveway at home .. Allan was always getting up my ribs about it ...

I didn't always lock it.

Typewriter was often in rear of car ...

And on the next page of the Legal Aid material the following appears:

*In relation to the typewritten paper .. typed in a funny manner .. I w o u l (dn'T) type like this. There is a key on my typewriter that double spaces words .. maybe it was on and Dodd didn't know. Often if you've been carrying the typewriter it becomes depressed. **

I certainly never typed it .. all I can suggest is that Dodd has done it but why .. doesn't make much sense to me. If Webb got the paper after Dodd was out on bail then it does start to make sense .. manufactured along with his tape.

He would rave on about Tony Murphy .. the police Goefather .. one story was that Simone Vogel was alive and working for Murphy in ... Fiji ... I think. Murphy should have gone down over the National but they killed the main witness ... usual stories that are around the traps.

In relation to [named senior officer] I had a very very high regard for him ... Lobegeiger and [named senior officer] did not get on ... I saw [named senior officer] the day he retired ... he was over age ... his wife was very ill ... cancer. I was obviously interested in any stories I heard ... [named senior officer] was in the same "faction" of the Dept as I was ... the transcript of the Nationwide programme Summerfield found would confirm my interest in these areas.

Significantly Saunders's account in the Legal Aid material does not refer to Dodd's notebook in which, in the views of the handwriting expert, it was probable that her handwriting appeared. Saunders's accounts clearly denied that she had provided any of this documentation to Dodd. They suggested that Dodd had somehow obtained her papers without her knowledge or consent. I should add that at Saunders's trial it was not put to Dodd by counsel for Saunders that the information referred to by Dodd had not been given to him by Saunders.

I am unable to attribute a motive for Dodd to lie about these matters. Certainly if there had been a conspiracy by the police to 'set-up' Saunders one would hardly expect to find reference to Murphy, a very senior police officer, as "one of the biggest crooks." On the other hand it is difficult to understand why Saunders would have provided this material to Dodd when it seems she had ready access to Hooper, although it must be said Saunders was unwilling to speak directly to Allen because of previous "scurrilous"

articles he had written. I find Saunders's account in the Legal Aid material of the typewriter having been stolen by Dodd from the rear of her car and necessarily returned to it as fanciful and unacceptable. Furthermore it was quite clear on all the evidence that Saunders was most security conscious and the probability of her leaving her car unlocked seems to me to be too remote. It seems quite clear to me that the document was typed on Saunders's machine by Saunders. I am also satisfied that the handwriting in Dodd's notebook was that of Saunders despite her denial to counsel for Dodd. It is difficult to accept Saunders's response to counsel for Dodd in relation to the document with her handwriting on the back of Dodd's poetry. I find fanciful Saunders's account that Dodd, having given her this sheet of paper with his poems on it, for some unknown reason takes it back after she has recorded the information concerning the senior officer on it. Why indeed would she have retained his poetry in the first place? This is even more bizarre with Saunders having denied to counsel for Dodd that she wished the information communicated to any one. Why then had she recorded it in the first place? Significantly Saunders was unable to produce the supposed love letters from Dodd and I have no doubt that such letters never existed.

Although I find Saunders's account unacceptable in relation to this documentation and I am satisfied she did provide it to Dodd, I cannot say why she did so. Saunders stated that she was at a loss to understand what benefit would have accrued to her by having Dodd pass on this information for her. Of course it is possible that Saunders was providing Dodd with this information to communicate it to Allen and Hooper so as to continue the charade of Dodd being a genuine and useful informant. In any event the dealings with this documentation clearly evidenced an association between Dodd and Saunders which one would not expect to find in the normal police officer/informant relationship. There is no doubt that Flanagan and Webb had regard to these documents in considering the veracity of Dodd's allegations against Saunders and in particular in assessing the nature of the association between Dodd and Saunders. It was entirely proper for them to do so.

CHAPTER 5

THE EVENTS LEADING UP TO THE THEFT OF THE FIREARMS

5.1 The significance of the events leading up to 7 March 1982

To try to understand Dodd's involvement in the theft of the firearms fully it is necessary to examine certain events which occurred between his initial contact with Saunders in late January 1982 and the theft. This must be done in the context of my previous finding that the association of Dodd and Saunders went beyond a normal police officer/informant relationship. It should also be remembered that by the end of January Saunders's relationship with Lobegeiger had for all intents and purposes been terminated by Lobegeiger and Saunders was involved with Coomer. Her involvement with Coomer did not diminish in any way her desire to rekindle her relationship with Lobegeiger with whom she was clearly obsessed. It should not be forgotten that Saunders abhorred Bull who she considered was the primary obstacle to her re-establishing the relationship with Lobegeiger.

5.2 The alleged theft of Saunders's address book

Saunders states in her Legal Aid material that her address book had been stolen from her motor vehicle. Saunders did not report the theft of the address book to the police. The following passage shows that she suspected Dodd:

Next meeting (unarranged) was at B and G Autos on Wednesday 3rd Feb 82. On Friday 29/1/82 I had booked my car in for full service ... 9 am. Car was in workshop and I was sitting in office area when Dodd came into office. He said Bernie had asked him to look at my car radio (I'd asked Bernie if he could see what was wrong). Just after this I found that my address book was missing. It was usually in car ... had addresses, directions to places, Cecily Bull's home ad. work nos and car reg/description etc.) Dodd went back into workshop area and sometime later returned and sat in office and talked.

It was clear from this extract that Saunders was suggesting that any information Dodd had concerning Bull may have been obtained from this

address book.

In the Legal Aid material Saunders also claimed that this address book had the full address, telephone number and "directions" to the home of Cheryl Bernadette Tucker's parents who resided on the Gold Coast. Saunders also recorded that she may have had Tucker's parents' Brisbane address and telephone number in that book as well. Dodd had claimed that Saunders had given him details of Tucker's family home in Brisbane. He also claimed to have been offered the address of the family home on the Gold Coast in which could be located furniture and electrical items.

Clearly Saunders was suggesting an explanation for how Dodd obtained information in relation to Tucker.

There is no evidence that Dodd ever had in his possession any address book of Saunders. I do not believe that he did.

5.3 The ransacking of Lobegeiger's camp at Gatton

Lobegeiger gave evidence at Saunders's committal hearing that in April 1981 he purchased a small grazing property at Gatton where he ran cattle and a few horses. Lobegeiger did not live on the property but was in the habit of frequenting it to check out the well being of the animals. Lobegeiger stated that he never took Saunders to the property and never told her of the specific location although she had been aware that it was somewhere in the Gatton area.

He stated that on 10 January 1982 he commenced recreation leave and shortly afterwards took up residence in a caravan on a property adjacent to his owned by an Edmund Brooking. Whilst residing in the caravan he worked on his property clearing it and he erected a stockyard and some temporary accommodation with the help of a friend of his named Thomas Stephens. In the process they erected an army tent near two dams on his property and used it as a day camp.

Lobegeiger gave evidence that on 2 February 1982 he and Stephens had been working on the property until approximately 5.00 p.m.. That afternoon they left the camp site intact and Lobegeiger returned to Brooking's place. The following morning he returned to the camp site and found it had been ransacked. The tent had been slashed several times and two stretchers that had been in the tent had been thrown into the dam. Two tins of motor fuel had been emptied on the ground and two plastic

bottles which had contained drinking water were found outside with the caps missing. There was soot on the neck of these bottles. The exhaust pipe on the tractor had been partially filled with water and a roll of barbed wire had been removed from the environs of the tent and thrown into another dam. In cross-examination by counsel for Saunders, Lobegeiger made it clear that he suspected Saunders had been involved in the ransacking although he conceded that he had no evidence to support his view. I have no doubt he genuinely held these suspicions.

Dodd claimed that he was told by Saunders that she and Coomer had been to the property at Gatton and had ransacked the site. This allegation was made originally by Dodd in his first statement dated 29 March 1982 to Webb. He maintained it was true thereafter. Coomer and Saunders denied any involvement in the ransacking although Saunders acknowledged that she knew at that time where the property was. Dodd, who had met Saunders for the first time less than five days before the ransacking occurred, also denied having gone to the camp site.

It is interesting to consider how Dodd would have had any knowledge of this event if not told by Saunders or being present when it occurred. The remote possibility exists that he may have been questioned about the matter by Webb and Flanagan and extemporised an account inculcating Coomer and Saunders. In any event, in view of the nature of Saunders's affection for Lobegeiger and also in light of the many unsuccessful attempts she had made to rekindle the relationship, I do not consider it surprising at all that Lobegeiger was suspicious that she had been involved. Of course by the time Lobegeiger had given his evidence at the committal hearing he had also received a letter from Saunders which had been written late in the month of February. Reference has already been made to this letter. It had spelt out her displeasure at not being able to go to his property and made it obvious that she knew that Bull had been there with Lobegeiger. Notwithstanding sharing the same suspicions as Lobegeiger I am not prepared to rely upon Dodd's evidence or to conclude that Saunders was involved. However I am satisfied that this incident would have concerned Lobegeiger greatly and ensured that he would have been vigilant in his endeavours to keep Saunders or any associates she may have had off his property.

5.4 The harassment of Cecily Bull by Dodd

From the time that Dodd provided his original statement to Webb on 29 March 1982 he consistently stated that Saunders had advised him that she

was in love with Lobegeiger and that the relationship between her and Lobegeiger was not a smooth one as he preferred Bull. On Dodd's account, Saunders stated that Lobegeiger had told her that he didn't want anything more to do with her. He also stated that Saunders told him that Bull worked at the Brisbane Airport for Ansett and that she had formerly been an air-hostess but was currently working in the office. In evidence before me Saunders denied ever discussing Lobegeiger or Bull with Dodd and suggested that he may have got whatever knowledge he had of Bull and Lobegeiger from Bernie Hannigan. This account was consistent with her Legal Aid material and also her answers to Dodd's solicitor at Dodd's committal hearing.

From the time of this first statement Dodd consistently gave an account of the following event. Sometime in the month of February 1982 he met Saunders by arrangement at a park near the Capalaba Tavern at about 3.00 or 4.00 o'clock one afternoon. She had arrived in a police car and asked him to go with her to a telephone booth for him to make a telephone call to Bull. According to Dodd she handed him a piece of paper with typed words on it which she requested he read to Bull. Dodd stated that the first telephone box to which they went was near the Cleveland State High School but as it was out of order they went to another in Bloomfield Street. The number which he was asked to ring had been typed down. He rang the number and asked for "Cecily." A man answered the telephone and stated that she was not present and to ring back in 10 minutes time. He rang back at about 4.45 p.m. when a female answered the phone indicating that she was "Cecily." He then read from the piece of paper which Saunders had given him words to the effect that:

Lori Saunders is going up to Gatton this weekend.

When asked who was speaking Dodd replied:

A friend.

Saunders then took the piece of paper from him. Dodd also stated that although Saunders had asked him to make a number of other telephone calls to Bull to say that Saunders was at Gatton he invariably threw away the piece of paper on which she had the details and he did not make the calls. He added that Saunders told him that she had another man making telephone calls to Bull but did not nominate this person.

Saunders at all times denied the truth of these claims.

When Bull gave evidence at Saunders's committal hearing on 12 August 1982 she stated that she had received a phone call on 17 February 1982 from a male who did not give his name. She stated that the person said:

You remember me, I spoke to you once before about Lorrelle and Allan?

(I have made reference previously to a telephone call received by Bull in September 1981 from an anonymous male who claimed Lobegeiger and Saunders were "playing around" with each other.)

She then stated he added:

Well, it's still on, I saw them together yesterday at Cleveland. They were together at his old place in the yard. They were acting like a pair of lovebirds.

Bull further stated that she told the male caller that she did not believe the information. Bull also stated that she received a further call at her office from a male person on 24 February 1982. Bull repeated this account before me. As I have previously stated I considered Bull to be an honest and impressive witness and I have no doubt that her account was correct.

Although the conversation as recalled by Dodd differed from that recalled by Bull there was a common thread in the two versions which left me in no doubt that Saunders had put Dodd up to making telephone calls to Bull. On either version there was an unwarranted harassment of Bull. There is an abundance of evidence, much of which I have previously discussed, which showed that Bull was harassed by Saunders. Of course if one does conclude that Dodd made the telephone call it could only have been at Saunders's behest. If Dodd had not made such a call it is difficult to explain his knowledge of it bearing in mind that Bull did not provide a statement to police until many months after Dodd had made his statement.

Dodd records in his statement of 29 March 1982 to police that on one occasion he was having a discussion with Saunders on the telephone when he told her that he was going up to Gatton to see his brother. He claimed that he did not know where his brother lived so Saunders suggested that he see Lobegeiger as he would know where everyone resided in the area. He also claimed that to the best of his recollection he drove up to Gatton on the next Monday or Tuesday after this discussion with Saunders. He added that he followed directions that Saunders had given him, drove on to the property and talked to a man (Lobegeiger) who had walked over to his car.

He claimed that this man asked him what he wanted and he told him he was looking for his brother. After a brief conversation in which this man advised him that he did not know the whereabouts of his brother's land he left the property.

Dodd maintained this account at Saunders's committal hearing in November 1982 although strenuously cross-examined by counsel for Saunders regarding the question of why he would seek directions from Lobegeiger when on his own evidence his mother knew very well where his brother lived. It is fair to say that at the committal hearing Dodd's evidence on this matter was not persuasive.

In Dodd's statutory declaration to the Commission he stated that the above account was false. The correct account, according to Dodd, was that he went with Saunders to Gatton in his car and dropped her off whilst he went on to Lobegeiger's property and spoke to him. The real reason he went there was to see whether Bull was there. As far as he could see Bull's car was not present. After being told by Lobegeiger that he could not assist him in giving directions to his brother's place he returned to Gatton, picked up Saunders and then returned to Brisbane. Dodd maintained this account in evidence before me.

I have referred elsewhere to Lobegeiger's evidence in relation to this incident which resulted in his writing down the number plate of Dodd's vehicle and subsequently providing it to Webb who ascertained that the registered owner of the vehicle was indeed Dodd. Saunders denied any knowledge of the trip by Dodd.

I am inclined to the view that Dodd's account before me is accurate. His unconvincing answers to counsel for Saunders at Saunders's committal hearing left me in no doubt that he did not go to Lobegeiger's property to obtain directions to his brother's property. This was confirmed when, not having had the cross-examination by counsel for Saunders at her committal hearing brought to his attention, he gave evidence that he did know directions to his brother's property at the time. Even if one assumes that Dodd did not know how to get to his brother's property at the time he clearly could have gone to the police station or the post office rather than having sought directions from Lobegeiger. There is only one sensible reason for Dodd having gone there and that was to check up on the presence of Bull. In support of this conclusion is the evidence to which I have already referred of Saunders's partner Knight. He had stated that Saunders had often telephoned Lobegeiger's property or Bull's premises to ascertain whether or not they were with each other.

Dodd also stated in his first statement to Webb on 29 March 1982 that shortly after the incident to which I have just referred he was asked by Saunders whether any of the people that he knew handled heroin. He claimed that she added that she would like to see Bull:

set-up with about half a pound of it in her car at the airport.

Dodd further claimed that when he asked the significance of the "pound" she responded that a little bit wouldn't be any good because she wanted Bull:

busted by the Commonwealth Police, and the more she had, the more they would be convinced that she was smuggling into Brisbane.

Dodd added that on a number of occasions she asked him about the heroin and his reply had been that he had not seen anyone about it. The account of this request by Saunders was maintained by Dodd at Saunders's committal hearing although when asked by the Prosecutor whether Saunders had pursued her original request he replied that she had not. Needless to say Saunders denied these allegations.

There are two matters which suggest that a request in the above terms was made by Saunders. The first of these is that nearly two years after this statement had been furnished by Dodd, Saunders, in her own statement concerning the Mount Berryman incident to which I have previously referred, described Bull as:

a high class prostitute, drug dealer and bird smuggler.

In Bull's account of this incident in her statement of 6 April 1984 she recorded that Saunders addressed her and said:

I am having you investigated right now for all your bird smuggling and drug running. I met someone while I was in Boggo Road who knew all about your heroin deals in a wine bar in Melbourne. I haven't finished with you yet I've just started.

This clearly shows Saunders's desire to have Bull improperly associated with heroin. I have absolutely no doubt that Bull had no involvement in heroin or for that matter prostitution, drugs or bird-smuggling.

The second matter is the resemblance between this claim by Dodd and that made many months later by Cooper in his record of interview with Webb on 8 September 1982. It is worth setting out the relevant question and answer in full:

Q.120 Has Saunders mentioned Dodd to you?

A. Yes, on untold occasions. She said she'd like my help in setting him up, but she did not trust the local cops, it had to be a commonwealth offence, which she talked about her or me stealing pension or unemployment cheques from around the area, getting a bag of grass and a sawn off shot gun that Coomer was going to supply, and either breaking into his house to plant them in his house or hiding it under his house or in his yard somewhere, and for me to give the Commonwealth boys the Tip Off. The whole plan of it was to discredit Dodd as a witness. She showed me his Crim sheet, she only had half of it, but that was enough. She said with his past record they would put him away for sure.

Although the drug referred to by Cooper was not heroin it was certainly a Commonwealth offence that Cooper said was contemplated by Saunders. When subsequently interviewed by officers of the Commission on 11 March 1993 Cooper stated that he could not recall giving this answer but could recollect some discussions involving Saunders's desire to have Dodd "busted." Significantly however when Cooper gave his solicitors instructions to defend the charge laid against him on 8 September 1982 he did not suggest that this answer was untrue. I will deal with Cooper's credit at greater length later in this report but suffice it to say at this time that one cannot dismiss this particular account out of hand.

Notwithstanding these two matters and although I hold a strong suspicion that Saunders had asked Dodd to obtain heroin in order for Bull to be 'set-up' I am not satisfied to the required standard that she did ask this.

In his statutory declaration to the Commission Dodd for the first time made the following revelations which were repeated in his evidence before me. He stated that he had gone with Saunders to Lobegeiger's property at Gatton on three occasions, not merely once (where he asked Lobegeiger for directions to his brother's property) as he had previously continually claimed. He stated he went on an earlier occasion with Saunders to the

property after having failed to spy Bull during her route from work to home. Dodd also admitted being present with Saunders on the occasion when the shots were fired at Gatton on 19 February 1982. I will return to this incident in detail shortly.

Dodd stated that on each occasion they had gone to the property to see whether Bull was there. Although this was the first time that he had given this account, at his committal hearing his solicitor had put to Saunders that the only reason that they had gone to Gatton was so that Saunders could have Dodd ascertain whether Bull was with Lobegeiger.

I have already referred to the direction-seeking visit by Dodd in detail. This Dodd stated before me was his second trip with Saunders to Gatton. The first he explained had occurred some short time before. On that occasion he and Saunders had travelled in her vehicle to a driveway near the technical college close to the hospital at Kangaroo Point and waited for Bull's vehicle to drive past in order for him to identify it so that when he came to "set her up" with drugs he was familiar with it. He stated that Bull did not turn up so they departed and drove to Gatton. When they arrived at Gatton they drove past Lobegeiger's property to see if Bull's car was there. As they did not see it they returned to Brisbane. Saunders remained with him in the car for the whole trip.

This account of Dodd's having sat at the technical college with Saunders waiting for Bull's vehicle must be judged in light of the evidence of Cooper and Bull to which reference has been made elsewhere in the report. In that evidence it was clear that Saunders, with Cooper and Gray, had followed Bull from the Terminal past the location which Dodd described as the one Saunders had indicated would be a good vantage point to identify Bull's vehicle. After considering this evidence of Cooper and Bull, which as I already have stated I accepted, and the great body of other evidence of Saunders's harassment of Bull, I am satisfied that Dodd's account is accurate although I am not persuaded to the requisite standard that the purpose of viewing the vehicle was so that he could subsequently 'set-up' Bull for drugs as he claimed Saunders had requested.

It is appropriate at this stage that I refer to an event which Dodd claimed occurred after the theft of the guns. Although he did not give this account in his original statement to Webb on 29 March 1982 it was included in one of his two statements of 28 April 1982 after he had made his allegations concerning the Tucker payroll and Lobegeiger's murder. Dodd claimed that about 15 March 1982 he met with Saunders and she told him that Lobegeiger suspected her of making phone calls to Bull. He claimed that

she then said to him that the only way to throw Lobegeiger off the track was to break and enter Bull's place and also cut Saunders's car tyres. He claimed that Saunders said this was to give the impression that someone was trying to get both Bull and Saunders and added that if her tyres were cut Lobegeiger wouldn't suspect her. According to Dodd she also told him that she would have had her own house broken and entered except her mother had been there. A discussion then took place concerning the best location to slash her tyres and Dodd was asked by Saunders whether it should be done at her home or at the police car park. According to Dodd he was then directed to Bull's house where it and her yellow car were identified. Dodd claimed that Saunders told him that if he managed to get into the house he could take whatever he wanted and then "wreck it." Bull's house was not subsequently broken and entered.

Dodd repeated this evidence at Saunders's committal hearing and in her Legal Aid material she comments upon it. The following is the relevant extract:

Had been publicity about slashing of tyres of cars near Police HQ. My car was parked in the grounds of the police depot. I refused to park it in street because danger of going to it alone.

Never been to Cecily Bull's with Dodd. Cecily has only got a car port and car visible from street. Cecily and her car were at Gatton on Friday 19/2/82.

Although this purports to explain Dodd's knowledge of Bull's car it also makes it clear that Dodd was correct in his statement that Saunders parked her vehicle at a police car park rather than on the street. Once again the suspicion is there that Dodd was requested by Saunders to carry out these criminal acts but I am not satisfied to the requisite standard that she in fact did.

5.5 The shooting incident at Gatton on 19 February 1982

Lobegeiger gave evidence of the events of this day at Saunders's committal hearing in August 1982. I would imagine that the evidence was led to establish that a falling out between Lobegeiger and Saunders had occurred to the extent described by Lobegeiger. The day's events took on a greater significance when Saunders was charged on 9 September 1982 with conspiring with Coomer and Cooper to have Cooper give false evidence at her trial concerning being present with her in Gatton on this occasion (and

one other to which later reference will be made). On 8 September 1982 a search warrant was executed on Saunders's premises at Wishart and a tape recording in her voice was located. The tape recording was relied upon by the Crown as being the version of events of 19 February which Saunders had made up for Cooper to give at her trial. Saunders was not tried on this charge of conspiracy although Cooper was convicted of it and sentenced to a term of imprisonment.

Saunders's account of these events was set out in her 67 page statement to her solicitors and also in her Legal Aid material. She maintained it before me. She stated that at about 11.30 a.m. on that morning she received a telephone call from Dodd at her residence in relation to drug information at Gatton. He wanted to meet her at Gatton. She told him to telephone her back. Saunders then received an anonymous telephone call advising her that Lobegeiger and Bull were together at Gatton. Saunders did not know the identity of the caller's voice. As a result of the telephone call from Dodd Saunders asked Knight to accompany her to Gatton. As he was unavailable to go with her she tried to ring the Task Force Office but the telephones were unattended. A short time later Dodd telephoned her again and she agreed to meet with him in the vicinity of the Gatton post office at about 2.30 p.m.. Before she left she telephoned Ansett Airlines and ascertained that Bull was on sick leave. She then drove to Gatton via Bull's house having made a check of the residence to see whether Bull was presently at home. Bull was not.

Saunders stated that she drove up to Gatton in her own private vehicle and parked opposite the Royal Hotel. Dodd arrived shortly in his Ford motor vehicle. Saunders walked over to Dodd's vehicle and got into the front passenger seat. She was carrying a blue denim bag which contained her wallet, car keys, identification, personal papers and credit cards, as well as some photographs of Lobegeiger and herself. Dodd wanted her to accompany him to meet a man who was involved in the sale and distribution of drugs between Stanthorpe, Toowoomba and Gatton. Only "grass" was mentioned. He further said that this man had mafia connections and there was a link between Mareeba and Griffith. Saunders declined to accompany him on this meeting and arranged to see him at the same location at 4.00 p.m.. She told him that she could not wait longer than that as she had to commence duty in Brisbane.

Saunders's account was that as Dodd drove off she realised that she had left her handbag in his vehicle and she waited for approximately 10 minutes hoping he would return with the bag. When he did not she decided to hitchhike out to Lobegeiger's property. Saunders followed the

directions of the anonymous caller and proceeded to Lobegeiger's property. She came to a barbed wire fence and climbed through it. As she moved down a track she saw that there were a few different vehicles in the distance, one of which she recognised as having been owned by Bull. She also recognised Lobegeiger's car and later another car unknown to her. She then noticed Bull near one of the dams. Shortly after Lobegeiger jumped into his vehicle and drove up in her direction. She started jogging across the property thinking that Lobegeiger would see her. When she noticed that Lobegeiger was coming towards her with a firearm she threw herself onto the ground and in the next instant heard a shot. Simultaneously, dirt spattered and hit her in the face. She rolled over and pulled her departmental pistol from her ankle holster and fired a shot in the air. She could see Lobegeiger about 25 to 30 feet away through the scrub.

Her account continued with the explanation that Lobegeiger had yelled abuse as he fired the shot directing whoever was there to come out. She accepted that during the course of shouting abuse his words indicated his belief that two people were trespassing on his property. She holstered her firearm and walked out towards Lobegeiger with both hands in the air. She was terrified that Lobegeiger would shoot her as the shotgun was aimed at her stomach. When he got to about 15 feet from her she indicated that it was her and Lobegeiger lowered the gun stating that he could have shot her. Saunders stated to him that she was sorry but she had received another telephone call and had to know if he had been lying in relation to Bull again. She added the relationship was finished this time. Lobegeiger responded that Bull had just turned up. He asked Saunders to understand his predicament bearing in mind how obsessed Bull was with him. She was then asked why she fired the shot and she replied that she discharged the firearm thinking that he would stop and she could get away. Lobegeiger then put his gun on the ground and put his arms around her and she pulled away from him. He then stated that Bull had received an anonymous telephone call the previous night advising her that Saunders would be at the property and he would get rid of her by the evening. They then kissed and stood holding hands and discussed who had been responsible for the anonymous telephone calls. Lobegeiger then turned and walked back to his vehicle. She jogged back to the road and hitched back to Gatton.

Saunders stated that on arrival at Gatton she ascertained that Dodd had not returned to the Royal Hotel as he claimed he would so at about 4.15 p.m. she went to the Gatton police station with the intention of arranging transport to Brisbane. She entered the police station and spoke to a Sergeant Graham Noyes. She identified herself and indicated that she was

in the Task Force. She asked whether somebody from the Criminal Investigation Branch was in. When she was told that there was not she asked whether there had been any reports of shots being fired in the Tent Hill area. Saunders explained that a shot had been fired near her and she had put a shot into the air. When asked who fired the shot she said that it was nothing and explained that she had come up with an informant and left all her gear in the car inadvertently. She then asked whether she could use the telephone so she could ring her partner and try and arrange for some transport as her keys to her car were in the informant's vehicle. As Knight was not available she phoned Coomer and he agreed to meet her at the overpass approximately 4 kilometres west of Ipswich on the Warrego Highway. Arrangements were made with Noyes to transport her to the turn-off. She then left the police station to see if Dodd had arrived back at the Royal Hotel. As she approached the Gatton post office Dodd walked toward her. She went to his car and obtained her bag and then asked him to take her to the police station so she could cancel the transport arrangements which she had made with Noyes. Dodd and she then drove to her vehicle where he gave her the drug information which resulted in the arrest of Odgard (reference has already been made to this alleged drug information). Dodd then dropped her at her vehicle and she drove off in the direction of Brisbane. She then met Coomer at the overpass as arranged. Coomer followed her home and she had coffee prior to getting ready for work. A short time later Knight arrived and picked her up in the patrol car. Dodd did not get in touch with her again that night.

Lobegeiger said in his statement of 28 April 1982 that the shooting incident occurred on the same day as Dodd had sought directions to his brother's property. He said that there were two persons walking along the edge of his property and as he approached them one of them disappeared into the long grass and he heard the report of a shot. He then loaded his shotgun and fired a shot into some nearby black wattle. A few seconds later Saunders came out from the grass carrying a revolver. Lobegeiger asked her what she was doing there and she replied that she came up to see if "she" was there. He stated that when he asked Saunders why she fired the shot she stated that she thought it would give her a chance to get away without being seen. Lobegeiger then told her "to get the blazes off the property" and asked who was with her. She claimed that there was no one with her. She then walked off in the direction from which she had come. Lobegeiger basically maintained the same story at Saunders's committal hearing in August 1982.

There was clearly a major conflict between Saunders and Lobegeiger in relation to the sequence of the shots and in relation to whether they were

affectionate to each other.

In Bull's statement of 28 July 1982 she stated that she went to Gatton on 19 February and was sunbathing on Lobegeiger's property when she heard Lobegeiger's car start and drive off at high speed towards the higher part of the property. She then later heard a gun shot followed by a second and louder shot. She stood up and faced the direction of the sound and saw Lobegeiger facing somebody whom she assumed to be a male. She took no further interest in the matter. She maintained this account at Saunders's committal hearing. When Bull gave evidence before me she described the first shot as a:

loud crack shot, which I assume was a concealable firearm.

She described the second one as:

a more muffled loud explosion type of shot which I assume came from a shotgun.

When examined by Carew she stated that possibly the second one was louder but she could not now recall. She had earlier given evidence before me that she knew the difference between a shotgun and a handgun as she had been out west on numerous occasions hunting with Lobegeiger and his nephew and both types of firearms had been discharged.

As I have previously stated Dodd had always claimed, until he gave his statutory declaration to the Commission, that he did not go with Saunders to Gatton on this occasion. In this statutory declaration he stated that he and Saunders drove in his car to Gatton. They were both dressed in identical clothes. It was Saunders's idea to dress the same because if either of them were seen it would not be possible to tell at a distance their gender. Furthermore if he had happened to be picked up Dodd was to say that he was going for a bush walk. He and Saunders drove in past the Council depot up a road that came to a dead end near Lobegeiger's property. They went through a barbed wire fence and past a dam. As they were walking across Lobegeiger's property they saw Lobegeiger starting his car and coming up towards them. Dodd went to the left, jumped the fence and hid. Whilst he was hiding he heard the sound of a shotgun. About 10 minutes later he heard a handgun shot and then another shotgun shot. He just laid low and crept away. He did not see anything further. He went back to Gatton where he met Saunders. She had already telephoned Coomer to pick her up as she believed that he had gone directly back to

Brisbane. He drove her back towards Brisbane where he met Coomer on the road. She got out of his car and got into Coomer's. He then went home. He denied giving her any drug information. In evidence before me he gave an account which was not inconsistent with this.

At Dodd's committal hearing in August 1984 his solicitor put to Saunders that she had gone to Gatton with Dodd and had arranged for Coomer to come and pick her up as she had thought that Dodd had disappeared. He then put to her that when she was coming back with Dodd they met Coomer coming up to Gatton. She denied that this was correct.

I have no doubt that Lobegeiger's account was a truthful account. I find Saunders's version to be fanciful and beyond belief. I am also satisfied that Dodd accompanied Saunders on this occasion at her request with a view to giving her support, whether moral or otherwise, when she went on to Lobegeiger's property. As I have already indicated in this report I reject Saunders's claim that she went up to Gatton with a view to obtaining information from Dodd. There was no need for her to attend at Gatton to receive information from him. She could have received it back in Brisbane if Dodd had information for her. Dodd of course denied that he obtained information in Gatton. In reaching these conclusions there were many matters which persuaded me that Saunders was not truthful in her account. I set out a number of these below:

- (a) The relationship between Saunders and Lobegeiger had ceased by the end of 1981. There was no prospect of Lobegeiger kissing Saunders or holding her hands. In any event it would have been contrary to his nature as a private person to show affection in the possible view of Bull.
- (b) Lobegeiger was suspicious of Saunders having ransacked his property earlier that month. He would have been in no mood to exchange pleasantries with Saunders once he found her on the property with an associate who had run away.
- (c) Lobegeiger always claimed that there were two people together on the property. Saunders claimed that she was by herself. Dodd in evidence before me made it clear that he was the second person and that he went on to the property with Saunders dressed identically to her. I can see no possible motive for Dodd to admit this unless it were true. Common sense suggests that it would be most unusual for Dodd to have implicated himself falsely. Interestingly enough, in questioning of Saunders by Dodd's

solicitor during his committal hearing, presumably on instructions, it was put to Saunders that she and Dodd had gone to Gatton together and subsequently Dodd had changed the colour of his car (which he in fact did) because it had been spotted at Gatton on that day. (It was clear from the evidence that a good description had been obtained of Dodd's vehicle whilst in Gatton.)

- (d) Bull's account of the order of shots was consistent with Lobegeiger's account that Saunders discharged her firearm first. I have already indicated that I accept Bull as a completely honest and truthful witness and there is no reason for me to depart from this view in relation to this evidence. Although Dodd talks of one shotgun shot far earlier in time than the two described by all other witnesses no one else refers to this. I believe Dodd is in error in this regard.
- (e) Saunders always maintained that she had never travelled to Gatton with Dodd as he was "a real grub." Both Dodd and Coomer gave evidence before me that Coomer had met Saunders as she and Dodd had returned from Gatton in Dodd's car. When they had met she had alighted from Dodd's car and drove off in Coomer's leaving Dodd by himself in his own vehicle. I found Saunders's responses to Counsel Assisting in relation to this matter most unconvincing. They are set out in full:

And the other thing was that according to you, when you drove back on that occasion when the shots were fired, you drove back in your own car. Coomer met you on the road and he followed you to your home, each driving your own car?---That's correct.

That is correct, is not it?---Yes, that's correct.

Were you here when Coomer gave evidence?---Yes, I was. I was quite amazed.

Yes. Coomer was quite clear that in fact he was asked to wait for you and to pick you up and that in fact he waited there and you got out of a car, came into his car and the other car drove off?---Yes - well, they - certainly wasn't talking about that day, because I certainly had my car in

Gatton.

Was there any other occasion when Coomer picked you up in that way, half way to Gatton, as it were on the Ipswich Road, and you got out of somebody's car and then got into Coomer's car?---Yes, a couple of times from memory.

Oh, I see. So there were a couple of such occasions, were there?---That's correct.

I take it you told your counsel that so he had an opportunity of putting that to Coomer when Coomer gave that evidence, that Coomer was mistaken he had these other occasions?---Can't remember.

Well, tell us about the other occasions when you had to ring up Coomer and get him to come and pick you half way up along the road there at the Ipswich By-pass, or whatever you call it?---A couple of times Joy Hallett was running late and she'd drop me there, she was heading back to her property at Jimboomba.

I see. Hallett is the deceased prison officer?---That's correct.

Is that right, yes. So she was involved in both of them, was she?---I think so. It could have been my step-sister and brother-in-law, I'm not really sure now.

You are not really sure. But you have got a clear recollection anyway that on two occasions at least you rang Coomer to come and pick you up at about this same spot?---That's correct.

All right. And was it day or night on these other occasions?---Day time, I think.

I was unable to locate any reference in the Legal Aid material, Saunders's Official Police Diary, the Spirax Notebooks or her 67

page statement to her solicitors to Saunders having been picked up by Coomer at the same spot on some other occasion. I have no doubt that this was false evidence by Saunders.

- (f) In the statement which had been prepared for Knight by Saunders to which I have previously referred in this report Saunders recorded the following:

Gatton. Phone you about 1, can't make it. Tell me to be careful. Make sure I've got my 38 with me. Discuss anyone else who could go - negative. Also tell you I've had more calls about Allan so will meet him and check out the calls. Pick me up from home - work 6.30 pm approximately.

This passage was shown to Knight when he gave evidence. He was then examined by Counsel Assisting in relation to it:

See that?--Yes.

Now, do you recall a conversation ever with Saunders that she was going to Gatton on some business about drug information, that she wanted you to go with her, that you could not go, that you told her to be careful because if she was going with Dodd she had better be careful she had a 38 with her and she said she would. And there was some discussion but you could not think of anybody else that could accompany her. Remember any such conversation as that?--No.

That happened early in the morning of a day when she was going up there with Dodd?--No.

And that - did she ever tell you on - well, it will have to be on the same occasion, that she has had more calls about Allan so she was going to meet him and check out the calls and to pick her up from work - from home for work about 6.30 p.m.?--Yes. Well, if this is the night that she went to Gatton - - -

That you picked her up from home?--Yes.

Yes?---Yes.

But until her mother rang, according to you you did not even know yet that she was going to be late or that you would have to pick her up at home?---That's right.

You would expect her to have gone into the depot, sort of thing?---Well, I don't know. We were probably picking each other up. We'd take it in turns.

Yes, all right. So do you say that conversation did not take place?---Not with me.

Yes. It would be extraordinary, would not it, to - I mean, he was a criminal, Dodd, even if he was an informer - for a policewoman to go alone with him up to Gatton?---Yes, I'd say that.

I mean - what I mean, though, it would be dangerous for her safety, quite possibly?---Yes.

And would you have tried to talk her out of it if there had been such a phone call, and say, 'Don't go. We must get someone else to go with you,' or something like that?---Yes.

You would have. But you have got no recollection of it happening, though? Indeed, you say it did not happen?---Well, I'm fairly certain it didn't happen.

It would indeed be extraordinary if her own partner had not been aware of her carrying out a legitimate operation in Gatton, if this had been the case. In support of this view is the statutory declaration of Inspector Matthews who became the officer in charge of the Task Force. He stated that had Saunders performed duty at Gatton she should have requested approval for it from the Inspector in charge of the Task Force. There is no suggestion that she ever did and he certainly had no recollection of it happening.

- (g) Although Noyes did not give evidence before me he gave an

account in his statutory declaration to the Commission of what Saunders had told him when she came into the Gatton police station on 19 February. This was consistent with his original statement of 12 May 1982 and his evidence at Saunders's committal hearing. Although he gave evidence that she came to the Gatton police station on a different date I do not believe anything turns on this. His account remained that after she had introduced herself she told him that she was on a job behind Tent Hill and things had gone wrong. She also told him that her informant had agreed to drive her to Gatton to meet two blokes from Toowoomba to buy some drugs but they must have realised who she was and decamped after a shot was fired by one of them. Her contact took off in his car leaving her without transport. She added that she had just walked about 20 kilometres to get some help.

After arrangements were made with Noyes to have a "half-way meet" with a car from Brisbane she left the police station having made a telephone call presumably to Coomer. A short time after she returned and said that there was no need for the transportation as her informant had returned. Noyes saw a male person in a light coloured Falcon sedan, about 10 years old, pull up outside the police station in Williams Street. He then described the car in some detail. (This description fits Dodd's vehicle.)

Interestingly enough when Knight was examined by Counsel Assisting he gave evidence that Saunders had told him that she had made up a story for the Gatton police by saying that something had gone wrong in an undercover operation and shots had been fired. Saunders's counsel at her committal hearing did not ask Noyes any questions at all and, significantly, when her legal representatives had the opportunity to have him called before me so that he could be examined on his account they did not avail themselves of this opportunity.

I have no doubt that Noyes's account was truthful. There was no motive for him to lie. I also believe it is substantially correct. It is clear that on the first opportunity that Saunders had to speak to someone other than Dodd about the incident she lied. Noyes's account also confirmed my view that Saunders was in fact driven by Dodd up to Gatton in his car, notwithstanding Saunders's trenchant denials. Furthermore if Saunders was genuine in her attempts to obtain drug information from Dodd concerning a

person who lived in the Gatton area one would have expected her to try to check to some extent with Noyes or other members of the CIB at Gatton the information she claimed to have received from Dodd, namely that there was a man who was involved in the sale and distribution of "grass" between Stanthorpe, Toowoomba and Gatton.

- (h) To justify why she went to Lobegeiger's property on that day she claimed that she had received an anonymous "tip-off" alerting her to Bull's presence there. I do not believe she received such a telephone call; I am satisfied it was an invention by her to explain in part why she went there on that day. It would have been an extraordinary coincidence on Saunders's account for her to have received this anonymous telephone call only minutes after receiving a telephone call from Dodd advising her that he wanted to meet her in Gatton to provide her with drug information. On all the evidence the male voice of the anonymous caller was not Dodd's and there is simply no evidence to suggest Dodd was responsible for it. Furthermore I can see no motive for him, or for that matter anyone else, to have made the telephone call. This was only one of a number of telephone calls which Saunders claimed to have received around this time. She produced a tape recording which she claimed recorded a number of these anonymous calls. I do not believe that Saunders received any such calls. I will return to a full consideration of this tape recording later in the report.

- (i) If, as Saunders claimed, she had been involved in a relationship with Lobegeiger at that time and she had visited him without Dodd then there would have been no necessity for her to make her entrance on to the property in the way that she did; there would have been no need for her to discharge her firearm in the manner she described. Although in her version of events in her statement to her solicitors she claimed to have gone to the property following the directions of the anonymous person, it is quite clear from her answers to questions put to her by Counsel Assisting that she knew where the farm was by that time.

In conclusion, I have no doubt at all that Saunders went to Gatton with Dodd to ascertain whether Bull was in Lobegeiger's presence and if she found them together to harass them.

5.6 A further trip to Gatton by Saunders on 23 February 1982

There is no dispute that on 23 February 1982 Saunders once again went to Gatton and saw Lobegeiger. Saunders claimed to have gone with Dodd. Dodd denied all knowledge of the trip. Lobegeiger acknowledged that Saunders saw him at Gatton but denied that she was there with his blessing and that they were in any way affectionate to each other as Saunders claimed. I will now set out in detail Saunders's account of the events of this day as they have significance not only because of the dispute over what occurred but also because Cooper was charged with conspiring with Saunders to give false evidence at Saunders's trial about the events of this day.

Saunders's account was originally set out in her 67 page statement to her solicitor. It was consistent with the Legal Aid material. She maintained this account before me. She was contacted at home by Dodd who again wanted her to meet with him in Gatton as he was to take up with a drug dealer there. She made arrangements to meet Dodd at the Gatton Liquor Barn at about 2.30 p.m.. She arrived at the Liquor Barn at approximately 2.15 p.m. and Dodd was already there. At about 2.45 p.m. she said to Dodd that she had something to do and that she would meet him back there in a little while. She then drove out to Lobegeiger's property where Lobegeiger walked over to her and said, "So you made it." Lobegeiger told her that as there were workmen around they should meet later that evening and arranged for her to meet him at the post office at 7 p.m..

Saunders's account continued with the claim that she then drove back to the Gatton Liquor Barn where she met Dodd who told her that his informant had not shown up. They then agreed to drive to the Tent Hill Creek Hotel as Dodd stated that his informant may have been at those premises. They could not locate the informant at the Tent Hill Creek Hotel so they returned to Gatton where Saunders made enquiries about booking a motel unit for the night for Lobegeiger and herself. Dodd departed after advising Saunders that he would stay at his brother's property and might meet a couple of other people.

Saunders claimed that she phoned Lobegeiger at Brooking's residence at approximately 7.15 p.m. and Lobegeiger came to the phone and told her that he was on his way. Arrangements were made to meet at a telephone booth in Gatton. At about 7.30 p.m. Lobegeiger arrived and handed her twenty dollars asking her to go and purchase a drink as his back had "gone again." She went and purchased some beer and wine and then returned to where Lobegeiger was and followed him out to his property. Lobegeiger

parked in the gateway and she parked nearby. They consumed alcohol and discussed their personal relationship. He was adamant that he was not involved with Bull. Lobegeiger then questioned her about going out with Coomer and told her that she was not to see him any more. He went into a fit of jealousy over Coomer. They subsequently sat in Lobegeiger's vehicle and were intimate.

Lobegeiger gave a very different version of events in cross-examination at Saunders's committal hearing in November 1982. Until that time he had not referred to the events of this day either in his statements to police or in evidence in chief. Lobegeiger gave evidence that a couple of weeks after the shooting incident she arrived at his property without prior knowledge on his part. She advised him that she wanted to talk to him urgently and he responded that he was busy working with a number of men on the property. She then said she wanted to see him that night and he agreed to meet her at the front gate of his property. There was no time set and after a brief discussion in which he asked her what she wanted to see him about she departed.

On his account Saunders turned up at approximately 7.30 p.m. to 8 p.m. that evening at the front gate. She was in her own motor vehicle. They then talked for about an hour while standing outside the car. He could not recall whether he had anything to drink. He was not asked whether they were intimate that night but had previously given evidence that the relationship had finished in late 1981.

Lobegeiger's account of events changed somewhat by the time he had given evidence at Cooper's trial on 20 April 1983. Instead of giving evidence that he had arranged to meet Saunders at the front gate of the property that night he claimed that he had said to her when she first arrived that he was not interested in seeing her. He then claimed that he happened to go to Gatton at about 7 p.m. and went into a telephone box in William Street. When he came out she was waiting for him. He had no knowledge she would be there. They then drove to a position outside his property and had a conversation. He was however adamant that the relationship was not renewed that night and they were not intimate. He maintained that he was outside the motor car and denied standing arm in arm with her. They mainly discussed whether the association could be started again but he was not prepared to do so.

Lobegeiger's version of meeting with Saunders in the evening had changed between the time of his giving evidence at the committal hearing and Cooper's trial. However he vehemently maintained throughout that they

were not intimate that evening and that the discussions centred around her unrequited affection for him. I have no doubt that his evidence in this respect was truthful and correct. I reject Saunders's account. I also reject her claim that she went up there with a view to getting drug information from Dodd. I have already explained the implausibility of Saunders having gone to Gatton with Dodd to get information from him and especially in light of the events of 19 February 1982. It is quite clear that her only intention was to take up with Lobegeiger with a view to re-establishing their relationship.

I am fortified in my view by reference to the letter written by Saunders to Lobegeiger which commenced:

Allan, firstly I would like to explain why I phoned you on Wednesday evening 24/2.

I have already made a number of references to this letter in the report. This letter was written to Lobegeiger the day after this meeting of 23 February 1982. It is clear from it that the relationship had well and truly terminated by that date. It is also clear that they were not intimate the previous night. There was no reference in the letter to Coomer as one would have expected if Lobegeiger had gone into a fit of jealousy the previous evening as suggested by Saunders in her account. Significantly, there is also no reference in this letter to Dodd having gone with her to Gatton as Saunders claimed.

5.7 Further alleged requests for Dodd to harass Lobegeiger

In his first statement to police Dodd recorded that Saunders asked him to go to the Coast and "wreck a house down there." According to Dodd when he asked her whose house it was she would not tell him. Dodd claimed that he told Saunders that he did not go in for "break and enters or wilful destruction of people's property." His criminal history belied this.

In one of Dodd's statements of 28 April 1982 he claimed that Saunders had asked him to travel to Gatton and put Condy's crystals in Lobegeiger's dam. According to Dodd she also asked him to go to Gatton and shoot a few horses of Lobegeiger's. He claimed that she stated the following:

There's a stallion there worth about \$10,000 and some mares worth about 5 and this would make him think that someone was after him. The only way to get back at

someone is hurt them in the pocket. The horses are his pride and joy.

Once again this shows that Dodd had knowledge which one would not have expected him to have. Lobegeiger did have and was proud of valuable horses on his property. Lobegeiger was stationed on the Gold Coast in a police house. Although suspicion arises once again that Saunders was seeking Dodd's assistance to harass Lobegeiger, I am not prepared to accept Dodd's uncorroborated or unsupported account.

5.8 The anonymous telephone calls

I have already referred to the anonymous telephone call which Saunders claimed she received on 19 February 1982. According to Saunders the caller had advised her of directions to Lobegeiger's property and informed her of Bull's presence there. Saunders gave evidence that she gave a tape recording to Pointing and Menary on which she had recorded a number of anonymous telephone calls to her. A tape recording was found by officers of the Commission in material forwarded to the Commission by the Queensland Police Service for the purposes of the investigation. In each case the male voice was the same and the female voice was that of Saunders. A transcript of the six telephone conversations on the tape recording was read out to Saunders by Counsel Assisting. She indicated that although she could not remember the specific details of the conversations they accorded with her recollection of the original telephone calls. It is clear that the first telephone conversation recorded on the tape recording was the anonymous phone call allegedly received by Saunders on 19 February 1982 as it recorded Saunders being advised that Lobegeiger and Bull were together at Gatton. It also recorded the caller giving directions to Lobegeiger's property.

The tape recording records that the second telephone call commenced with the telephone ringing. Saunders then answered the phone saying hello. The male voice then said:

It's me again.

Saunders replied:

More exciting information and more lies about Allan I suppose.

The male voice then advised that Lobegeiger could not get rid of Bull as she was following him around the countryside. The caller then indicated that he believed that Lobegeiger was going to the doctor that afternoon because of his back. He stated that the back problem had been compliments of Bull. He then added that the scene at Cleveland where Lobegeiger had been cuddling her (Saunders) had been very touching. He then indicated that Saunders would hear from him again.

In the recording of the third call Saunders was told that Lobegeiger's manhood refused to function because of her (Saunders). The caller then claimed Bull had been prowling around Saunders's place and making phantom phone calls. The caller then asked Saunders how she thought Lobegeiger had obtained all his property to which Saunders responded:

By honest hard work.

The male then indicated that Saunders was naive if she believed that and Saunders slammed down the receiver. It would seem from the tape recording that, shortly after, a fourth call was received. The male voice is heard to say to Saunders:

You fucking slam the phone, you just don't want to listen do you?

After Saunders asked again who the caller was the following reply was given:

Lobegeiger's a cunt. I'll cut you up so far he won't know where you fucking arse begins and your fanny starts. He knows how tight you were and you tell him you'll be so far cut he won't be able to enjoy what's fucking left of you. I'll cut your tits off too and post them to the cunt. Your days are getting close now.

The fifth conversation commenced with the male voice indicating that Saunders had not heeded the previous advice. It was followed by words disparaging of Lobegeiger and threatening of Saunders. It concluded:

Oh by the way, you know them fucking letters you leave lying around, they're fucking lovely, I really loved the last episode thanks, but you haven't many more days to live anyway.

The final telephone conversation commenced with the male saying:

You still haven't fucking woken up. Get with it.

Saunders responded that she was no longer willing to tolerate the calls and advised the male caller that she was going to report the calls. The male caller then stated:

Cecily finally convinced him that she'd fucking commit suicide if he leaves. Fucking families I hear. You're too fucking stupid to look at anyone else. More fool you you fucking. Don't know what you're missing out on. Actually it's quite good. Do you remember the dog shit in your pool? Next time it will be your fucking dogs. Cut their throats and the Red Sea will look yellow compared to the colour of the fucking water at your place you fucking bitch. Wake up or die. Oh I hear that old cunt Mr Lobegeiger won't even let you report these calls from me. Gutless fucking wonder.

After some further abuse from the caller the conversation ended.

On Saunders's evidence the last of the telephone calls was received some time before she was interviewed by Webb and Flanagan on 26 March 1982 in relation to the theft of the guns.

Saunders claimed before me that Lobegeiger had advised her not to report these telephone calls as the department may have found out about their relationship. I found Saunders's answers to Counsel Assisting concerning this most unconvincing:

All right. Now, why was it that Lobegeiger, according to you, advised you not to report the phone calls?---It'd just blow up our personal relationship in front of the department.

Yes. Now, you are an experienced police officer at this time, with 10 years' service, and the phone calls could be one of two things: they could be serious threats or they could be just crank calls, somebody trying to tease you and frighten you, do you follow?---Yes.

One or the other. Now, you say that a superintendent of

police or he was inspector, I suppose, at that time, inspector of police - - - ?---Well, I had - he was a superintendent at the time.

He was a superintendent by that time, all right, a superintendent of police who, in fact, had been your commanding officer, he told you, in effect, even though these could be serious threats on your life, 'Don't report them because people might get to know about our relationship'. That is what you say?---The department.

'The department might get to know about our relationship - - - '?---Administration, that's correct.

And, that is more serious than the possibility of your being killed? That is really what it amounts to, on analysis, is not it?---Not really. I mean, he - - -

Well, what else does it amount to?---Well, he'd had threats too, and he wasn't reporting them. He just - he didn't want it blown up, our relationship. He just wanted everything kept quiet. I did what he wanted.

Yes, but let us - if we just analyse it a moment, what you were agreeing to do no matter how brave he might be about himself, you are agreeing at his suggestion that you should run the risk of being murdered if the calls were serious rather than let the department learn about your relationship?---I probably - I don't think I thought I was going to be murdered.

No. Well, did not you take the calls seriously? Did you think they were probably just crank calls?---Oh, there were threats. It was pretty scary calls but I didn't really think someone was going to come around and murder me.

Yes. Well, did you really think that it might well have been some other police officer who was - just thought he would make you nervous. He knew that you stressed or freaked out easy or something like that? Do you think that is what the - - - ?---I didn't stress or freak out easily in those days.

You knew it was not Dodd. You did not think it was Dodd, did you?---I didn't know who it was.

But, you knew Dodd's voice?---Yes. No, that's what I'm saying, I don't know who it was.

Well, you did not believe it was Dodd?---Certainly not.

No, and I mean, if it was Dodd, if you believed it was Dodd, you would have reported the call, would not you?---I would've done what Lobegeiger told me to do.

Oh really? I see. So, I suggest that you did not take the calls seriously. You thought it was some sort of a hoax done for the purpose of trying to embarrass and annoy you?---I really don't know what I thought.

Now - - - ?---But I was concerned enough to tell Allan about it, and to also tape it.

I do not believe these telephone calls were genuine. I believe that some time after Saunders was interviewed by Webb and Flanagan on 26 March 1982 she fabricated these conversations to corroborate her account of events.

I should say that the tape recording was provided to a professional phonetician by the Commission for his comments on the conversations. He stated that:

It appeared that this was a recording of a series of genuine conversations and that it did not seem that the recording had been prescribed.

I am unable to accept this evidence. Of course the expert did not have available to him my understanding of the facts surrounding these events which would no doubt have assisted him in relation to possible motive. I should also add that the same professional phonetician stated in relation to the fabricated tape which had been produced to Webb and Williams by Dodd that:

There is a strong indication that the recording was made of a genuine conversation and that it was unlikely that the recording had been prescribed.

There was no doubt that this tape was not of a genuine conversation and had been prescribed.

In the submissions dated 5 April 1994 of Carew and Company it was submitted that support for the existence of such threatening telephone calls could be found in the statement of Cheryl Tucker dated 30 July 1982. This was a statement in Saunders's Legal Aid material and had been written in Tucker's own hand as an addendum to the statement she had previously given to police. It records:

Saunders and her mother had received a number of phone calls when people would just hang up and also phone calls telling Saunders of the whereabouts of Lobegeiger and Cecily Bull. I knew Saunders was making some attempt to tape these calls.

There is nothing in the statement to indicate when it was that Saunders apparently had told Tucker of these matters. This passage is equally consistent with Saunders having told Tucker at the time of these alleged telephone calls as it is with her having told Tucker months after the alleged telephone calls. In any event for reasons expressed elsewhere in this report I am not prepared to rely upon this statement of Tucker as I am confident Saunders was the original author of its contents.

There are many reasons why I have concluded that these telephone conversations were not genuine. I will set out some below:

- (a) Saunders claimed that Lobegeiger had told her not to report the telephone calls. Her reasons for this as I have previously stated were unconvincing. If one accepts Saunders's account Lobegeiger did not wish her to report the threatening phone calls because he did not want knowledge of their ongoing relationship to be made public. No relationship then existed between them. It had ceased months before. In any event, it was clear that a number of her police colleagues including Knight, Krosch and Tutt had known of the relationship in 1981. She could have easily reported the calls to them for them to take official action. It is clear that she did not.
- (b) In examination by Counsel Assisting Saunders's evidence on how the conversations were recorded was most unconvincing:

How did you manage to record the first conversation in full? Were you waiting for him to

ring up, or what?---I've got no idea. I might have just been lucky that I had the tape at the phone.

It was just already there and suddenly in comes a threatening call, stick down the button, and bang, you have got him, sort of thing; is that the way it happened?---I could have had calls before it and had the tape there.

I see?---I just don't remember now what order calls came in.

All these calls, the whole five of them, were recorded on one tape. Did you keep a special tape, you know, sort of for this caller?---I obviously did.

You did not, I mean, record them as the fourth call on one tape, and the second call on another tape, and the third call on another tape, and then at one time put them together as a master threatening telephone call tape? That did not happen?---I don't think so.

So there is no editing or effort to bring them from different tapes on to the one tape - - - ?---Not that I can recall.

- - - with a common subject?---Not that I can recall.

So what we really have here is that your recollection is from the word "go" you just had a special tape which was entirely dedicated to the recording of calls from this mysterious telephoner?---Yes, that's probably how it was.

Is that right?---That's - yes, that's my memory of it, yes.

And there was only the one tape kept? You did not - and you did not edit it?---I don't think so.

Take things off it or put things on; so there was just the one tape. You did not make any copies of it?--Mr Hampson, I don't know now; I really don't.

Well, you may know. That is why I am asking you, you see. If you do not know you tell me you do not know?--Well, I don't know.

All right, you do not know. Good, that is an answer then. Quite happy with that if you do not know. And did you have some system then for getting this particular dedicated tape whenever he came on the phone?--Maybe I left it in one of the recorders; I don't know.

And so when he came on the phone you had to pick up that recorder and plug it in, as opposed to, you know, to another recorded on which you were recording Lobegeiger and yourself, or your mother and Lobegeiger?--No, I didn't record Mr Lobegeiger and myself until long after this.

I see. Well, what else were you recording at that stage?--Music, I suppose.

How many other - how many recorders did you have at this stage? We're talking - we seemed to have identified it as February/March?--Maybe five or six.

Five or six different recorders which were capable of recording telephone conversations?--No, some of the bigger ones obviously weren't. Probably - I might have had three smaller tapes at that time.

Three - three machines which were capable of recording telephone conversations, is that right?--I don't know. I suppose - if they picked it up they recorded it. I - they weren't - they were just ordinary tape recorders.

Yes?--I had - you know, again, one of Mr Dodds' allegations, I had more stereo and tape gear than you could poke a stick out in my house.

Well, that may be so but I am only interested - I am not interested in the music or hi-fi or anything at the moment, I am interested in tape recorders and you had three of them?--That's just a rough estimate. I could have had more.

And - could have had more, okay. You had at least three and one of them had in it a dedicated tape, dedicated to the recording of calls from this particular caller, is that right?--I would imagine I would have left in on there - left the tape near one of about three telephones in the residence.

Yes, I see, and how - see, sometimes you actually get the commencement of the call, do not you? How would you know that he is going to be on the phone?--Don't know, just luck I guess.

Do you know what I mean? You see, conversation 2:

Phone ringing, "Hello, it's me again."

How would you know? Were you telepathic almost to start recording while the phone is ringing before you answer it and discover that it is the mysterious caller?--Well, I guess if it had been the mysterious caller, I would have cut the tape off. I don't know now.

No, that is not right because you only had the dedicated tape, you see, on which you recorded the mysterious caller. You did not have a succession of tapes on which you indifferently recorded incoming calls and then transferred only the mysterious caller to a particular tape. You told me that before?--Yes, I said that's what I believe happened.

Yes, okay. Well, was that just good luck that on conversation 2, you actually got the phone ringing before you answered it?---It could have been. I mean, if it had been a mysterious caller I might have wound the tape back to the point where the other tape stopped, I don't know now.

- (c) The first two conversations offer friendly and helpful advice to Saunders. The calls then become violent and threatening. I am unaware of any evidence which would explain the motivation for any one to have acted in this manner.
- (d) For a single person to have made all the telephone calls that person would have had to have knowledge of the following matters:
- Specific dates for Lobegeiger and Bull being together at Lobegeiger's property.
 - Directions to the property.
 - The supposed sexual association between Lobegeiger and Bull.
 - That Lobegeiger was to go to a doctor on the afternoon of the second conversation.
 - That Bull had been supposedly prowling around Saunders's place.
 - That Bull had been supposedly making phantom phone calls.
 - That Lobegeiger and Saunders had been supposedly kissing and cuddling on a previous recent occasion.
 - That Lobegeiger had supposedly obtained his property by ill-gotten means.
 - That Bull was supposedly suicidal.
 - That Saunders had letters lying around her home.

On the evidence before me if these matters had been true there

would have been no person capable of knowing all this information. When one looks at these matters it is striking to see how many have been claimed by Saunders elsewhere and established to be false. For example, that Lobegeiger and Bull had been sexually involved; that Bull had been prowling around Saunders's place; that Bull had stated that she intended to commit suicide and that Bull had been making phantom phone calls. Saunders had also claimed that Lobegeiger had been able to purchase his extensive property because of income derived from illegal activity.

In Saunders's evidence before me she claimed that she did leave letters lying around her house to which access could be had by others. I reject this. From all the evidence Saunders's house was like a fortress. Unauthorised entry would have been extremely difficult, especially with her mother residing there.

- (e) In the statement of Carnes, her partner just prior to her being charged with theft of the firearms, he stated:

I am unaware of any threatening telephone calls made to Saunders before her arrest, but I do know of some afterwards. Saunders told me about them.

And later in this statutory declaration, he stated:

When I was visiting Saunders, she would tell me about threatening phone calls she was receiving, about people following her around and being in the paddock near her residence surveilling her. I was not present when any such call was received nor did I see any person acting suspicious near her home. Saunders never played any tapes of alleged threatening telephone calls to me. I passed off these matters as part of her imaginations because of her highly distressed and emotional state after being arrested and her advices about the falsified tape made by Dodd.

It is a telling factor that Saunders's own partner was not apprised of these threatening telephone calls at the time they were supposed to have occurred. Furthermore, when he was subsequently told about them he did not believe that they had occurred.

Although Knight has some recollection of Saunders advising him of threatening calls he was not sure whether this occurred prior to her being charged.

Tutt also gave evidence that he could not recall Saunders telling him of any threatening phone calls around this period.

- (f) In a 20 page statement which Coomer provided to Pointing and Menary on 13 March 1984 the following was recorded:

Just as we were about to leave the phone rang. Lorrelle answered it. We were in the upstairs lounge and she said, 'I can't hear you, hang on', and she said to me, 'Pick up the downstairs' phone'. I did this and I hear a male voice saying words to the effect of, 'You're going to be fuckin' cut open, you bitch. Your fuckin' cunt is going to be cut so that bastard will never enjoy you again'. The caller slammed the phone.

When Coomer was questioned about this passage by Counsel Assisting the following exchange occurred:

Now, that just never happened, did it, Mr Coomer?---Not that I can recall, no.

No, no, not at all. That never happened at all, did it? That was something that Lorrelle put in the statement after her arrest and you were prepared to run along with because you, in fact, were in love with her. Is not that the truth of the matter?---I will agree with that, yes.

Yes, all right, and it goes on, you see:

The caller slammed the phone down. The voice seemed to be rough. I went back up to Lorrelle and she was visibly upset and shaking. I asked her what was going on. She told me it was typical of the calls -

and so forth. Do you see that, about taping and so on?---Mm.

None of that happened, did it?--Well, I never heard any of it happen.

No. Well, if you had not heard it, it would not have happened so far as you are concerned?--That is right.

It is right for me to say what is written down here never happened in your presence?--No.

This was something that Lorrelle had written; is that right?--Yes.

So it could not be true that you went up to her and she was visibly shaken. But what you are saying is - well, it could have been true that, at some occasions, when you were not there, she got threatening phone calls?--Right.

But she never got them when you were there; is that right?--Not that I can remember, no.

And up till this stage of the thing, she never told you that she had got threatening phone calls?--No.

Up to this stage. And this particular episode here, that is described in great detail, just did not happen, did it?--Not while I was there.

Exactly. It is something that she has composed. Did you read this statement through, in the first instance, when she gave it to you, and, of course, when you were writing it out?--Not that I can recall, no.

Well, but when you were writing it out, making the handwritten copy, you see?--Mm.

I take it she suggested it would look more fair dinkum if you had a copy in your own handwriting?--Right.

Yes, you agree with that?---Yes.

And so you wrote one out in your own handwriting, and in the course of writing it out, you would have come to that passage?---Yes.

So you would have realised it was there, but again, the point was, you were prepared to go along with it?---I just kept writing.

Exactly. And if necessary, if it had been put on you in court to say that that was the truth, you would have said it?---More than likely.

To try to defend her?---Yes.

Is that right?---Yes.

I have no doubt that Saunders did prepare this statement for Coomer's signature. I also have no doubt that the events as outlined in the passage did not occur. If Coomer had been present for such a telephone call he would certainly have recalled it.

- (g) Although Saunders mentioned to Webb on Sunday, 7 March 1982 that she had received threatening phone calls she did not advise him that she had a tape recording of some of these. If these had been tape recorded by Saunders at that time and they were genuine telephone calls I have no doubt she would have provided them to Webb at their meeting of 9 March 1982. One would certainly have expected Saunders to provide the tape recording of the threatening phone calls to Webb and Flanagan after her interview of 26 March 1982. Notwithstanding the opportunity she had to add to the interview she did not refer to the tape recording of these threatening phone calls. It is clear that Saunders thought that this tape recording was of value to her defence because in her Legal Aid material in a document headed "Notes for Peter Sorensen" the following extract appears:

How do we get threatening tapes into court?

Ask Lobegeiger if voice same as his calls.

Did she know that the male voice on her tape was the same as that

which had made threatening calls to Lobegeiger?

In conclusion, I am of the view that this is yet another example of Saunders rewriting history to support her account of events.

5.9 Dodd's introduction to Barry Donald Krosch

In March 1982 Krosch was a Detective Senior Constable of Police attached to the Special Branch in Brisbane. He had an association with Saunders as they were both members of the Emergency Squad at Greenbank. It does not seem to be in dispute that some two weeks before the theft of the guns Saunders, who knew that Krosch was interested in having an informant infiltrate the Ananda Marga, suggested to Krosch that Dodd would be an appropriate person. Krosch and Saunders had previously discussed Stanthorpe in the context of the Ananda Marga as some time before Saunders had attempted to recruit a female to infiltrate the group in that area.

It was stated in the submissions of Saunders's solicitors that:

It seems likely that Dodd had been working with police in the Special Branch for some time prior to 7 March 1982.

There is not the slightest evidence that this was the case. Krosch always maintained that he had no direct physical contact with Dodd and only one telephone conversation with him prior to the theft of the guns. In his evidence at Saunders's committal hearing and at her trial he stated that this telephone call had been made on the Friday before the theft of the guns, 5 March 1982. Before me he had the benefit of his Official Police Diary to refresh his memory. It recorded that on 3 March 1982 he received a phone call from Dodd on his unlisted telephone number at home. No call was noted for 5 March 1982. This was the first contact he had with Dodd and therefore he could not have given Dodd his unlisted number. In evidence before me he stated that as he didn't give Dodd the number he could only assume that Dodd got it from Saunders as he had previously supplied it to her. During this telephone conversation Dodd advised Krosch that he was going to Stanthorpe the following weekend with his girlfriend and her children to attend the Apple and Grape Festival. In all Krosch's accounts of his dealings with Dodd he maintained that he did not wish Dodd to go to Stanthorpe to carry out any enquiries for him. He advised Dodd that he did not approve of any plans he may have had to infiltrate the Ananda Marga but acknowledged that he had no authority to dictate to Dodd what

he could do in Stanthorpe. Before me Krosch made it clear that he would have fully briefed Dodd if he had been carrying out duties for him in Stanthorpe and he would have had Dodd infiltrate the Ananda Marga in Brisbane before any attempts were made to infiltrate it in Stanthorpe. Krosch stated that he had made no arrangements with Dodd to contact him after he had returned from Stanthorpe as he did not condone any attempt Dodd may have intended to make to infiltrate the Ananda Marga. At Saunders's trial Dodd stated that he had arranged with Saunders and not Krosch to meet Krosch on his return.

Krosch gave evidence before me that he sought approval from Lewis some time in March to use Dodd as an informant in relation to another group that the Special Branch was monitoring. Krosch was unable to say whether this occurred before or after 7 March 1982. He stated that as part of the application he would have advised the Commissioner that Dodd was Saunders's informant. Lewis denied ever having a meeting with Krosch concerning Dodd. He stated that there would have been no reason for him to have had a direct meeting with Krosch to approve the use of Dodd as an informant. It could have been done through the Inspector in Charge of the Special Branch. No reference to such a meeting could be located in either Lewis's diary or that of Krosch. I did not feel the need to resolve this inconsistency as on all the evidence Lewis played no part, either directly or indirectly, in the events of 7 March 1982. Having said that I should say that I did not form the view that either of the witnesses had been lying.

Saunders's account in the Legal Aid material and before me departed from Krosch's version in some material aspects. Saunders told me that she could not recall whether she gave Krosch's silent phone number to Dodd but doubted that she would have without his consent. In the Legal Aid material she claimed that Krosch had told her to get Dodd to telephone him during the week subsequent to the festival at Stanthorpe. She also claimed that Krosch had given her his silent phone number and said if Dodd turned up anything that sounded interesting to get on to him. The following passage appeared in the Legal Aid material:

Barry said he wanted to interview him asap after he came back from Stanthorpe and first time he'd get me to come along.

Saunders claimed that Dodd had told her that he hated the Ananda Marga because they had "taken" a friend's daughter and "converted her." She claimed that Dodd told her that the daughter had become quite strange because of this involvement. Before me Dodd denied any such

conversation and, furthermore, denied that he had ever known anyone involved with the Ananda Marga. Counsel Assisting canvassed with Dodd his knowledge of the Ananda Marga in Stanthorpe:

Were you asked to do anything that fitted in his area of activity in the Special Branch?---Well, he just asked me to go up to Stanthorpe and check out the Ananda Marga up there.

Did you know anything about the Ananda Marga?---No.

Well, how were you going to go to Stanthorpe and check that out?---Well, the Apple and Grape Festival was on.

Yes?---I was going up anyhow.

But what did that mean?---So I went up there and had a - done what I had to do and then just come back.

Well, what did you have to do? I am just interested to know how you check out the Ananda Marga, you see, at the Apple and Grape Festival?---Well, I didn't know anything about them.

You did not know anything about them?---I still don't know anything about them.

In all previous accounts he had consistently maintained that he had not obtained any information from Stanthorpe. As discussed elsewhere in the report Dodd had given evidence before me that Saunders had attempted to create the impression that he was a good informant.

There was a clear inconsistency in the evidence. On Krosch's account he was aware of Dodd's intention to go to Stanthorpe but he in no way approved of any attempts Dodd may have intended to make to infiltrate the Ananda Marga. On his account there had been no urgency associated with Dodd's trip to Stanthorpe and no need to make arrangements for Dodd to contact him on his return. On the other hand the impression given from Saunders's account was that Krosch enthusiastically embraced Dodd's stated intention to go to Stanthorpe to obtain information concerning the Ananda Marga and Dodd was asked to report back to Krosch as quickly as possible.

I accept Krosch's evidence. He impressed me as a witness. It was not suggested that Krosch had any motive to give a false account against Saunders. On the contrary, there was evidence that Saunders and he had been friends. I reject Saunders's account where it departs from that of Krosch.

5.10 Information concerning the Emergency Van

In his statement dated 29 March 1982 Dodd stated that he had been advised by Saunders that she knew of another way to get guns. He claimed that she had stated that there was an Emergency Van in which were stored "heavy guns, bullet proof vests, gas and everything that is needed for a siege." He further claimed that she advised him that the van only had two occupants; the driver and his assistant. According to Dodd he then had the following conversation with Saunders:

Dodd: *You've got to be stupid. They'd have every policeman in Queensland after you.*

Saunders: *What would be the worry, you wouldn't have an Emergency Van.*

Dodd: *What about the Games?*

Saunders: *That wouldn't matter, I'm getting out of the Emergency Squad anyhow.*

Dodd: *Well that's what I'm employed as now to try and stop anything happening at the Games.*

Saunders: *Is that all?*

Dodd: *Yes that's all that counts with me at the moment.*

Strangely enough, in the beginning of this statement it is recorded that this conversation occurred prior to 7 March 1982 but towards the end this appeared:

The account of my conversation I have just given you with

Saunders concerning the Emergency Van did take place after I had stolen the guns from Coomer and after I had met Detective Barry Krosch.

Krosch gave evidence before me that he was quite surprised with the knowledge that Dodd had shown in describing the equipment in the van. It will be recalled that both Saunders and Krosch were in the Emergency Squad together. However I think that any person could have guessed that such equipment would be located in an Emergency Van. Although I have no doubt that Saunders had discussed with Dodd matters involving her involvement in the Emergency Squad, I am not satisfied that she had advised him to consider obtaining weapons from the van. Dodd's account does not sound credible. However, Dodd's knowledge of details such as Saunders having been employed in the Emergency Squad and her intention to resign from it confirm my view that this was not a normal informant/police officer relationship. It would appear from Saunders's personal file that she made application to withdraw from the Emergency Squad on 23 March 1982.

5.11 The introduction of Coomer to Dodd by Saunders

It is unclear from the evidence on how many occasions Dodd met Coomer prior to the theft of the guns. Before me Dodd could not even remember having met Coomer prior to the theft of the guns although it is clear on all the evidence that he did. On Coomer's and Saunders's evidence Coomer and Dodd met only once before 7 March 1982. On Dodd's previous evidence it was once or twice.

Dodd, Coomer and Saunders agreed that the location of the first meeting was at a park on Broadwater Road at Mount Gravatt.

In Coomer's statement of 26 March 1982 he stated that this meeting took place two weeks before the theft of the guns. At the committal hearing he stated that it took place on 2 March 1982. Coomer gave evidence at Saunders's committal hearing and trial that at this first meeting a discussion with Dodd took place in relation to his (Coomer's) firearms. He was not asked to elaborate on this discussion by the prosecutor and was not cross-examined by counsel for Saunders about it. His recollection before me of this meeting was understandably poor. In any event he never suggested that during this meeting he told Dodd that Saunders and he would be going to Toni's Restaurant on Sunday night. It was on the Sunday night that the firearms were stolen from the vehicle outside Toni's Restaurant.

Dodd's account was that when Coomer had gone to obtain some alcohol from the hotel Saunders advised him that if he ever needed any guns Coomer carried his in the back of his four wheel drive. On the other hand Saunders claimed that she and Dodd were never alone and it had been she who had gone to the hotel to obtain the alcohol. Coomer's account accorded with that of Saunders. In cross-examination of Dodd at Saunders's trial Dodd acknowledged that during this meeting Coomer had advised him that he had four hand pistols and a rifle which were stored in cases. He also learned that Coomer regularly went to the Belmont Rifle Range to shoot. He also acknowledged he learned from Coomer that he was going with Saunders to the Rifle Range on Sunday, 7 March 1982. He however would not accept that Coomer had advised him where they would be going after they left the Rifle Range. During this cross-examination Dodd claimed that the date of this meeting had been the Thursday prior to the theft of the guns. During the committal hearing he claimed it had been on the Friday prior to the theft of the guns. In his original statement to Webb he had stated it had occurred two weeks prior to the theft of the guns. This is clear evidence of how unreliable Dodd was as a witness. I do not intend to suggest that he had been lying intentionally here, as there would have been no need to lie about the date of the first meeting with Coomer. Such a meeting was never in dispute. This is an example of what I have previously described as Dodd answering without first considering the matter.

Saunders's account in her Legal Aid material of the first meeting was as follows:

Only met Dodd at the park in company of Coomer on two occasions. [The second time occurred after the theft of the guns.] Made arrangements to meet him at the Mansfield Shopping Centre on Monday 1/3/82. Coomer and I waited but Dodd didn't appear. (I was on 8am-4pm either VIP or Emergency Squad.) Following night met Dodd at the Shell Service Station at intersection of Mount Gravatt Capalaba Roads and Mount Petrie Roads. He was again late ... believed he'd been followed ... gave this as reason for not showing up prev. evening. Usual "winge" about not having any money and being short on petrol ... worried he'd been seen so followed us to park. I left him and Coomer and went and got him a beer.

And further on in Legal Aid material she had this recorded:

I had warned Coomer not to mention too much in front of Dodd but he'd started to talk away .. it is hard for a civilian to deal with a "dog" I guess - hard enough for police.

She claimed that she had arranged the meeting as Dodd had telephoned her and wished to give her some information. The information she ostensibly obtained is recorded in her Official Police Diary. There is reference to Dodd attempting to obtain Spires's correct name and telephone number for Saunders. The diary recorded previous references to Dodd claiming that Spires was a drug dealer. I have referred elsewhere in the report to the implausibility of Dodd providing drug information on Spires to Saunders. The diary also recorded the following:

Biggest crims in Qld Tony Murphy - Terry Lewis - Murphy M/M Beerburum Mail Truckjob with an ex-cop & hold up on bookies money - the big job back around 1977 - Murphy has got Vogel stashed away in Fiji or somewhere because she's got too much on him.

It is interesting that these allegations are against the very two persons who Saunders at some stage claimed were responsible for her predicament. One wonders why Saunders would have recorded this general information in relation to events which had occurred five years before. It certainly had nothing to do with her duties in the Task Force and it could never have been the basis of a payment to Dodd for providing good information - one of the reasons provided by Saunders for maintaining the diary.

Saunders's diary had no reference to any conversation concerning Coomer's firearms. She maintained that she had no recollection of a discussion concerning firearms.

Although I am unable to conclude when this first meeting occurred, the fact that the meeting even took place is to my mind significant. Why would Saunders introduce Dodd, who she knew to be a "real grub," to the person with whom she was then having a relationship. I cannot accept the suggestion that she was unwilling to meet with Dodd by herself and therefore was forced to take Coomer with her. It is clear that she could have refused to see Dodd until a time when she was accompanied by her police partner. It is even more extraordinary when Saunders well knew that Dodd had an extensive criminal history and was on a charge of possessing a firearm while Coomer was, in Saunders's words, a "gun-nut." Not only was there an introduction but on any version of the meeting the

parties sat around drinking alcohol together. On Saunders's and Coomer's account Coomer and Dodd were left together. One could be pardoned for thinking that the introduction may have been made by Saunders so that at some future stage she could point to the meeting to explain the source of any information which Dodd had acquired to be able to steal the guns in the manner in which he did.

CHAPTER 6

THE THEFT OF THE FIREARMS ON 7 MARCH 1982

6.1 Reservations at the Italian Restaurant for Sunday, 7 March 1982

The firearms were taken from a vehicle parked at the rear of Toni's Italian Restaurant on the evening of 7 March 1982. It is not clear when reservations for dinner at the restaurant were made. There was no evidence led by the prosecution or the defence at Saunders's committal hearing or trial from staff at the restaurant to confirm when a reservation had been made.

The question was not canvassed in Coomer's two initial statements to the police. Saunders in her record of interview with Webb on 26 March 1982 stated that she had made the reservation in the name of Coomer some time during the week. She stated that she had not advised Dodd of this fact. Before me both Coomer and Saunders were unable to recollect who made the reservation or when it was made.

Saunders maintained at all times that she and Coomer had been to Toni's Restaurant a number of times before 7 March 1982. In cross-examination of Coomer at Saunders's trial he gave similar evidence. In evidence before me he explained that the previous times that they had gone to Toni's Restaurant together had been for "a take-away."

6.2 Dodd's evidence of prior discussions with Saunders on Friday, 5 March 1982

Dodd claimed throughout that Saunders had advised him prior to the theft of the firearms that she and Coomer would be at the Belmont Rifle range on the Sunday afternoon and that they would be subsequently going to dinner at Toni's Restaurant at six or seven in the evening. The firearms were to be found in the rear of Coomer's Toyota Landcruiser four wheel drive. It is fair to say that his account of how and when this information was communicated to him by Saunders varied greatly.

In Dodd's record of interview with Webb taken on 26 March 1982 the following questions and answers appeared:

Q.35 How were these arrangements made?

A. *She told me the last time I saw her before I stole the guns that she would be going to a certain restaurant for tea on the Sunday after shooting. And if I waited around there I would see them drive in and know what type of vehicle they were in. They were going for a meal then. They'd be in there for a couple of hours and that was the conversation.*

Q.36 *Where were you when these arrangements were made?*

A. *Out along Broadwater Road.*

Q.37 *Had you arranged to meet her there?*

A. *Yeah.*

Q.38 *Had you travelled there in your vehicle?*

A. *Yes.*

Q.39 *How had the arrangements been made for the two of you to meet there?*

A. *She rang me at my home and asked for a meet.*

Q.40 *Can you recall what date this was?*

A. *I think it was on the Friday before the guns were stolen.*

Later in the record of interview this question and answer appeared:

Q.48 *Could I get this quite clear please, did she make the arrangements with you over the telephone or at Broadwater Road?*

A. *We started the conversation at Broadwater Road but she left in a hurry because her mother was sick and she couldn't stay very long and that she would give me a ring and later on she rang me at my home.*

When Dodd gave evidence at Saunders's committal hearing in November 1982 he again claimed that on the Friday before the firearms were stolen Saunders gave him details of when she and Coomer would be going to Toni's Restaurant. However on this occasion he stated that the day on which Saunders gave him the details was the same day as he first met Coomer and he claimed that this conversation with Saunders took place whilst Coomer was away purchasing beer. In the record of interview Dodd claimed to have met Coomer for the first time two weeks before the firearms were stolen. He also told the Magistrate that sometime earlier he had been shown the restaurant where Saunders and Coomer would be having dinner. It was not made clear whether this meant earlier on the Friday or on a previous day. There was no reference in his evidence to a subsequent telephone call that Friday night by Saunders to finalise the details as he had claimed in his record of interview. I should add that he was not asked whether he received such a call that evening.

When Dodd gave evidence at Saunders's trial he reverted to the original account given to Webb that he met Coomer on a separate day to the day when the final arrangements were made with Saunders. This time he claimed to have met Coomer on Thursday, the day prior to the final arrangements with Saunders. He also claimed that Saunders showed him the restaurant on this evening. There was no reference to an evening telephone call to finalise the details but he was not specifically questioned about such a call.

Saunders denied having any discussions with Dodd on the Friday and denied ever showing Dodd the Italian Restaurant. She also denied having planned with Dodd the theft of the firearms.

6.3 Dodd's discussions with Joseph Gary Wills on Friday, 5 March 1982

Dodd maintained throughout that he advised Wills on the Friday evening of the plan to obtain the firearms from Coomer's vehicle on the Sunday. Wills, with whom Dodd stole the firearms from Coomer's vehicle, claimed in his record of interview of 26 March 1982 that on the Friday night Dodd did receive a telephone call at home and after this call he and Dodd finalised details to steal the firearms on the Sunday. At the time Wills was living at Spires's residence at 49 Ferry Road, Thorneside. Wills stated that Dodd was living there at the time as well.

In the record of interview with Wills the following questions and answers are recorded:

Q.18 *What was your first knowledge of this matter?*

A. *On the Friday night, when John told me what the phone call was about, we said we'd probably be able to sell them to Ananda Marga.*

Q.19 *Where did this conversation take place?*

A. *In the house at Thorneside.*

Q.20 *Is there a telephone connected to that address?*

A. *Yes.*

Q.21 *Who took the phone call?*

A. *John.*

Q.22 *What time of the day was it?*

A. *About 8.30 that Friday night.*

Q.23 *After John received the telephone call, what did he tell you?*

A. *He said that the guns would be easy to take and that we'd hang on to them for a couple of days and then we could sell them.*

Q.24 *Did he mention the person, Laurie, to you?*

A. *Yeah.*

Q. *What did he say in respect to Laurie?*

A. *He just said that the set-up would be for Sunday night at 7 o'clock. I had to go to the car, break in and then rig the ignition and steal the car. Then from there, I'd meet him down the road a bit, transfer the guns and ammunition into his car and I was to take the car down the Coast and roll it. Then meet him back there, back at the house.*

And later in the record of interview this question and answer appeared:

Q.46 How did you get into the car?

A. I opened the quarter window up. It was already unlocked, then just reached around and unlocked it from the inside.

Wills did not give evidence at Saunders's committal hearing. At her trial he maintained his account. Wills again gave a consistent account at Dodd's trial and maintained this position before me. There was no doubt from his answers and his attitude to counsel for Saunders that he still considered Saunders and Dodd to have been responsible for organising the theft of the firearms.

6.4 Discussions between Helena Dodd and Dodd prior to the theft of the firearms

Helena Dodd first gave a statement to Webb on 19 April 1982. She gave an addendum statement on 28 February 1983. She explained in this second statement that the matters in that statement were not originally mentioned in the first one as she thought they were "trivial." In this second statement the following extract appeared:

Approximately a week later, to the best of my recollection I think it was about the Tuesday before the 7 March 1982, I was in bed asleep at my house at Ney Road when Douglas Mervyn Dodd woke me up. He had been out earlier that evening.

He was very excited. He said to me, 'Guess what, guess what. I am going to work for the police.'

I said, 'Are they going to pay you.'

He said, 'Yes, but I'll still be able to collect the dole because this is all secret. I am going to be supplied with a gun on Sunday afternoon.' He then mentioned a number of types of guns. I cannot recall what types of guns he referred to. I have no personal knowledge of firearms.

He said, 'I can have a choice of any of those. I can keep

one for myself. Which one do you think I should take. I like, (he mentioned a particular firearm) and I like (he mentioned another particular firearm). Which one do you think I should take out of the two.'

I said, 'I don't think you should take any. I don't like the idea of it at all. You are already up on a gun charge, what if the police catch you with it.'

He said, 'She'll fix it all up and everything will be alright if I am caught.'

I said, 'What the hell do you want a gun for anyway.'

He said, 'Because it is to do robberies with. I've been getting in thick with all the louts around the place and it looks better if I've got a gun, they'll think I'm one of them and when they go to do robberies I go along with them and then supply the information about the robbery to the police.'

I said, 'What if you are all caught.'

He said, 'Then I'll have to go before the court like the others but the police will get me off with an alibi.'

I said, 'That sounds ridiculous. You'll have to have a solicitor. What about all the expense.'

He said, 'The police are paying the expenses but the whole thing has got to look as normal as if I was one of them.'

This second statement was obtained after the committal hearing and prior to the trial of Saunders. The prosecution did not attempt to lead the evidence at the trial. Before me Helena Dodd maintained that this account was correct. She was examined at length by Fleming QC concerning the fact that she had originally considered the information to be trivial. She stated that she did not even know that Dodd had been charged with offences concerning firearms at the time that she had given her original statement to Webb. I accept that at the time she considered the matters to be trivial and they did not warrant reporting to Webb. No doubt her belief that the information was trivial would have arisen to some extent from the fact that at the time she believed that much of what Dodd had been telling

her had been what she took to be his fantasy. One has to be extremely careful in accepting evidence of Dodd's words and actions. I accept Helena Dodd's evidence of Dodd's words and behaviour at this time. I find it hard to believe that those words and behaviour are explained by a desire to lie to impress Helena Dodd. They go beyond what one would expect of a criminal informant and are consistent with the surprise and delight of a criminal who has found a police officer who has promised to protect and support him in relation to illegal activities.

Before me Helena Dodd stated that she had been able to date accurately this occasion as having occurred on a Tuesday. She explained that Tuesday had always been a big day at work for her and she would go to bed early. She could recall having been woken up by Dodd as he was so excited he could not wait until the morning.

6.5 The motive for the theft of the firearms

Wills had always maintained that Dodd had told him that the firearms were to be sold to the Ananda Marga.

When Dodd was first asked by Webb on the morning of 26 March 1982 why he stole the firearms he told Webb:

She was setting me up to get into the Ananda Marga for the games. She said it would be easy to get in with them if I could offer them the guns.

In Dodd's record of interview with Webb later that day he was asked the following questions and gave these answers:

Q.41 What was arranged between you two on this occasion?

A. She knew I wanted to get in with the Ananda Marga and that she knew a way to get me in. And that was through the guns.

Q.42 Will you explain what you mean in more detail please?

A. Laurie said the way to get in with the Ananda Marga is with the guns and the best way to get

them was to steal them from Roy.

In evidence in chief at Saunders' committal hearing Dodd was questioned by the prosecutor concerning the matter:

Q. Did she tell you why it might be that you could get guns from him?

A. Yes Sir, she knew that I wanted to get in with an organisation.

Q. Well what organisation was that?

A. Ananda Marga.

Q. And you'd had previous conversations with her about that?

A. Yes Sir.

Q. And what did she say about your infiltrating that organisation?

A. Well she reckoned the best way to get in would be to have guns that they'd be interested in.

He was not cross-examined on this account by counsel for Saunders at the committal hearing.

At Saunders's trial Dodd gave the following evidence concerning the motive for the theft of the firearms:

And I just said that the Ananda Marga would be the place to get in because they seem to be the ones that were causing a lot of trouble. Lorrelle said that the way to get in with them would be through guns and we got discussing different aspects of guns and Roy Coomer's name come up, that he carried guns in his car all the time.

And later on in the transcript he is recorded as saying:

Well I thought it would get me in with the organisation I said I wanted to get in with.

In cross-examination of Dodd by counsel for Saunders at her trial Dodd's assertion was not specifically tested. He was, however, asked whether he had at any previous stage claimed that he had been given the authority of the Special Branch or the Queensland Police Force to take the firearms. After his initial denial he was cross-examined about a letter sent by him to the Crown Law Office:

*Did you also say in a letter given to your solicitor when parole was refused, that you thought that you had assisted in the removal of certain firearms from a car that she had previously identified for you at a pre-arranged place?--
Yes.*

*That these firearms were to be placed in her custody?--
Yes.*

And your assumption was that you were assisting in the prevention of a possible crime?--Yes.

And this you were writing, in effect, for the Crown Law Office to read?--Yes.

Did you write that what she [indicating], she was going to do with them you didn't know?--Yes.

*That with what you had previously read in the newspaper - and I quote - 'I thought it was somehow connected with the very near Commonwealth Games?'-
Yes.*

'... and it was my duty to assist the Police as any member of the public should?'-Yes.

... and in fact as I later found out, the entire operation under Lorrie Anne Saunders' direction was one totally outside her office?'-Yes.

'... to put it bluntly, blatant illegal?'-Yes.

'These actions eventually resulted in not only Lorrelle Anne Saunders being charged, but also myself at the same time as being the dupe of the entire fiasco?'-Yes.

So you were claiming to the Crown Law Office that you were the dupe of a fiasco, that you thought you were somehow preventing a possible crime, and this was connected with the very near Commonwealth Games, and you were doing your duty to assist a member of the Police as any member of the public should?--Yes.

And you claim in that document that you later found out it was all illegal?--Yes.

And that you were the dupe of a fiasco?--Yes.

So you were saying at the time you took the guns you thought you were doing a public duty?--Yes.

And you didn't know it was illegal?--I knew it was illegal, yes.

And you said in the letter---?--In the letter I said yes.

You wanted the Crown Law Office to think you were performing a legal action?--Yes.

And that Detective Saunders had led you to believe that this was all legal?--Yes.

And you have denied on oath before this very Court that you have ever suggested any such thing, haven't you?--I never even thought about that - writing that.

You didn't know that I had it?--I knew all of the papers that I sent to my solicitor was in this courtroom somewhere.

You also said that you thought this was sanctioned by law?--Yes.

This was just another argument to get out of gaol; wasn't it?--Yes.

It was a lie; wasn't it--How do you mean a lie?

According to you you always knew that the guns that you

stole were being illegally taken?--Yes.

In his statutory declaration to the Commission the following passage appeared concerning the original reason for the theft of the firearms:

In the answers to questions 41 and 42 of the record of interview, I state that Saunders wanted me to get in with the Ananda Marga and that the way to do it was through stealing the guns. Although this was a later consideration, the original reason for stealing the guns was so that they would be located by her and that would help in her police record. She was not to actually find the guns but was to provide information which led to their recovery. There was never any suggestion or inference that the guns were to be used to shoot Lobbeiger. Saunders suggested that she could make it worth my while to steal the guns as I had been complaining that no money had been forthcoming in relation to the harassment of Bull and Lobbeiger.

In examination of Dodd by Fleming QC the following exchange took place:

All right, and - so nothing at all happened about the Ananda Marga, not from you or anybody else?---No.

But what about the guns?---The guns weren't stolen for the Ananda Marga.

Were not they?---No.

That was never the plan?---No.

So the guns and the Ananda Marga were never discussed together?---They might've been discussed in the same thing, but they - I don't think the guns were to go to the Ananda Marga.

That was never the case?---Not as far as I understood it, no.

What was to happen to the guns?---They were just to disappear, be sold.

To whom?---Anybody.

After his previous accounts had been read to him by Fleming QC the following exchange took place:

Okay. You stole the guns because you thought it would get you in with the Ananda Marga?---The guns were set up by Lorrelle Saunders to be stolen. That's why the guns were stolen. It wasn't to get in with the Ananda Marga.

Mr Dodd, did you say in your trial under oath when you were asked, 'Why did you agree to take them?' 'Well, I thought it would get me in with the organisation I said I wanted to get in with.' Did you say that?---That I said I wanted to get in with.

Did you say that?---Yes, in there.

Is that a lie?---Yes.

It is a lie?---Yes, because I never wanted to get in with the Ananda Marga.

But nevertheless, you told the court that?---As I said before, I told a lot of lies during these court cases in this. You want the truth here, but you don't want to - you don't really want the truth. You want a scapegoat, let's be honest.

Later in his evidence Dodd was again questioned by Fleming QC concerning the matter.

Now, would you tell us again the reason for stealing the guns?---The reason the guns were stolen was it was Lorrelle's idea to steal them from Coomer.

Right. Yes, for what purpose?---Well, they were supposed to be dumped then found.

Did you not tell us yesterday that they were going to be sold?---At one stage they were.

Well, at what stage were they going to be sold?--The original idea was to steal them to sell them, and then it was changed.

All right. Well, let us get this straight. The original idea was to steal the guns to sell them for money?--That's correct.

All right. So when was it changed?--When I was told to get rid of them, a couple of days later.

Well, what was to happen then?--They were to be dumped.

All right?--So that they could be found.

By whom?--How do you mean by whom. They were to be dumped by me and Joey. We were the ones that dumped them.

All right?--Because they were too hot to handle.

Well, who were they to be found by?--They weren't to be anybody. They were - Lorrelle was going to say that an informer told her where the guns could be found.

All right. But the first reason why the guns were stolen was to raise money, was to sell them off?--Yes.

After they became too hot?--They were to be got rid of.

It was decided to turn this to account, to dump the guns, and Lorrelle Saunders would then be able to pass on information and she would be credited in some way in her police work with that?--That's correct.

Later again in Dodd's examination by Fleming QC he was questioned about his statutory declaration to the Commission in which he had stated that it was a later consideration that the way to get into the Ananda Marga was through the firearms:

Was it ever a later consideration that the guns somehow - the stealing of the guns would somehow be related to

infiltrating the Ananda Marga?--The guns were already gone.

All right?--They didn't stay in our possession very long at all.

So we can put a line through this. It was never a consideration that the stealing of the guns was somehow or another associated with the infiltration of the Ananda Marga?--You can put a line through it, yes.

All right, so that is a lie?--All right, we'll say that's a lie.

Shortly after, the following exchange concerning the statutory declaration took place between Fleming QC and Dodd:

Mr Dodd, would you go to the second sentence, where it says:

The original reason for stealing the guns was so they would be located by her and that would help in her police record

?--That's correct.

Is that a correct statement?--Yes.

All right. You have told us at least twice, perhaps three times now, that the original reason for stealing the guns was so that they would be sold off?--Yes.

Well, which of those two is true; the original reason? I am looking for the reason at the beginning?--It all comes into the one category. They were stolen to be sold, then they were too hot to be handled, then they were to be found, dumped and found.

Still later in Dodd's examination by Fleming QC the following exchanges occurred:

I want you to go down - and this is the record of interview that you made with Mr Webb, okay?--Correct.

All right. You made an arrangement at about question 39 to meet Lorrelle Saunders. Question 40:

Can you recall what date that was?

I think it was on the Friday before the guns were stolen.

Question 41:

What was arranged between you two on this occasion?

Answer - and please note:

She knew I wanted to get in with the Ananda Marga, and that she knew a way to get me in and that was through the guns.

?---Yes.

Okay. Question 42:

Will you explain what you mean in more detail, please?

Answer:

Lorrie said the way to get in with the Ananda Marga is with the guns, and the best way to get them was to steal them from Roy.

?---That's correct.

Okay. Now, that is the arrangement that you said was made when Mr Webb interviewed you?---No. I was going to be known as the guy that stole the guns.

All right. All right. So - but the stealing of the guns was still associated with the Ananda Marga. That is the reason why they were stolen?---It wasn't - they weren't stolen for the Ananda Marga.

All right. All right. Let us just put that aside. But the reason why they were stolen is that you could then say, 'I am the man who stole the guns'?---It would get out, yes.

And that would be said to the Ananda Marga and you would have some credit?---I don't know who it was going to be said to, but they would probably get wind of it.

In re-examination of Dodd by Counsel Assisting the following exchange took place:

Now as I understand it, there are some things that had nothing to do with the taking of the guns, and they were to use them to kill Mr Lobbeiger, that is out, you have said that never was mentioned, never - - - ?---That's correct, that's out, that was never mentioned.

I also think that it was not, they were not being stolen to use them for a robbery or anything of that nature?---No.

All right, so we put that aside. Now, what have come around at enormous length and frequency are three different reasons. One is that by being the, by apparently being the stealer of the guns you would have certain notoriety with the Ananda Marga people?---Not only them, but with a lot of other people as well.

With other people in the criminal community?---Yes, yes.

Okay, that was one point. Another point was that by stealing the guns there would be a benefit in that they could be sold for money?---That's correct.

And you would have money from that?---Yes.

Another reason was that, so far as Lorrelle Saunders was concerned, if the guns were returned, pursuant to what was apparently a tip from her, as to how the guns could be found to be returned, that would be to her credit with her police career?---Yes, that's correct.

Okay. Were there any other reasons? We have put aside bad reasons - - -?---No.

- - - we are left with three good reasons, as it were?---That was the reason.

Any other good reasons?---No.

Okay. Now, could you tell his Honour, just to try to get it clear, in your own words just how those three reasons came into it. You used the expression it was mixed up, or it was all part of the one thing - - -?---Yes.

- - - but I take it there was more than one conversation which ended up with the guns being stolen?---That's right, correct.

Could you just take your time and try to say how those three reasons came into it, or what part they played?---Well, the way that Lorrelle could have benefited by them being found was that once the heat was taken off her, the tip was there, she was no more involved, and it would help her.

Look, Mr Dodd, I can understand the reasons, what I do not follow at the moment is how they fitted in, you see. Apparently they all became, at one stage or another, part of the reason for it, all right. So, at one stage, according to you, it was mentioned that it would be possible to steal guns from Coomer, is that right?---That's correct, that's correct.

According to you Lorrelle Saunders said that?---Yes.

Now, at that first suggestion that guns should be stolen from Coomer did she tell you anything to indicate why you should do it?---Just that it, if they were stolen and then found later on, as her tip, as she got tipped off, it would benefit her, it would help her.

All right?---Later on, it came about that, if it was known that I - was the one that stole the guns, it would also get me in good with other crims, the Ananda Marga, and different people.

Yes. And what about the third reason of selling the

guns?---Well, that was just to make money.

But when did that - when was that mentioned as a reason for doing it?---That would have been about the same era - about the same time.

The same time as which?---As the Ananda Marga and - it would have been all come out in the same conversation.

Oh, I see. All right?---It was not one particular conversation about one thing - you know, one - it was mainly just a general of how they could be benefited.

So what you are saying now is that in the conversations these three topics were mentioned?---They have all been mentioned.

More than once, as it were, and in the one conversation. Is that what you are saying?---Yes.

It would seem that before me Dodd was attempting to explain that once it became known that he had stolen the firearms it would place him in a good light amongst criminals and members of the Ananda Marga. He was adamant that the firearms were never physically to end up with the Ananda Marga. It is difficult to conclude from the evidence given by Dodd why the firearms were originally stolen. It seems clear that at different times there were different considerations. Unfortunately, one does not get any assistance from the circumstances surrounding the eventual disposition of the firearms because they were not sold, they were not provided to the Ananda Marga and they were not located as a result of a "tip-off" from Saunders. All but one of these valuable firearms were simply abandoned. The question remains why would these firearms which were particularly valuable in the hands of criminals be abandoned within two days of their theft?

6.6 Dodd's trip to Stanthorpe on Saturday

It seems clear that Dodd travelled to Stanthorpe with Spires on Saturday morning, 6 March 1982. It is also clear that the primary purpose of his trip was to visit the Apple and Grape Festival although there is no doubt that he had told Krosch he was going to find out whatever he could about the Ananda Marga.

On Spires's uncontradicted account they were to travel to Stanthorpe on the Friday night but as it was raining they postponed it to the next day. At about 8.45 a.m. she and Dodd travelled to Stanthorpe in his car. They arrived there around lunch time and camped on the side of the road that night. They left about 8 o'clock the next morning and returned to Brisbane after dropping off a hitchhiker at a flea market at Aspley. They arrived home at about 1 pm. A girlfriend had been looking after Spires's children. Dodd's account was consistent throughout with that of Spires. He also maintained that they returned home at approximately 1 p.m. on the Sunday.

There is no evidence that Wills went to Stanthorpe on that weekend. There is some evidence that Bernie Hannigan was there, but no significance can be attached to this. Helena Dodd was also in Stanthorpe on 6 March 1982. Apparently her daughters saw Dodd but she did not. Coincidentally Tutt and his family were also in Stanthorpe at some time during the weekend but there is no evidence that Dodd met Tutt there.

6.7 Telephone calls from Saunders to Dodd on Sunday

Dodd claimed in his record of interview with Webb on 26 February 1982 that Saunders telephoned him on Sunday and advised him that there had been a change of cars and that Coomer's Toyota four wheel drive which was originally to be driven to the restaurant was no longer to be used. He claimed that she gave him the make and registration number of the new car to be used, which was a Torana. He recorded the registration number on a piece of paper but had thrown it away by the time he had been interviewed by Webb. He claimed that Saunders told him that she was at the shooting range and they would be leaving there about 6.30 p.m. and going to the restaurant. He stated that this telephone call was received by him:

about dinner time, about midday I was feeding the youngest child.

At the committal hearing after the prosecutor had questioned Dodd about Saunders's discussions with him on the Friday prior to the theft of the firearms the following exchange took place:

I think you said that she said that it would be Coomer's car that they'd be travelling in?

Yes Sir.

Well when were you next contacted by the defendant?

It was after the guns went. That was on the .. I went down to Stanthorpe on the Saturday. I was back on the Sunday. I think it was Monday or Tuesday.

*Was there any communication from her to you on the day the guns went off?
That she'd been pulled over the coals.*

*No. The guns went off on the Sunday the seventh?
Yes Sir.*

*Did you receive any telephone call or anything from her on that day?
I don't think on the Sunday. I think it was the next day.*

*Well what were your movements on the Sunday?
There was a change of plans with the car.*

*Yes. Well we'll just it one step at a time. Where were you on the Sunday?
Coming back from Stanthorpe. Well I never got back until about one o'clock.*

*When had you gone to Stanthorpe?
Saturday.*

*And what was your interest in Stanthorpe?
Well that was in connection with Barry Krosch.*

*Yes. That's the detective from Special Branch?
Yes.*

*Right. Was it also the occasion of the Apple and Grape Festival?
Yes Sir.*

*Alright. Well you returned home at, I think you said about one o'clock.
Yes Sir.*

*What happened when you got home?
It would have been about half past four, five o'clock I received a phone call saying that the cars had been*

changed.

*Well who was this phone call from?
Lorrie Saunders.*

*What did she say to you?
She told me that the cars had been changed and Coomer
wouldn't be taking his car but his sister's car.*

*Did she tell you what type of car that was?
Yes Sir.*

*What did she tell you?
That it was a .. she also give me the registration number of
it as well. It was a blue coloured, I think it was a Datsun.
I'm not too sure now.*

*Well she told you that there'd been a change in plans to
the extent that they'd be travelling in this other vehicle?
Yes Sir.*

*And you say she gave you the registration number. Did
you make a note of that?
I did Sir but I don't know what happened to it.*

*Well you can't find that now?
No Sir.*

In cross-examination by Saunders's counsel at the committal hearing it was brought to Dodd's attention that although he had given evidence before the Magistrate that the telephone call was made at about half past four or five o'clock, he had previously stated to Webb that the call came in around midday when he was feeding the youngest child. He maintained that he did receive a telephone call in the afternoon and gave an explanation of the terms "dinner time" and "midday" which was incomprehensible.

At the trial he gave an account consistent with his original record of interview to Webb. He again claimed that the telephone call he received was:

• between one and five past one.

In Dodd's statutory declaration to the Commission he confirmed that the

evidence he gave at Saunders's trial was correct. In evidence before me in examination by counsel assisting he stated that he believed that it was Helena Dodd who advised him of the change of vehicle after Saunders had contacted her. In examination by Fleming QC when asked whether he was sure of this he replied:

Oh I'm not sure, but she got - Lorrelle was trying to get in touch with me through her.

It is clear that Dodd was mistaken in thinking Helena Dodd had advised him. On all the evidence, although Helena Dodd had received at least one telephone call on the Sunday from Saunders, she had not seen or heard from Dodd between 5 March 1982 and some time after 15 April 1982 and would therefore have been unable to pass a message from Saunders to him.

Spires in her statement dated 29 March 1982 to the police claimed that when she returned from Stanthorpe with Dodd she was told by Dodd to expect a telephone call from "Lorrie." She claimed that at approximately 5.30 p.m. a female, who identified herself as "Lorrie," asked for Dodd. She handed him the telephone but did not take any particular notice of what was said. She could recall that Dodd and Wills left the home after this. She maintained this account at Saunders's committal hearing. The Magistrate asked Spires whether prior to this date there had been any telephone calls to her premises from Saunders. She replied:

There's been a few .. couple of phone calls. He might have .. but .. you know he used to come around there a lot and there used to be phone calls there then.

In her statement she had explained that in total she had received "about twenty calls" from "Lorrie," but she had not nominated when they had been received in relation to the Sunday.

At Saunders's trial Spires stated that they returned to the house at about 1 or 2 o'clock. She claimed to have received a telephone call from "Lorrie" at about 5 or 6 o'clock. On this occasion the prosecutor asked her whether there had been any calls to her home from "Lorrie" prior to this one and she replied:

There was probably a few before then. I can't say how many or what time or what days or anything.

When Spires gave her statutory declaration to the Commission she stated

the following:

I recall that when we got back to Thorneside Dodd told me he was expecting a call from Saunders. She did telephone that afternoon and I answered the call. I handed the phone to Dodd who was at home at the time. I remember hearing Dodd say words to the effect that everything was set. I cannot recall if this was said during his phone conversation with Saunders or when Dodd spoke to me afterwards.

She then added that although she could not recall the exact time of the telephone call from Saunders on the Sunday, the time nominated in her statement of 29 March 1982 was correct. When she gave evidence before me she conceded that she could not remember, without reference to the statement, the fact that Dodd had told her that he was expecting a phone call from "Lorrie," although she could recall the telephone call from Saunders late in the afternoon.

In examination of Spires she was asked to comment upon the fact that she had originally said that she had spoken to Saunders on twenty occasions whereas she had said before me that she had spoken a couple of times on the phone to Saunders. She indicated to Fleming QC that whatever was in her original statement was correct. I would not have expected Spires to have had a better recollection after all this time of the number of telephone calls received in total from Saunders.

At Dodd's committal hearing and trial the issue of receiving a telephone call on Sunday was not canvassed with Spires.

In Wills's record of interview with Webb the following question and answer appeared:

Q.28 Did you receive a telephone call on the Sunday?

A. No, I think John did. There was a transfer of cars. He was supposed to arrive in a Land Rover but they changed it to a Torana.

He maintained this account in his subsequent evidence and before me.

Coomer gave evidence at Saunders's trial in response to a question from counsel for Saunders that after 3 p.m. he remained with Saunders at the

Rifle Club. During this time she made no telephone calls. In re-examination he acknowledged that he did go to the lavatory on a couple of occasions.

Saunders denied ringing Spires's home on Sunday to contact Dodd. She claimed that at that stage she did not know that he had shifted from Helena Dodd's home to Spires's residence. She claimed that she did not have Spires's telephone number until Dodd gave it to her on Tuesday, 9 March 1982. Her diary for 9 March recorded that on that date Dodd gave her a telephone number which was apparently Spires's.

In her statement of 19 April 1982 to Webb Helena Dodd stated that on Sunday, 7 March she was at her home at about 2 p.m. when she received a telephone call for Dodd from Saunders. She claimed the following conversation occurred:

She said to me, 'Helen, this is Laurie Saunders. Is Doug there please?'

I said, 'No, I haven't seen him since Friday. But I know he was at Stanthorpe because the kids saw him.'

She said, 'When he comes home, if it is before 5.00 p.m., get him to ring me at the Belmont Pistol Club. I am at the Belmont Pistol Club and I've got a job I want him to do.'

She then gave me a telephone number. I wrote that telephone number down but I have mislaid it at the present time.

I said, 'Listen, does this job take up so much of his time that he doesn't even come home for days?'

She said, 'Yes, it could.'

In the statement she did not say that this was the only telephone call she received on this day.

When Helena Dodd gave evidence at Saunders's committal hearing she described two telephone calls that she received from Saunders on Sunday. She explained that during the first call she told Saunders that Dodd was not there and Saunders asked whether she would mind if she telephoned later. Helena Dodd indicated that she did not mind. She stated that she

received a second call about an hour later. This call was as described in her statement to Webb. When Helena Dodd was cross-examined by counsel for Saunders at the committal hearing the following exchange took place:

And the defendant made it clear to you she wanted some information on the job he was doing in Stanthorpe, the Ananda Marga, as soon as possible?

No, she never said anything like that.

Well you knew he was in Stanthorpe on a job as a police informer, didn't you?

Yes.

And the conversation with the defendant was relating to the job, the job as a police informer he was doing in Stanthorpe?

The conversation I had with Laurie Saunders?

Yes.

No, I didn't know anything about a job. I just said I knew he was at Stanthorpe.

But the conversations you had with the defendant on the Sunday afternoon related to the job that he was doing as a police informer in Stanthorpe?

It didn't relate to the job. I just told her I knew he was at Stanthorpe and I hadn't seen him since.

And she wanted information she made it clear to you that she wanted information from him as soon as he got back from Stanthorpe?

No, she told me she had a job for him to do at the Belmont .. to ring her.

Yes?

At the Belmont Pistol Club.

At Saunders's trial Helena Dodd again described two telephone calls. Although questioned about these two telephone calls, it was never suggested by counsel for Saunders that there were not two calls.

In a statement dated 23 March 1984, undoubtedly prepared for the trial of Dodd, Helena Dodd stated that:

I received a telephone call from a woman I believed to be Policewoman Saunders.

She did not state that this was the only call that she had received.

When Helena Dodd provided a statutory declaration to this Commission on 3 March 1993 she stated that her recollection was that Saunders rang her a number of times. She added that:

It seemed that sometimes she was ringing every ten minutes.

When questioned by Counsel Assisting she gave a figure of six to eight times. When examined by Fleming QC the previous inconsistent accounts of the number of telephone calls received on the Sunday were put to her. The following exchange then took place:

You see, the impression you are trying to give is that Lorrelle Saunders was really quite anxious to contact Doug on that day?---Yes, that's the impression.

That is the impression you want to give?---That I got. Yes, that's the impression I got that day.

But that is the impression you want to give now, is not it?---Yes. Well, that's the - - -

That she was anxious - - - ?---That's the point I'm trying to make, yes.

Yes, that she was anxious - - - ?---Mm.

- - - to contact Doug - - - ?---Yes.

- - - that day?---That's right.

Saunders gave evidence before me that on the Sunday she rang Helena Dodd on two occasions in an attempt to locate Dodd to ascertain what had happened in Stanthorpe in relation to his Ananda Marga enquiries. On both occasions Helena Dodd advised her that Dodd was not at home.

In her Legal Aid material she confirmed having telephoned Helena Dodd once on the Sunday. The following extract then appeared in her notes

headed "Crown Witness Helena Dodd:"

Page 185 [page number of depositions]

Sunday 7th March.

Lines 18 - 32. I don't recall speaking to Helena Dodd on two occasions on the Sunday ... I rang from home prior to Coomer picking me up and no-one answered ...

Page 186 Yes I certainly did phone Helena Dodd ... and did leave phone number ... anxious to interview Dodd over Stanthorpe if he returned ... for Krosch ... and very handy to meet him at Capalaba Tavern ... Coomer would have either come with me if not shooting or let me take the car ... and I was rather bored in the club.

At page 186 of the depositions Helena Dodd had testified that Saunders had telephoned her from the rifle club and asked her to tell Dodd to ring Saunders back at the club. This extract from the Legal Aid material therefore confirmed Helena Dodd's evidence that Saunders had telephoned Helena Dodd from the rifle club. This was contrary to Coomer's evidence that she had made no calls from the rifle club.

At Dodd's committal hearing it was put to Saunders by Dodd's solicitor that she had telephoned Helena Dodd on four or five occasions. She replied:

That is not correct. I phoned her twice.

I believe that Saunders was "anxious" to speak to Dodd urgently. Whether Helena Dodd received one or eight calls there can be no doubt that she correctly gained the impression that Saunders was seeking Dodd urgently.

6.8 Saunders and Coomer at the Belmont Rifle Club on Sunday afternoon

Coomer in his statement of 10 March 1982 to police from the Upper Mount Gravatt Criminal Investigation Branch stated that he arrived at the Rifle Club at about 9 a.m. on the Sunday in the Torana. He made no reference to a late change of vehicles although he did state that he normally carried his firearms in the four wheel drive. He competed until 11.30 a.m., when he ate lunch. He then went to Saunders's home to convey her to the Rifle Club. Upon arrival back at the club he then continued "the competition shoot" until rain interfered at about 3.30 p.m.. He stated that he then took all of the firearms which he had with him on

that day, four concealable handguns and an armalite semi-automatic rifle, and placed them in the boot of his vehicle. He then returned to the club house and consumed a number of beers with Saunders. He gave a similar account in his statement of 26 March 1982 to Webb except on this occasion he stated that the four handguns had been put in two cases in the boot of the vehicle and the armalite was placed in a soft gun case on the back seat.

At the committal hearing Coomer explained that when he had gone to pick Saunders up from her home she had been ill and had decided to stay home, but he managed to talk her into going out. Before me Saunders repeated Coomer's claim that she had been ill on the Sunday. She stated that because she had influenza she remained in the club house with some of Coomer's friends until it was time to go.

It was uncontested that when Coomer went to pick Saunders up from her home he was not travelling in his Toyota Landcruiser four wheel drive but in his sister's blue Torana. In his statement of 26 March 1982 to Webb Coomer explained that his four wheel drive vehicle had developed mechanical trouble and he had to take his sister's Torana sedan. The following passage then appeared:

I did not tell any person about this change of vehicles until I met Saunders at her place of residence. She said to me, 'I didn't know you had a Torana,' and I said, 'It's my sister's. Mine's bugged.'

He maintained this account at the committal hearing.

In his first statement to the police from Upper Mount Gravatt on 10 March 1982 he had stated that Sunday, 7 March 1982 was the only time that he had used the Torana to convey his firearms to the club. However at Saunders's trial he claimed he had previously taken firearms to the Club in the Torana "on a couple of occasions." When Coomer gave evidence before me he was asked why he had not used his own four wheel drive on this occasion and he responded that he used to give his sister's Torana a run every so often and that it was just the day to give it a run. Later in examination by Counsel Assisting he acknowledged that if somebody had been aware that he had been carrying firearms in his vehicle they would have normally looked for a Toyota as it was unusual to have the Torana. Saunders in her evidence before me acknowledged she expected to see Coomer arrive in the Toyota. She was not prepared to agree with Counsel Assisting's suggestion that it was unusual for Coomer to have the Torana.

6.9 The route taken from Belmont Rifle Range to the restaurant

In the course of the investigation it became important to ascertain the route actually taken by Saunders and Coomer from the Belmont Rifle Range to the restaurant on 7 March 1982. This was because a letter dated 14 July 1982 written by Dodd described a route which Dodd in the letter claimed he and Wills took in following Saunders from the club house to the restaurant. The account of Dodd in this letter was completely inconsistent with his admissions to Webb in the record of interview of 26 February 1982 that on Saunders's information he had been waiting outside the restaurant for Coomer and Saunders to arrive. It was also inconsistent with Wills's account throughout of having sat outside the restaurant and waited for Coomer and Saunders to arrive. If Wills and Dodd had followed Saunders and Coomer then Dodd's allegation that his sole knowledge of when and where the firearms would be on Sunday evening came from Saunders was clearly false. Dodd subsequently claimed at Saunders's trial that the route described in the letter was a creation. Also in this letter Dodd had written that Saunders was not guilty of stealing the firearms but once again at Saunders's trial and before me he claimed that the letter was false in this respect. I will return to the letter in greater detail later in the report. In giving evidence at Saunders's trial he maintained that he and Wills had been sitting at the restaurant waiting for them to arrive. When Dodd gave evidence before me he reiterated that the letter was in this regard false. If the route described by Dodd in this letter was correct the irresistible inference was that Dodd and Wills had followed Saunders and Coomer on that Sunday. By the time the letter had reached the hands of Saunders's defence team to enable Dodd to be cross-examined on it at her trial no full account had been given in evidence or by statement of the route taken by Coomer and Saunders on the Sunday.

The most detailed account that had been given by this time was by Coomer at the committal hearing of Dodd and Wills on 9 July 1982. Of course Dodd and Wills were present whilst Coomer gave this evidence. There Coomer gave the following evidence:

We had a couple of beers and the smoke was affecting our sinuses so we drove down here [Cleveland] to see Greg Tutt and on the way down she remembered that he was on night shift, so we went to a park just down the road here and just filled in some time at the water's edge, and then we drove back to the range, bought a bottle of wine and then went to Toni's Restaurant.

Saunders in her statement of 3 February 1993 to the Commission stated that although she could not originally remember the route taken from the Rifle Club to the restaurant when interviewed by officers of the Commission, she had the opportunity to read Dodd's letter dated 14 July 1982 and agreed that the route described in it was the route that they had taken. In her statement after setting out the route described in Dodd's letter dated 14 July 1982 she stated:

I have great difficulty in understanding how Dodd would have known about this route unless he actually followed me.

The route described by Dodd in the letter and adopted by Saunders in her statement to the Commission was as follows:

When they did Joe and I followed them, then they left the gun club and went along Old Cleveland Road towards Capalaba. They went through Capalaba towards Cleveland, they pulled up at the RSL Club for a while then they went to the park near the waters edge. At no stage did I have a chance to get at the guns. When they left Cleveland they headed towards Brisbane but vied off on to Mt Gravatt Capalaba Road and headed towards Mt Gravatt. I thought that Coomer was taking Lori Saunders home and I nearly gave up following them but I kept on just to make sure then they turned into Broadwater Road. I knew then he was not taking her straight home. They then vied into Logan Road, headed towards the City and I then saw them pull off the road and go behind an Italian restaurant.

When Saunders gave evidence before me on 11 May 1993 Counsel Assisting questioned her about the route that she took:

And how did you go from the Belmont Pistol Club to Mount Gravatt? Did you go anywhere else on the way or did you go directly?--We went down to Cleveland first.

Sorry?--We went down to Cleveland first.

Yes. Whereabouts at Cleveland did you go?--Just down to a park. I was going to contact Tutt and then I remembered he was on night work or going on night work

and I didn't.

Well, what was the point of going to the part, I am sorry?---Just to fill in some time - sit and talk in the park. Watch the water - watch the boats.

Right. And you did not get in touch - I do not quite follow what it means. You were going to go to Capalaba all the way to see Tutt and you remembered that he was not on duty so you stopped in the park and just filled in time. Is that what you are saying?---What I'm saying is that, you know, it was a bit of both. I mean I wasn't going specifically to see Tutt, but seeing we were going to go for a drive I was going to give him a call and have a chat to him about Dodd.

I follow, all right. So you were at this park at Capalaba. Is there only one park at Capalaba or is it - or can you identify it?---No, the park was at Cleveland, sorry.

Cleveland - I am sorry, yes?---On the waterfront.

On the waterfront?---Yes.

Is there only one there?---There's parks all along the waterfront. This one was sort of near the RSL.

Near the RSL, okay. Now you were there for some time and then I suppose you judged it, the right time to leave, to get to Tony's Restaurant at about 7. Is that correct?---That's correct - 7 to - whenever the booking was.

Whenever it was, all right, and you drove more or less straight there from there?---That's correct.

And by that - at that stage, I suppose, it would have been still light but starting to get dark by the time you left to go to the restaurant?---Can't remember.

Cannot remember. Can you recall which way you drove to the restaurant?---Back up Old Cleveland Road - Mount Gravatt-Capalaba Road, Broadwater Road to the

restaurant.

Saunders's statement and her original account before me was the only evidence which suggested that the route taken by Coomer and Saunders was that described by Dodd in his letter dated 14 July 1982. In Saunders's Legal Aid material the description of the route taken to her legal advisers was as follows:

We were out at Belmont and went down to Cleveland then back to the range and then here.

When this description was given by Saunders Dodd's letter had not yet been handed to her defence team by the prosecution and therefore Saunders would have been unaware of it.

When Coomer was in the witness box he was examined by Fleming QC in relation to the route. Coomer maintained that after they left the club Saunders and he drove to Cleveland and sat for a while in a park by the sea. They then returned to the club and had a few drinks and picked up a bottle of wine. They then left the club and went to the restaurant. It was clear from Fleming's QC questions that Saunders's instructions had changed to reflect that she and Coomer had gone to Cleveland and then returned to the Rifle Club before ultimately going on to the restaurant.

Fleming QC put to Coomer that when they left the Rifle Club to go to the restaurant the route they took had been left into Mount Petrie Road and down to the intersection where it met with Mount Gravatt Capalaba Road. When they had reached that intersection they then went down Broadwater Road to the restaurant. This was not adopted by Coomer who was adamant that they had departed and turned right onto Mount Petrie Road then left into Old Cleveland Road and down Creek Road to the restaurant. In his statutory declaration to the Commission although Coomer could not recall the route he described the route he would have taken as follows:

To old Cleveland Road, then to Creek Road and follow this to Logan Road at Mount Gravatt.

In Coomer's first two statements to the police in 1982 he did not give a specific description of the route taken between the Rifle Club and the restaurant, although in both statements he made it clear that they had travelled to Cleveland first and then returned to the Rifle Club. He gave similar evidence at Saunders's committal hearing. At Saunders's trial he gave the same evidence and this time was questioned in relation to the

specific route taken once they had returned to the Rifle Club from Cleveland. He indicated that he thought that they went "up Creek Road."

When Saunders was called to give evidence on the second occasion before me on 25 August 1993 Counsel Assisting questioned her concerning these inconsistent accounts:

When you gave evidence in your statement to the Commission of 3 February 1993 in paragraph 15.1 you were asked to deal with the route that had been followed from the Belmont Pistol Club to the Mt Gravatt restaurant, and you were asked - this is what the thing says - let me read it:

Although when originally interviewed -

this is paragraph 15.1 -

by Mr Lambrides, I could not remember the route taken from the rifle club to the restaurant. I had the opportunity to read the letter dated 14 July 1992 from Dodd in which he states the following -

and of course in that letter he does set out a route that was followed?---Yes.

And that is then quoted, and you said:

I agree with this account of us travelling from the rifle club to the restaurant.

All right?---Yes, I'd say so.

Well, now, there is a very good reason why you might want to agree with his account, because that would make it more likely that they had followed you to the restaurant, you see?---Yes, but I mean, I thought about it as well, and that's the way I normally would go.

Yes?---I couldn't see why I would have changed the way I'd go on that particular evening.

You are sure you were driving that evening?---Yes, I'm

pretty sure. I think - because I think Roy Coomer had had a few drinks.

You think he had a few in him, sort of thing, and that is why you drove?---Yes, possibly enough to, you know - and he was a shocking driver, so I normally drove.

I see. All right. Now, when you gave evidence on 11 May 1993 - this is at page 264 and 5 of the transcript - you said that the route - you said what the route was - taken by you as being via Cleveland, and you said that when you got to Cleveland you and Coomer sat in a park near the RSL club and then returned up Old Cleveland Road to Mt Gravatt-Capalaba Road, then Broadwater Road to the restaurant; right?---Yes, we went back - we went back to the club house.

Yes, but that is what you said when you gave evidence, you see. You did not say any - you made no suggestion that you returned to the rifle club before going to the restaurant?---Well, yes, we did.

Well, that was left out of that particular material. And then in your legal aid material - this is at page 561 - it is noted:

We were out at Belmont and went down to Cleveland, then back to the range and then here.

That is what you are supposed to be telling Lobegeiger, you see, on the phone call after the gun had gone; right?---Yes.

Okay. Now, the - when Mr Coomer was in the witness-box at page 1469 of the transcript it was suggested to him by Mr Fleming that the trip to Cleveland occurred prior to returning to the rifle club and that you and Coomer went straight to the restaurant from the rifle club by turning left into Mt Petrie Road and down to the intersection where it meets Mt Gravatt-Capalaba Road, and then went down Broadwater Road to the restaurant. That is what the transcript shows was put to Coomer?---Yes, sure.

And that is not your route; that is not the one that you say?---Yes, that's right.

Or it is the one, you say?---Yes, that's the one I'm saying.

Okay. Anyway, Coomer said no, that was not so. He said that you and Saunders - that he and Saunders had originally left the rifle range, gone to Cleveland by the water, then returned to the rifle club but you then departed and turned right into Mt Petrie Road, then left into Old Cleveland Road, then down Creek Road to the restaurant?---Well, you know, that's his recollection. Mine is that we went - my recollection is that I was, in fact, going to call home for something and then decided not to.

The directions that he gave would be a shorter way, would not it - - - ?---I tested it - - -

- - - to Mt Gravatt than the way that you are saying?---I tested it in a police car the other day and in fact there is one kilometre shorter, the way I'm saying.

The way you are saying is one kilometre shorter?---I checked it on the speedo and odometer of a police car just recently.

Did you check it in terms of time, though, in terms of lights and traffic and so forth?---In those days there were far more traffic lights in the way that Mr Coomer is saying.

Why did you check it the other day? For what reason did you check it the other day?---Because I was thinking about which way we went, so I drove over the route.

I see. Now, Coomer's account, of course, that he gave in evidence here is the same as the account which he gave in his statutory declarations to the commission of 1 April 1993; you noticed that?---No, I didn't but I'll take your word for it.

All right. Then, of course, you have got Coomer's original

statement of 10 March 1982 when he said that when you left the rifle club, on the first occasion, you went to Cleveland where you met Greg - presumably Greg Tutt - and then you went back to the rifle club, and then directly to the restaurant from the rifle club?--Yes, well he's

- - -

That meeting with Tutt, you see?--Yes, well that's - he's obviously confused about - - -

That is not correct?--No. He had - we had gone from there and met Tutt one day, but certainly not on that occasion.

All right. And, in fact, he took that back in the next statement. Did you discuss that with him, in fact, that he got that wrong?--I don't know.

Because in his next statement of 26 March he retracted the statement that he saw Greg at a hotel on that day; merely saying that you had gone to a park at Cleveland. You do not remember discussing his account with him?--Not now.

All right?--I think on that - on the day that we went to Cleveland, the day of the guns being stolen, I'm reasonably sure I stopped at a phone box and I was going to ring Greg and then I remembered that he was going on night shift - - -

Yes?-- - - - and I didn't ring him. That's my recollection of it.

Yes. When he gave evidence at your committal of 10 August - or, at your trial, perhaps I should say, on 3 May 1983, he added that the route taken from the rifle club was via Creek Road, do you remember that?--No. But I would assume that if he was going home that would have been the way he - I think that was the way he normally went home to his place from the rifle club.

Yes. And have you looked at the statement - you probably looked at it but you might not remember this: the statement

that Coomer gave to Menary and Pointing - the one I have dealt with before - in that the trip to Cleveland occurs prior to the return to the rifle club, that the route taken from the rifle club to Cleveland was along Mt Petrie Road, right into Old Cleveland Road and straight down to Cleveland, right?---Yes.

See, what I am getting at is: none of these are really agreeing with Dodd's letter, are they?---Yes, that's going to Cleveland, what you just read out. That's - - -

Yes, I realise that last bit is, yes, that is right?---Yes.

But the others that I have read out so far - let me take another example, then, of the - what happened later. In that addendum to that statement it deals with the after part of the route, and that is said to be from the rifle club to the restaurant along Mt Petrie Road, left into Old Cleveland Road, left into Creek Road, and then on to Logan Road, and it also has a - it also adds there, 'We never stopped at the RSL, or were never out of each other's sight.' All right?---Yes, well, I don't know. I'm fairly sure we went near my place and I was going to call home, but - - -

Well, that is inconsistent with Dodd. I mean, these accounts that I am giving are really inconsistent with Dodd's letter, are not they?---Oh is inconsistent, yes.

Yes. Oh, and of course, there is a greater inconsistency in the evidence of Wills and Dodd in that they say they did not follow you but they were waiting there - - - ?---That's correct, yes.

I have no doubt that the route described by Dodd in his letter dated 14 July 1982 was not the route taken by Saunders and Coomer on the Sunday evening. It seems most likely that it was Dodd's best attempt to extrapolate a route from the brief description given by Coomer on 9 July 1982 at the committal hearing of Wills and Dodd. I accept Coomer's evidence that the route taken was from the Rifle Club to Cleveland then back to the Rifle Club, right into Mount Petrie Road, left into Old Cleveland Road, then down Creek Road to the restaurant. This route is inconsistent with the route described in the letter and also with Saunders

having wished to call home for something and then having changed her mind, as claimed in her evidence before me.

6.10 Dodd and Wills wait outside the restaurant

In Dodd's record of interview with Webb on 26 March 1982 he was asked the following question and gave this answer:

Q.57 Well, was there some arrangements made to take the Torana.

A. Yes, Joe was going to knock the Torana off to make it look better. When it was coming up time for it to be done Joe and I went to Mt Gravatt and I dropped Joe off and he just waited around for the Torana to come we got there early and just waited around until it came in. We were at the bus stop and when they come in he give them a few minutes and that's when Joe and I split up. He went to get the car and I went to mine. I waited for him and later on he turned up in a different car. I got out of mine and walked over to him and asked him what happened and he didn't get the Torana and he said he couldn't get it started but he had the guns.

At Saunders's committal hearing Dodd gave the following evidence:

Alright. Well what did you do?

Well we went..when it was coming time to go we went from there to Mount Gravatt in my car.

This is yourself and Wills?

Yes Sir.

Yes?

And I parked it up a side street and we sat around in a bus depot near a bus stop near where the cafe is and seen Lorrie Saunders and Coomer come in in the car.

What car were they in?

His sister's, the blue one.

Was it a blue vehicle?

Yes Sir.

Right. Now did you actually see Saunders and Coomer or did you just recognise the vehicle from the description?

Recognised the vehicle to start with.

Where did this vehicle go?

Just before you get to the lights there's a little alley way.

Yes?

It drove in there into the park at the back.

Right. Did you see who was in it?

Yes Sir.

Who was?

Lorrelle and Roy Coomer.

Well what happened after they'd gone and parked in there?

Well they ended up going. we watched them go into the car and we give them about five minutes and then Joe went to get the car.

Alright. Well was that the plan that Joe would take the car?

Yes Sir.

At Saunders's trial Dodd gave a similar account and explained that the bus stop was some four or five yards up the road from the restaurant. In his evidence before me and in his statutory declaration to the Commission Dodd maintained that he and Wills had been waiting at the restaurant for Coomer and Saunders to arrive. The following exchange with Counsel Assisting canvasses where Dodd was waiting for Coomer and Saunders:

Do you remember where you were, where you were waiting?---Yes. The - there's a little lane, then there's the carpark behind. The restaurant's on the left-hand side of the lane; I was over on the right.

And where was Joey?---He was out the back.

I see. There's a bus-stop there, is - a bus-stop

shelter?---Yes.

Remember the bus-stop shelter?---Yes.

At any time, were you both waiting in the - sitting in the bus-stop shelter?---At first we might have been, and then he went around the back, when it was getting close.

In examination of Dodd by Fleming QC Dodd gave the following account of their actions outside the restaurant:

Now, you had met Coomer, had not you, two weeks at least before the guns were stolen?---I don't know exactly when I met Coomer.

But certainly before the guns were stolen?---I met Coomer, yes.

You had met Coomer before the guns were stolen, had not you?---Possibly. I don't know. I can't recall.

And your evidence at the trial is that you and Joey Wills were sitting on a seat outside the restaurant where they were going - that is Coomer and Saunders, were going in to have dinner?---It would have been on the other side.

What other side?---The other side of the road, until it was near time for them to arrive.

The other side of the road?---Because we weren't exactly at the restaurant.

Oh, I see. See, Joey Wills says that this seat was just outside the restaurant. In fact, you had to walk within three or four feet of it if you were coming out of the carpark and into the restaurant. That is what Joey Wills says. Is that not right? He said that here in - - - ?---I can't remember. All I know is that before they arrived, Joey Wills was gone. He was at the back of the place.

So he was not there when they arrived?---No. I had to show him where the car was.

Were you sitting by yourself on this seat when they arrived at the restaurant?---I don't think - I was think I was standing looking in the shop, and I seen them - and I seen them coming.

On the same side of the road or the other side?---No, the same side.

The same side of the road?---Yes.

You were standing looking in the shop. You were not sitting on a seat the other side of the road at all?---Earlier on we were.

All right. So - well, let us get this straight. At some point in time you were sitting on the other side of the road on a seat with Joey Wills?---Yes.

All right?---Then we cross over the road.

And Joey Wills - sorry, you both crossed over the road?--We crossed over the road, yes.

This is before they arrived?---Yes.

All right. And what then happened?---Went and checked out the carpark.

Who did that?---Me and Joey.

You both walked into the carpark?---Yes.

Checked it out?---Yes.

Did you come out again?---We came out again.

And where did you stand or what did you do then?---I was on the righthand side of the laneway.

The righthand side of the laneway. Is that the same side as the restaurant, or the other side?---No, it is the other side.

The other side of the restaurant?---Yes.

And what were you doing?---Just standing there looking in the shops and that.

Waiting for them to arrive, were you?---Yes.

Now, why were you standing there. Where is Joey Wills, at this stage?---I think he was around the back.

Still in the carpark, was he?---Yes.

When they arrived where were you?---Still at the front.

And where is Joey Wills?---He was around the back somewhere.

Well, how did he know what car that they were in?---Because I went and told him.

When did you tell him that?---After they had gone out to the restaurant.

What, did he come out again, did he?---No, I think I went in.

You went in?---Yes.

All right. Did they drive up a laneway in close proximity to yourself, did they?---I don't know what you - whether you would say it close. I was just up the road a bit.

How far away from them were you?---Oh I wasn't all that far.

Would you take your transcript of the trial of Lorrelle Saunders of 3 May 1983. Have you got that?---Yes.

Page 86. Now at about line 5, at the top:

What was the next thing that you did in relation to this matter.

This is your evidence-in-chief that is being led by Mr Glynn, the Crown prosecutor:

What was the next thing that you did in relation to this matter?---Well, we done nothing until about half past six that night.

What did you do then?---We drove from Ferry Road to Mt Gravatt.

Whereabouts in Mt Gravatt did you go?---I parked up a side street, and me and Joey then went and sat on the bus stop.

Whereabouts was this bus stop in relation to this restaurant that you have been shown?---Just up the road about four or five yards.

What happened next?---We were waiting there and Lorrelle and Coomer came down in the blue car, drove into where the carpark was. We sat there and waited. They came out and went into the carpark.

What was the light like at that stage?---The area was lit.

Was it like any other man made lighting, what was the natural light like?---Moonlight.

What happened next?---Well, they sooner went into the restaurant, waited a few minutes then Joey went to get the car.

That was the evidence that you gave at Lorrelle Saunders' trial?---Yes.

Is some of that not true?---Well, I can't recall exactly how the thing went.

You seemed to be doing a pretty good job just before of recalling how it went?---Well Joey and I went there, were there first and Joey went - we went and checked out

the carpark and then we came out and as I said I don't know whether Joey went back, but I thought he was in the carpark.

The fact is that you were sitting at a bus stop on a seat?---We may have been, yes.

And you were in a position to be only a few feet away from where Saunders and Coomer were passing, were not you?---It would be about the distance of this room, yes.

The distance of this room. You were sitting at the seat when they passed?---When they went in, yes.

You are now sitting at the seat?---Well, I don't know whether I was sitting on the seat or I was at the window. I know I was there, in the vicinity.

All right?---Because I seen them come in.

You were not afraid that Mr Coomer would recognise you?---No.

Well, you had met him?---I said before, I wasn't sure whether I had or not.

In Wills's record of interview the following questions and answers were asked:

Q.33 What time did you arrive at Mt Gravatt?

A. About 6.30 Sunday night.

Q.34 Why did you select that time to go there?

A. I wanted to check it all out and find out where the exits were, how many people walked through. Just a surveillance.

Q.35 Did you know what time the vehicle with the guns would arrive.

A. Approximately 7.

Q.36 *Did you know before you went there how many people would be in the vehicle?*

A. *Yes, two. The owner of the guns and Laurie.*

A.37 *Did you know whether Laurie was a male or a female?*

A. *At first I thought it was a male but when she got out of the car, I knew it was a female.*

Q.38 *Did you have any indication before you went to Mt Gravatt how many firearms would be in the car?*

A. *Only that there would be an Armalite and a couple of pistols and some ammunition.*

Q.39 *Did you know where abouts in the vehicle the firearms would be?*

A. *In the boot.*

Q.40 *Who told you this?*

A. *John told me but Laurie told him.*

Q.41 *Did you ever speak to Laurie?*

A. *No.*

Q.42 *Have you spoken to Laurie since?*

A. *No.*

Q.43 *Where were you when the Torana arrived?*

A. *Sitting at a bus stop near the entrance to the car park.*

Q.44 *Where was John?*

A. *Parked about two or three blocks up in the car.*

Q.45 *What did you do when the two people got out of the car?*

A. *Waited until they went into the restaurant and gave them about five minutes then I went around and broke into the car.*

At the trial of Saunders Wills gave the following evidence:

Did you subsequently leave the house there at Ferry Road?--Yes.

What time was that?--I don't know, about half past 5, 6 o'clock.

And where did you travel to?--I'm not sure of the exact address but it was some restaurant at Mt Gravatt.

And how did you travel there?--In Doddsy's car.

That is John Dodd?--Yes.

What happened when you got to this restaurant at Mt Gravatt?-- We just sat on the bus stop outside this car park.

You got out of the car, did you?--Yes.

Where was the car?--It was just down the road a bit.

How far down the road?--A couple of hundred yards, I suppose.

That is from the restaurant?--Yes.

You will have to answer. You see, it is being taken down?--Yes.

And yourself and Dodd went and sat on this bus stop?--Yes.

What did you do there?--Just watched the car park entrance. I went into the car park and just had a look

around to see if there were any spots that I could be seen or anything like that.

How long did that take?--Ten minutes or so.

What did you do after that? ... --Just waited for the car to turn up.

Where did you wait for the car to turn up?--At the bus stop.

Despite vigorous cross-examination by counsel for Saunders Wills maintained this account. When giving evidence for the Crown at Dodd's trial he repeated that he and Dodd had been waiting for Coomer and Saunders at the restaurant.

Before me Wills was questioned by Counsel Assisting in relation to this matter:

Okay. Now - but what I meant was, where were you waiting? You did not take a table in the restaurant to wait?---No, no.

Well, where did you wait?---We were sitting at a bus stop between where the carpark was and where the restaurant was.

I see, so there was a carpark behind the restaurant, was it?---I do not know if it was so much behind the restaurant as up the road a bit from the restaurant.

I see?---It would not be directly behind the restaurant. It seemed to be further down the road.

And, is the bus stop one of those that are partly enclosed or just marked?---No, I think it was just a seat.

There is a seat there?---I think, yes.

So, you and Dodd are waiting there. Is it dark at this time or partly dark, do you know?---Well, that - I do not remember. If it happened at 7.30 obviously it was dark but I do not - I know it was late in the afternoon or early

evening.

Was late, all right?---I cannot remember if it was dark or light.

Okay, and then you had said earlier it was going to be a Toyota but you were told now that it was - or Doddsy told you it was going to be some other sort of car? What was the other sort of car?---Blue Torana.

A blue Torana, and did such a car arrive?---Yes, it did.

All right. Well, tell us. You are sitting at the bus stop?---We saw the car go up the driveway into the carpark. A couple of minutes later this blonde-haired lady with a bloke walked out and they walked passed us. Apparently the lady is Saunders. I had never seen her. I did not know her from a bar of soap so John said, 'Here she comes now'.

Dodd said, 'Here she comes now'?---Yes.

Yes?---And, as they walked passed she just sort of looked us and just kept going and then I went and did the job.

Fleming QC also examined Wills on where he was seated:

Okay, 'Here she comes.' Now, at that stage you were sitting on the seat between the entrance to the carpark and the restaurant?---Yes.

They had to walk past you and John Dodds - - -?---To get to the restaurant.

- - - to get to the restaurant. You are both sitting there. He said, 'Here she comes.'?---Yes.

All right. And would you have a look at your record of interview, which Mr Hampson showed you, Friday, 26 March 1982. Have you got that there still?---What's that? The second one?

Yes?---That one? Yes.

And that is your answer - page 3, have you got page 3 there?---Yes.

And question 37, do you see that?---Yes.

Now, that - that is your recollection about all of that? That is firmly in your mind that that is the way it occurred?---Yes, well - see, this could be more accurate than what I've just said now, about how I first thought she was male, and then when she got out of the car I knew she wasn't. That's obviously more accurate than what I am now.

Yes?---Because it's ten years later. I don't remember exactly how everything happened.

But you have this clear recollection that John was sitting beside you and he said, 'Here she comes.' That is the way you knew that she was - - -?---That's how I remember it, yes.

That is the way that you remember it. He was sitting there with you?---Yes.

On the seat as they came out?---Yes.

All right. Would you then go down to - - -?---24.

- - - question 41:

Didn't you ever speak to Lorrie?---No.

your answer. Question 42:

Have you spoken to Lorrie since?---No.

Next question:

Where were you when the Torana arrived?---Sitting at a bus stop near the entrance to the car park.

Right. Question 44:

Where was John?---Parked two or three blocks in the car.

What did you do when the two people got out of the car?---Waited until they went to the restaurant.

?---Yes.

See what I am suggesting?---Yes, that Dodds wasn't there.

Dodds was not there?---Well, I'm sure he was sitting beside me at the time.

You are sure that he was sitting beside you?---Like, except for identifying a blue Torana driving into the car park I wouldn't really have known if that was Saunders or not because I'd never seen her.

You would not know - - ?---Except for seeing the car drive in, that's the only way - if Dodds wasn't there that's the only way I would have known something was right - was the right car drove in, but I certainly wouldn't have known Saunders from a bar of soap.

But you, in fact, recognised her that night?---Well, because - that's what I'm saying he must have told me it was her, otherwise I didn't not even know whether it was male or female.

Well, now - - ?---With a name like Lorrie I thought it was a bloke.

Yes. And that night you learnt that she was a female because John told you as you were sitting there?---I didn't even know she was a cop.

You did not know she was a cop?---Not until all this came up in court or something, I think.

Had John ever talked to you about Coomer?---Coomer?

Coomer, yes, the owner of the guns?---Not that I know of. Not that I know of.

Sorry?---Not that I know of.

Not that you know of?---No. He could have said something to me about him, but - - -

You see, Dodds knew Coomer?---Right.

Right?---Yes.

And you are suggesting that Dodds and yourself were sitting in a seat between the entrance to the car park and the restaurant - they had to walk past you - what, two or three feet away?---Oh, I don't know. I can't remember the exact distance. They just walked past us. I don't know how far it was between the restaurant door and the car park entrance. I was - - -

Going to your statutory declaration that you have sworn here, or declared at least, before a Justice of the Peace on 4 April, I think it is, 1993 - have you got that document?---That one, yes.

Yes. Would you go to paragraph 3.3, thanks?---Yes.

It is on page 2. All right. Paragraph 3.3:

I have a clear recollection of waiting with Dodd at a bus stop near the restaurant and seeing the Torana being driven into the car park at the rear of the restaurant. I have some recollection of Saunders showing some acknowledgment to Dodd and I as she and her boyfriend entered the restaurant. Cannot recall who was driving. However, one of the quarter windows -

and so on, so on. So now you have a clear recollection of Saunders walking past and acknowledging you both there?---Yes. She had to go past us to get to the restaurant.

But you now have a clear recollection that she acknowledged you there; that is what you say?--Yes.

THE JUDGE: It is only a very minor point but there is a distinction between the clear recollection in the first sentence and no clear in the second, Mr - - -

FLEMING QC: No, some recollection of Saunders showing some acknowledgment to Dodd. That is the word, your Honour.

THE JUDGE: I am just saying the word "clear" is left out of the second sentence, and I like you to be accurate when you are putting the words from the declaration to the witness.

FLEMING QC: Yes, thank you.

Well, that is your recollection that Saunders acknowledged Dodd?--Yes, as far as I remember. We were sitting there and she's - I don't know, waved or looked or something as she walked past. I really don't remember what she did, but it seemed to be that, you know, go ahead, go get it, type of thing.

She was, more or less - - -?--That's - that's what come across, yes.

- - - that was the impression she gave you?--Because as soon as they went into the restaurant, Dodds said, 'Wait on a couple of minutes, then go get the guns.' Well, to go and get the car, I suppose. So - - -

Are you sure you were not in front the first time and - - -?--He then parked up the road.

- - - Lorrelle was around the corner?--I don't know. It just seems to me if there is - if he was up the road, how would I know it was Saunders getting out of the car.

Yes?--You know, like I said, I hadn't seen her before so I don't know what she looks like. So that is why I am saying he must have been with me to show her to me.

And it is highly unlikely - it is highly unlikely that Saunders would have walked past and nodded to Dodd as if to say, go get it, boy?---Well, you know, I don't know.

Especially when Coomer knew Dodd?---That's a point.

Apart from the circumstances mentioned later in the report the importance of the evidence of Dodd and Wills of their "wait outside the restaurant" does not lie in determining whether Wills's recollection ten years after the event that he and Dodd had been seated together at the bus stop when Saunders and Coomer walked by is correct. From the earlier statements and evidence made and given by Wills it would appear that Dodd had left the bus stop by that time. The importance of the evidence lies in Dodd's and Wills's statements to Webb and Flanagan that they had waited at the restaurant for the arrival of Saunders and Coomer. This from the prosecution's point of view pointed directly to a prior arrangement necessarily made with Saunders. I am neglecting in this behalf the alleged telephone call to Saunders's mother which I deal with below and which to me is merely another instance of the "proactive" course taken by Saunders in formulating a defence. The only alternative to there having been a prior arrangement is to adopt as correct (as Saunders has done) Dodd's account in the letter of 14 July 1982 of how he and Wills followed the Torana to the restaurant. This alternative not only suggests that the would be thieves shadowed the Torana with some vague hope that the occupants would at some time present them with the opportunity of stealing firearms but depends on an assumption that they knew that the firearms were in the Torana and not as they usually were in Coomer's four wheel drive vehicle. Which of the two alternatives is the more acceptable is obvious.

6.11 The telephone call to Saunders's mother on Sunday afternoon

In Saunders's statement to the Commission she stated that whilst she was away from home on that Sunday afternoon her mother received a telephone call from someone identifying himself as "John" from the Task Force. This person was seeking Saunders urgently. Saunders claimed that her mother gave this person fairly explicit directions as to where she was and where she was going. She claimed that her mother prepared a statement for her lawyers containing this and other relevant information. Saunders continued by saying that her mother was not called to give evidence at her trial because she did not want her mother to be stressed because of her age and medical condition. There was no such statement in the Legal Aid material although there was an addendum statement dated 30 July 1982 by

Tucker in which it was recorded that she had been told by Saunders on 9 March 1982 of this telephone call. This statement by Tucker refers to terms usually used by police such as "crims" and "dogs." In light of the lateness of the statement and the detail in it, as well as its language, I am confident Saunders was the original author of its contents and I am not prepared to rely upon it.

In the Legal Aid material was a series of questions prepared by Saunders for her legal advisers to ask Webb when he gave his evidence at her trial. Three of these questions were as follows:

Is not it also a fact that Saunders told you her mother had told her that late Sunday afternoon she had received a phone call from a male person named 'Greg' claiming to be a member of the Task Force and the caller claimed they had to contact Saunders urgently.

Is not it a fact she told you that her mother told the caller that Saunders was with Roy Coomer at Belmont Range shooting and that she was then going to Toni's Restaurant at Mt Gravatt for dinner?

Is not it a fact that Saunders said then that the caller had asked her mother if they were in Roy's 4 Wheel Drive and her mother had said they were in a little blue car but had a table booked at the restaurant at 7 p.m..

In evidence before me Webb denied ever receiving this information. Saunders on the other hand told me that she did communicate it to him. Counsel Assisting questioned Saunders concerning the information:

You mentioned a phone call to him that your mother is supposed to have got in which she says, 'Oh, they've changed the car.' How did your mother know they changed the car?--Because he's given - you know - he's given evidence, I assume, and I've prepared this, and I know that I would have spoken to him about the fact of the cars, because I think - I think he asked us - questions, you know.

But what would it matter two hoots whether the car was changed or not?--Well, I don't know.

If somebody was going to steal the guns and was going to follow you, they would follow whatever car you got into from the Rifle Range, whether it was a Toyota or a blue Torana or a Rolls Royce?---That's what I suspect. All right, I'm suspicious. The car has been broken into. I checked at the Task Force and no one had rung and looked for me. I thought that was fairly relevant: that someone had rung my home asking where I was, saying I was needed urgently for court, or a court case, and nobody had done it.

All right. So, therefore this is supposed to be - well, let us assume, for the moment, this is the malefactor now, the person who has really committed the offence. He has rung up to try to ascertain where it is a convenient place to steal guns that he is not sure will be in the car. He finds out that you are going to be at Tony's restaurant at 7 - or there is a booking there at 7. He also asks what car it was going to be in and he is told it is not the Toyota; it is the blue Torana?---Well, I don't know. But it happened.

Yes, in the best tradition of the verbal, I suggest to?---And I suggest, if my mother was alive and if her statement had turned up in that file, you would see it.

Yes. I see. All right. And I suggest to you that Mr Webb is here - he is alive - and he does not accept that any such - any of this information was given at all?---Well, it was.

So, he is liar, too?---I gave Mr Webb that information, and he knows it.

And that would be important information?---Well, he knows I gave it to him.

Okay. So, he is a liar too?---Well, I'm sure he is.

In the Legal Aid material Saunders claimed that this information had been communicated to Webb on 9 March 1982. By that time Dodd had not been questioned and had not given the account of the telephone call from Saunders on the Sunday advising of the change of vehicle from the Toyota to the blue Torana. The change of cars was not even a consideration. I

am of the view that the telephone call did not take place. I am satisfied that this was another telephone call Saunders created after the allegations had been made against her to bolster her account of events.

6.12 The removal of the firearms from the vehicle in the carpark

The Torana was parked behind the restaurant in a small car park which usually housed staff member's cars, customer's cars and an industrial bin. At Saunders's trial one of the staff members from the restaurant named James Kenneth Cooper described what the lighting was like at the back of the car park:

Well there is only a single light that is attached to Toni's restaurant. It just shines virtually on about the first two cars and after that it dims and has enough lighting for us to see just to get to our cars as well as to the garbage can.

James Cooper gave evidence which was not the subject of any cross-examination that Webb required a torch to carry out his search at the back of the premises on that evening. There was no suggestion from James Cooper that at this stage the light in the back area had been turned off. In fact it would seem that the light was still on because James Cooper had been going out into the car park to deposit the garbage in the industrial bin.

Saunders in examination by Counsel Assisting was adamant that the car park was not a dark place and stated that when Webb was making his enquiries the lights in the car park had been turned out because the restaurant had closed. This evidence is clearly contrary to that of James Cooper. It is also contrary to Coomer's initial statement to the Mount Gravatt Criminal Investigation Branch in which it is stated that the car park was "unlit."

I did not consider that the recent photographs tendered before me by Saunders of the car park were of great assistance in determining the state of light in the car park on the evening of 7 March 1982. In any event I am satisfied that the light in the car park was at best dim and certainly not as brightly lit as the area beneath the street lights on the main road.

Wills gave the following description of the removal of the firearms in his record of interview with Webb on 26 March 1982:

Q.30 *What did you and John do that Sunday evening?*

A. *We went down there, I broke into the Torana, I ripped all the back dash out. Stuck my arm down and felt around until I could find the guns. Then I grabbed all the guns and put them in a bag with the ammunition then went and hid them in a garbage bin. Then I went to find John.*

In further explanation he was asked these questions and gave the following answers:

Q.46 *How did you get into the car?*

A. *I opened the quarter window up. It was already unlocked, then just reached around and unlocked it from the inside.*

Q.47 *Where was the Armalite rifle?*

A. *On the back seat.*

Q.48 *You told me earlier that you reached into the back of the vehicle, is that correct?*

A. *Yes.*

Q.49 *By the back of the vehicle, do you mean the boot section?*

A. *No, inside the cabin of the car. When I dived into the back seat, I hit my knee on the Armalite. I reeved the back seat out, tried getting in through there but it was all steel. Then I got out and tried picking the lock on the boot but I couldn't open it. So I got back inside the car, lifted up the back dash, put my arm through the speaker hole and started feeling around for the briefcases that the guns were in. I found the guns and pulled them out through the hole. Then put them all into a bag and then went back for the ammunition. I put that in the bag and then got out.*

Q.50 *Did you know that the handguns would be in briefcases?*

A. *Yes.*

Q.51 *How did you know that?*

A. *Laurie told John over the phone.*

Q.52 *What did you do after you removed the firearms from the car?*

A. *Hid them in a garbage bin and then went looking for John.*

Q.53 *Where did you find John?*

A. *Where he was supposed to be parked.*

Q.54 *What did you tell him?*

A. *I told him that I got the guns but I couldn't get the car.*

Q.55 *Had you tried to start the car?*

A. *Yeah.*

Q.56 *Was this part of the agreement?*

A. *Yeah.*

Q.57 *What did you do then?*

A. *I told him I'd meet him the next street up behind the restaurant and I went back for the guns. I got them and jumped a couple of backyard fences and then met him out on the road.*

Q.58 *What did you do then?*

A. *Put them in his car and then went home.*

Q.59 *How many handguns were there?*

A. *.357 Magnum, a .44, I think it was a Magnum, a .45 and a .22. And the Armalite, too.*

At Saunders's trial Wills explained that he had tried to pick the boot lock with a screwdriver but was unable to do so. He testified that he gained entry to the vehicle through the quarter window which had been closed but unlocked as he had been told beforehand by Dodd that it would be. Wills and Dodd did not indicate in their records of interview that the quarter window would be left unlocked although neither was asked the question. When Dodd testified at Saunders's committal hearing he gave evidence that the window would be left unlocked. He gave the same evidence at Saunders's trial.

Saunders always maintained that the windows of the vehicle had been secured. Coomer had previously maintained that the windows of the vehicle had been left secured however before me he stated that he "could not be 100 percent sure."

Dodd in his record of interview and before the Magistrate at Saunders's committal hearing claimed that the firearms were never in his possession. He claimed that Wills stole a car and placed them in that vehicle and drove them from the scene. However in his evidence at Saunders's trial and before me he conceded that he did give perjured evidence in the Magistrates Court concerning the removal of the firearms from the scene by Wills. He admitted that when Wills obtained the firearms from the back of Coomer's vehicle he did not then go and steal another vehicle and drive away with the firearms but placed them in Dodd's vehicle and they drove away together. He conceded that he had lied to the Magistrate so that he would not be charged with further firearm offences.

6.13 **The hiding of the firearms**

In his record of interview Wills claimed that the firearms were taken to 47 Ferry Road, Thorneside where he hid them in the bush.

At Saunders's trial he gave the following account:

When we got home we sussed them out and just mucked around with them and then I took them down the road from the house and put them in the swamp area, wrapped them

up in a canvas bag and put them in the swamp.

In his statutory declaration to the Commission Wills stated he could not recall hiding the firearms in the swamp area and added he thought he kept them at the house. Before me he gave the following evidence:

What did you do with the guns?---I think we just stashed them outside in the marsh or under some bushes or something because there was a swamp out in the back yard, just outside of the fence. I think we dumped them in some bushes out there.

Did you wrap them up first?---Yes.

Yes. Wrapped them up and then dumped them in some bushes in this swamp?---Yes.

In Dodd's record of interview with Webb he was asked what had happened to the firearms. He replied:

Joe wrapped them up in a plastic bag sort of thing and reckoned he hid them under water so they wouldn't be found.

At Saunders's committal hearing Dodd stated that Wills had wrapped the firearms in a blue child's swimming pool and had taken them away. At her trial Dodd expanded on his account and explained that prior to going back to Ferry Road he had let Wills off at Ricketts Road. Wills took the firearms and hid them. Dodd claimed that he did not know where they were hidden. In Dodd's statutory declaration to the Commission he again expanded on his previous evidence. He explained that when they reached Ricketts Road Wills got out of the car with the firearms and hid them. Wills then returned home and once the children were asleep Wills left and came back with the firearms. Dodd claimed not to have known where they were hidden by Wills before he got to the house at Ferry Road. Dodd stated that when Wills arrived home with the firearms they filled the bath tub, washed the firearms so that there were no fingerprints then wrapped them up in plastic and put them in a mulch heap in front of the old caravan in the yard of the house at Ferry Road. He stated that the mulch pit had water in it and the firearms were placed under the water. In evidence before me he described the firearms having been secreted in a mulch heap at the back. Dodd throughout maintained that the firearms remained secreted until Saunders instructed him to get rid of them.

Carew and Company submitted that Wills had changed his account from that which he gave during his record of interview of 26 March 1982. It was submitted that Wills changed his account to match that of Dodd to give the impression that the firearms had been at Ferry Road, when in fact they had not been there. It was further submitted that the "significance of the guns allegedly being at Ferry Road is that they then had to be 'gotten rid of.'" I assume that this submission attempted to adopt the views Saunders expressed in her statement to the Commission:

I do not understand why the guns were apparently taken from a swamp area in order to dump them in a stolen car and then call the police. DODD claimed that it was my idea. This obviously further implicated me. I believe that dumping the guns on 9 March 1982 was consistent with DODD (if not WILLS) at that stage being part of a plan to set me up. I say this because otherwise I cannot understand why criminals would go to the trouble of stealing guns, take them from a perfectly good hiding place, steal a car, put the stolen guns in the car, drive the car off the highway and then telephone the police to tell them about it. I believe it is more likely than not that at this stage at least DODD was acting in concert with corrupt police.

I have no doubt that if Dodd had been acting in concert with corrupt police at this stage Wills was also involved and they would have worked out precisely where the guns were supposed to have been secreted prior to their abandonment. In any event I regard where they were hidden beforehand as insignificant compared to the fact that they were abandoned in the circumstances in which they were. I will return to the abandonment of the firearms in the following chapter.



CRIMINAL JUSTICE
COMMISSION

**REPORT BY THE HONOURABLE
R H MATTHEWS QC
ON HIS INVESTIGATION
INTO THE ALLEGATIONS OF
LORRELLE ANNE SAUNDERS
CONCERNING THE CIRCUMSTANCES
SURROUNDING HER BEING CHARGED
WITH CRIMINAL OFFENCES IN 1982,
AND RELATED MATTERS**

VOLUME II

APRIL 1994

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CHAPTER 7

THE EVENTS SUBSEQUENT TO THE THEFT OF THE FIREARMS

7.1 Coomer and Saunders return to the Torana

Coomer's account prior to giving evidence before me was that he and Saunders left the restaurant at about 9 p.m. that evening. They returned to the vehicle and Saunders opened Coomer's passenger side door and Coomer stepped into the vehicle. Saunders then went around to the driver's side and seated herself in the driver's seat. Coomer noticed that the back seat of the vehicle had been pulled forward and the armalite rifle was missing. Coomer intended to get into the back seat to determine whether he could see into the boot but Saunders told him to leave things alone and not to touch anything. Saunders then said that she would go and ring for a police car and gave instructions to Coomer to check in the boot to make sure there was nothing missing. She once again told him not to touch anything. Coomer opened the boot and found that the firearms and some ammunition was missing, although the gun cases in which they had been housed were still there. On a better search of the inside of the vehicle he found that a camera, electric razor, personal gear and toiletries that were contained in an overnight bag were also missing. Saunders asked Coomer what firearms were missing so that she could report their loss. He advised her but she kept on forgetting their description so she asked him to attend with her to a telephone booth and told him to close the boot. They went over to the telephone booth where she telephoned the police and advised them that the firearms had been stolen. Saunders told him that she was advised by the person on the telephone that she could move the vehicle to outside the post office on Logan Road. Saunders waited for the police outside the post office and he went and obtained the vehicle.

Coomer undertook an external investigation of the vehicle and found no visible signs of entry other than some scratch marks around the boot latch. He claimed that the scratch marks had penetrated the blue outer coat of paint and exposed the under coat or primer beneath. He described these marks as small, round ones and not "great gouges." By the time Coomer had driven the vehicle over to the post office two uniformed police officers had arrived.

Before me Coomer's recall of the specific details was understandably poor. He did have a recollection of driving the Torana from the car park after Saunders had told him the police officer to whom she had spoken over the

telephone had given permission "to move the vehicle into the light on the other side of the street."

Saunders's account before me was not inconsistent with that of Coomer's. In relation to moving the Torana to a position outside the post office she was questioned by Counsel Assisting:

And did some police come to the scene?---Yes, they did.

All this time was the vehicle still in the carpark?---No. I said to whoever I spoke to at operations, 'Is it all right if we move it out?', and he said, 'Yes, go ahead,' and we moved it outside the post office on Logan Road.

So it was on Logan Road parked along the kerb with the benefit of what, better lighting from the post office?---Also after the threats and things, I felt with guns missing, it was a safer area.

I must admit to being somewhat perplexed by Saunders's decision to seek permission to move the Torana from where the offence had occurred. She told me that she thought outside the post office was a "safer area." Presumably this was for herself as the firearms had long gone. Even if Saunders had been receiving threats at this time, which I do not believe, moving the vehicle outside the post office in no way aided in her personal protection. She could have asked Coomer to leave the vehicle where it was and remained outside the post office herself. I have also some difficulty in understanding why she sought permission from the person at Operations who had no knowledge of the scene of the offence and who may not even have been a detective. I would have thought a relatively experienced police officer as Saunders then was did not need to obtain any such authority. On any view of this evidence it was inconsistent with Saunders's claim that the car park was "not a dark place."

7.2 The arrival of police at the scene

The first two police officers at the scene were uniformed officers Peter Robert Stalling and Paul Robert Irving, who were attached to the Upper Mount Gravatt Police Station. They arrived at approximately 9.25 p.m. in the vicinity of the Mount Gravatt Post Office as a result of information received over the police radio. Whilst Stalling was perusing Coomer's licences for the concealable firearms Webb arrived upon the scene.

Saunders in her statement to the Commission stated that it was a matter of great concern to her that Webb attended at the scene in circumstances where she had made it quite clear that the firearms that had been stolen were not service revolvers but were those of a private citizen. There was a clear implication that there was some impropriety involved.

Webb was the Inspector in the City Station from September 1981 until February 1982 when he was appointed back to the Criminal Investigation Branch in Brisbane. He was to take up duty there some time in mid March 1982. On 7 March 1982 he was still at the City Station. On that particular night he was Duty Officer. One of the Duty Officer's tasks was to attend personally to a scene of an incident if something unusual occurred. The other duties which included the inspection of watchhouses and also police stations were something akin to those of an orderly officer in the army.

Before me Webb explained that he was performing normal Duty Officer duties when he first received notification of the theft. He was advised that the firearms were departmental property.

In a report dated 7 March 1982 by Webb to the Regional Superintendent, North Brisbane Region, he confirmed that at 9.25 p.m. he received a telephone call from an Inspector named Reason to attend at the scene. In this report he stated that at the time it was believed that the firearms were departmental property.

Saunders in evidence before me also stated that at the time that Webb first arrived at the scene she formed the view that Webb believed that some of the firearms were departmental issue.

Exhibited before me was a "Radio Tasking Message" card which had been completed by staff of the Operations Section on the night of 7 March 1982. According to the card at 9.12 p.m. Saunders contacted the Operations Section and advised personnel there of the theft from the motor vehicle. The receiving officer had noted that the fact of the theft was not to be broadcast as the property stolen had been firearms. The document noted that Inspector Reason from Operations at the Toowong Police Station was to be advised urgently. It then noted that a message was sent at 9.23 p.m. to car 404 to contact Reason. The next entry on the card noted that Webb in car 404 had been advised and was attending the scene. This is timed at 9.27 p.m..

On the rear of the card appeared a section headed "action taken." This

noted that at 10.54 p.m. the matter was finalised with a report that no police property was involved and all the firearms were the property of Coomer.

A report dated 22 March 1982 of Inspector R S Marnane recorded that Webb was sent to the scene:

owing to the serious nature of four (4) concealable firearms and one Armalite Rifle being involved in the theft.

It seems clear that Webb was sent to the scene in his capacity as Duty Officer because of the unusual occurrence of the theft of firearms. It would seem also from the entry in the "action taken" section of the card that some staff at Operations had mistakenly believed that the firearms had been police departmental property. This would explain Webb's belief when he first went to the scene that he believed the firearms were departmental property. There was certainly nothing untoward in his attendance.

When Webb arrived at the scene Saunders was in a telephone booth. He spoke to Coomer and they inspected the Torana. According to his report of 7 March 1982 to the Regional Superintendent the only apparent damage to the vehicle was in the vicinity of the locking device of the boot. The report recorded that:

The quarter windows were intact. The vehicle was one which I consider could have been opened without too much effort.

It was not in dispute that experienced criminals could easily have gained illegal entry to that model Torana without leaving any visible signs.

When Webb had completed his conversation with Coomer Saunders left the area of the post office and went to him and advised him that Lobegeiger was on the telephone and wished to speak to him. According to Webb's initial statement of 19 July 1982 the following conversation then occurred between him and Saunders:

She said, 'Allan Lobegeiger. Don't you know about him and me. I thought everyone knew about us.'

I said, 'I've been out of Brisbane for a long time. Whatever happens between you and Allan Lobegeiger is your business. It has nothing to do with me.'

She said, 'I've had death threats over the phone and so has

Allan. It has been terrible.'

I said, 'What sort of death threats.'

She said, 'I've had a few calls at home and so has Allan.

The man on the phone keeps saying he will kill me.'

I said, 'Have you reported the calls.'

She said, 'No, I've made a record of them myself though.'

Webb gave a similar account of their discussion at Saunders's committal hearing.

Webb then spoke to Lobegeiger. Before me Webb gave the following account of the conversation:

Well, he said, 'What's the trouble there?' And I said, 'Oh, well, there's some pretty high-powered firearms been stolen here.' I said, 'She's with a fellow named Coomer. He's drunk; she's not far behind him.' And he said, 'Well, be careful of what that bitch tells you.'

Webb in his statutory declaration to the Fitzgerald Inquiry had stated:

I can't recall the details of what was said but I got the impression that he was trying to brush her off. I can't recall anything of consequence being said.

In the Legal Aid material Saunders prepared for her legal advisers a number of questions concerning her discussions with Webb for the purpose of putting to Webb in cross-examination. Some of these were:

Isn't it a fact she told you she had a tape, a very poor quality tape of some of the phone calls she had been receiving?

What steps did you take to take possession of this tape on this or any subsequent occasion?

Isn't it a fact she also told you she and her mother had been receiving annoying calls for some months but she believed they were from another woman who was involved with Allan Lobegeiger?

Isn't it a fact that when she indicated to you where the Torana Sedan had been parked Saunders also told you that she had been parking in the same position for years?

Isn't it a fact she also told you that she and Detective Tutt from Cleveland CIB had recently dined at Toni's to discuss

the information and had parked in the same place?

Before me Saunders was adamant that she had advised Webb on that evening of these matters. Webb denied that he had been advised by Saunders.

I have already discussed the anonymous threatening telephone calls which Saunders claimed to have received and my conclusion that the tape recording of these was a fabrication. From this conclusion it follows that there had not been a tape recording in existence for Saunders to be able to tell Webb truthfully that she had one in her possession. The tape recording of the anonymous threatening phone calls played before me was certainly not a tape that one could describe as being of "very poor quality," as Saunders suggested in the question for her legal advisers. I should add that I can see no reason why Saunders at that time would mention that her mother had received annoying phone calls for some months from another woman who was involved with Lobegeiger. I cannot see the relevance of this to the theft of the firearms.

On completion of the telephone conversation with Lobegeiger Webb spoke to Saunders who confirmed Coomer's account of events. Webb and Saunders then went to the parking area behind the restaurant where Webb made an examination of the other vehicles parked in the area. There was no apparent damage to any other vehicle. Whilst carrying out this examination James Cooper came out of the restaurant and advised that no other diner had reported any mishap to their vehicles during the evening. Webb then made arrangements for the South Brisbane night wireless car to attend and as Saunders and he returned to the post office Detectives Mervyn Francis Symes and John Caesar Ellsworth from the Criminal Investigation Branch, Upper Mount Gravatt arrived. Webb told the detectives of his observations and the information he had received from Saunders and Coomer and departed the scene leaving the investigation in their hands. He had intended to take no further part in the episode.

7.3 The altercation between Saunders and Symes

Saunders in her statement to the Commission claimed that although she had no concrete evidence about Symes, she believed him to be an associate of Murphy and a person who had been named in Murphy's statement of claim when he sued the ABC over the Nationwide programme which went to air on 3 March 1982. Symes explained that his association with Murphy had occurred when he was stationed in uniform at Toowoomba when

Murphy was the officer in charge of the Criminal Investigation Branch there. The only other association he had with him was when he was in the Criminal Investigation Branch in Brisbane and Murphy was the Superintendent. He added that he was not a close friend of Murphy and did not mix socially with him. He explained that he supplied a statement for Murphy in relation to the Nationwide programme but that he could only recall giving evidence of identification of Murphy in the statement. Exhibited before me was the statement of claim by Murphy in which reference is made to Symes. The statement of claim proceeds on the basis that Murphy although not expressly named in the allegedly defamatory material was sufficiently described as to be identified by persons who knew him. In such circumstances it was necessary to set out in the statement of claim the names of persons who identified Murphy from the alleged defamatory material. It is clear to me that this reference to Symes in this statement of claim was only there because he could identify Murphy as the person referred to in the media reports, the subject of the defamation action. There was no suggestion that he had given Murphy a character reference.

In examination by Fleming QC Symes indicated that he had made no connection between the Nationwide programme and Saunders and that all he knew of Saunders prior to this incident was that she was in the Police Force. He stated that he had not heard of the suggestion that Saunders had been giving confidential police information to people outside the Police Force.

In Saunders's statement to the Commission she made the following claim:

Symes reeked of alcohol and a dispute broke out between him and me over the way he was questioning Coomer. I went to go to Coomer's sister's car to get my bag to obtain money to ring the Operations Centre to have Webb return, but I was told to leave the door alone. I told the CIB police that I had already opened the door previously and that the prints were more likely to be on the quarter glass or the interior lock and interior of the car. Symes claimed that I was trying to wipe of fingerprints from the car. I deny this categorically. Although Ellsworth originally supported Symes in this assertion, I believe he distanced himself from Symes. There is no material which suggests that Symes was involved in any conspiracy, however, it cannot be ruled out that Symes, as part of a conspiracy, was trying to falsely claim that I was attempting to wipe

out the fingerprints. Alternatively, he may have been trying to discredit me because of my stated intention to complain about his behaviour and that he'd been drinking alcohol.

In support of this account Saunders referred to her Official Police Diary which purportedly recorded the conversation between Symes and her on that evening. I have already referred to these entries in Saunders's Official Police Diary which I have concluded were not a contemporaneous account of events, as Saunders claimed before me. Symes and Ellsworth claimed that her diary entries were not correct.

After Symes and Ellsworth had examined the vehicle they concluded that there was no damage to the vehicle except for the rear seat. They could see no signs of forced entry. According to Symes's statement of 7 April 1982, Saunders walked over to him whilst the inspection of the vehicle was being carried out. He immediately told her that she was partly to blame for not ensuring that the firearms were kept in a safe place. He then asked for her name and address but she refused to give her home address and gave the reason that her mother had enough problems with people coming to her house as she was old and sick. After a further request for her home address Saunders reiterated that she was from the Task Force and that Symes would not be getting any further information. Saunders then made allegations that Symes had been drinking at a cricket game at which he had been present earlier that day. Symes responded that he had not had a drink for approximately eight hours and asked whether she had been drinking.

Symes recorded in this statement that Saunders went to the front passenger side door of the Torana and he observed her place her hand on the door catch and open the door. She then commenced to run her hand over the body work around the outside door handle. The following conversation then occurred:

I said, 'Don't interfere with the car, you might be destroying prints.'

She said, 'It doesn't matter, I've handled the car before when it was driven here from the Park.'

She continued to handle the outside of the door. She deliberately kept moving her fingers around an area of the body around the door catch.

I again said, 'Take your hands off the car and leave it alone. I'm going to take the car back to the Upper Mt Gravatt C I Branch and leave it there to be finger printed.'

She said, 'Look, I know what I'm doing. I used to be a

Detective in the C I Branch and I know that it doesn't matter.'

I said, 'If you were a Detective in the C I Branch you should understand that you could be destroying any prints on the vehicle. Just leave it alone.'

Symes stated that she then said that she was going home and he asked her to remain as he was going to call Webb. Symes then went to the police vehicle and called for Webb to return. Saunders also requested Webb's return. A short time later he did.

At Saunders's committal hearing Symes repeated his account. In cross-examination by counsel for Saunders at the committal hearing the following exchange took place:

And you include such versions, such references to her putting her hands on the vehicle. Was that included for there to be some sort of sinister overtone, she might be trying to affect fingerprints or something like that?

No that was included because I told her not to do it and I saw her doing it and I couldn't understand why she was doing it.

Well it would be ridiculous to suggest it was sinister, wasn't it?

Yes that's right.

Symes was further cross-examined by counsel for Saunders at the committal hearing and this exchange took place:

Did you say anything like, 'It wouldn't matter if it was under cover or not, because the dew on it would have destroyed any fingerprints that were on the outside of the car.' Did you say anything like that?

No I didn't say anything like that.

Is that your state of knowledge?

That's my state of knowledge.

Yes, but you say that you didn't say that?

I didn't say that.

At Saunders's trial Symes gave a similar account and again claimed that

there was nothing sinister in Saunders's hand movement around the door handle. At Saunders's trial he was questioned by counsel for Saunders about his knowledge of fingerprints:

How much do you know about fingerprints?---No more than the ordinary police officer I wouldn't imagine. I know a reasonable amount; where they can be found and I would say that's about all - and what they could be used for, etcetera.

Any opinion from you as to whether or not dew or dampness would affect fingerprints would be an educated guess, I take it?---I have been told that it does affect them in some way, depending on the person's hands at the time the prints are made.

At Dodd's trial Symes reiterated that he saw nothing sinister in Saunders's actions.

Before me the following exchange between Counsel Assisting and Symes took place concerning the placement of Saunders's hands on the vehicle.

Now, you were not suggesting, I take it, that she was deliberately trying to rub off fingerprints - something of that sort?---No, I had no idea why she was doing it. I just assumed that being a police officer she shouldn't have been - should have known not to do it.

Well, you thought that she was what, being careless the way she was touching the vehicle?---Yes.

Before me Symes was questioned by Fleming QC concerning his knowledge of fingerprints:

All right. Well, now, firstly, you were aware, were you not, that if the car had been in the dew there would not be any fingerprints?---Who's to state that? She didn't know whether there were fingerprints on it or not, and neither did I, and I didn't want her touching the car.

I did not ask you that?---There could have been still fingerprints on it, even it had been in the dew.

Oh, I see. Strangely, you do not say that in the committal. You agreed that there would not have been fingerprints on the car?---Well, I - - -

Your state of knowledge was - - -?---My knowledge was that there were fingerprints on it and it hadn't been in the dew at the time that I told her to keep her hands off the car.

Just tell me that again now?---Well, at the time that I told her to keep her hands off the car and not to touch it -

Yes?--- - - - I was not aware even if there had been dew on the car whether it was completely bone dry or whatever. To my knowledge, I was trying to protect evidence, and the evidence being fingerprints. And that's why I told her to keep her hands off the car.

There is not a suggestion on your part that she was attempting to wipe fingerprints off, is there?---There was no suggestion at the time and there was no suggestion in court. All I could not understand was why she was touching the car.

Well, she had gone to the car to open the car, had not she?---No. She wasn't trying to open the car when she was doing this. She was just putting her hands on the side of the car. If she had just touched the handle and opened the car, I wouldn't have minded, but she wasn't doing that. She was putting her hand on the car and moving it around the car, that door.

In a wiping fashion?---Not in a wiping fashion, touching. I don't know whether it was wiping or just touching or what it was. But she was touching the car.

Symes was then read the extract from the committal hearing in which he had agreed with the proposition that it would be ridiculous to suggest Saunders's actions were sinister. The following exchange then occurred:

That was your view; there was nothing - - -?---That's correct, and that's what I'm stating now. I still state I

don't know why she did it.

There was nothing sinister. She was not surreptitious about it, she was not being evasive about anything like that?---What I'm stating - what I stated then and what I'm stating now is that any police officer with evidence that touches a vehicle when they shouldn't be touching it is being awful careless or whatever.

In Symes's statutory declaration to the Commission he stated that he had not been happy with the way that Saunders had been touching parts of the vehicle prior to it being examined for fingerprints and he informed her of this. He also stated that he formed the view that she was affected by alcohol and was acting "smart." He then made the following comment:

At that time I believed I had some knowledge that Saunders and Coomer had been to the Cleveland area. I suspected then that the guns may have been stolen from the vehicle earlier that day and she was trying to cover up by alleging that the guns had been stolen whilst it was parked in a darkened area in the rear of the restaurant. I informed the Inspector of my suspicions but I did not tell Saunders.

Ellsworth corroborated Symes's account. He stated before me that he thought it was very unusual for a police officer to touch any of the surfaces of the vehicle. He also stated that he thought it was strange that the car had been moved from its original location. Irving and Stalling throughout claimed not to have been in a position to have heard the complete discussions between Saunders and Symes. However both heard Symes tell Saunders that she should have known better than to touch the car and they also heard Saunders reply that she had already been in the vehicle. Coomer agreed with Saunders's account.

There is little doubt that Symes's manner to Saunders had contributed to her attitude to Symes. Similarly, there is no doubt that Saunders's claim that Symes had been drinking contributed to the situation becoming inflamed. I do not think that anything of significance turns on who in fact was the protagonist and the extent to which the parties had been drinking. I should add that the VKR tape for that evening was retained by Webb and produced before me. It recorded the requests by Saunders and Symes for Webb to return to the scene. To my mind neither Saunders nor Symes displayed any indication of intoxication. I am satisfied that Ellsworth and Symes genuinely believed Saunders's action of touching the handle of the

door had been careless and unusual for a police officer. I must confess to sharing this view, especially in light of the motor vehicle having been moved from the car park. However I do not believe that Saunders was brazenly wiping fingerprint evidence from the handle of the car door. She had ample opportunity to do so before other police arrived if she had so desired. The significance of these matters is that when Dodd made the allegations that Saunders was a party to the theft of the firearms Webb was entitled to view them with somewhat more suspicion than otherwise might have been the case.

I should add that it is quite clear that Symes and, for that matter, Ellsworth attended at the scene at the request of Webb because they were the officers then available on that particular evening. It is fanciful to suggest that because of some remote association between Symes and Murphy that Symes was somehow selected to attend the scene with Ellsworth or that in some way this affected the manner in which he and Ellsworth carried out their duties. It is also fanciful to suggest that Symes and Ellsworth made up their account because of some fear that they may have been reported by Saunders for Symes's attitude and alleged state of insobriety.

When Webb returned to the scene he spoke to Symes and Ellsworth, who advised him of what had occurred. Webb then walked to the post office where Saunders had been standing. In Webb's statement of 19 July 1982 he recorded the following conversations as having then occurred:

She said, 'They have been giving me a hard time. They have been to a cricket match today and they have been drinking.'

I said, 'There is not the slightest evidence of either one of those Detectives having consumed any alcohol. What shift are you working tomorrow?'

She said, 'Day off. I'm on 4 to 12 on Tuesday, Inspector.'

I said, 'So am I. I want to see you in my office at the City Station as soon as you commence duty on Tuesday. Do you understand that?'

She said, 'Yes Sir.'

Webb then offered Saunders and Coomer a lift into town but was told that they had made other arrangements. He had a conversation with Symes concerning the fingerprinting of the motor vehicle and it was taken away to be fingerprinted. He then returned to the City Police Station.

Before me Webb confirmed that he had directed Saunders to attend at his

office because of her conduct on the Sunday night.

Saunders denied that Webb had instructed her to attend at his office on Tuesday, 9 March 1982. As I have previously stated, Saunders prepared for her legal advisers a number of questions concerning her discussions with Webb for the purpose of putting to Webb in cross-examination at her trial. Amongst these questions the following appeared:

When you saw Senior Constable Saunders in your office on Tuesday, 9th March 1982, isn't it a fact that this visit was at her instigation (she phoned you when she commenced duty at Task Force) and she complained to you of Symes' behaviour on Sunday, 7/3/82?

Isn't it a fact she told you she had been informed that Symes had given her a real rubbishing on the night wireless log and it had been suggested to her that she straighten the matter out?

In Saunders's statement to the Commission she made the following claim:

Two days later, on Tuesday, 9 March 1992, I think it was Lobegeiger rang me and said he'd heard about Symes having given me a fair bagging in his log. I wasn't very happy with this so I went down and saw Webb and made a complaint about Symes in relation to his aggressive attitude and his being affected by alcohol. Webb told me to forget about it and it was left at that. However, in Webb's statement of 19 July 1982, Webb claims that he chastised me for my behaviour towards Symes. He made no reference to me making a complaint about Symes. Webb maintained this position.

There was a clear conflict between Webb and Saunders in this regard.

Support for Webb can be found in the report of 22 March 1982 of Marnane to which I have already referred. In that report the following passage appeared:

After Inspector Webb had attended to this matter for the second time he advised me that he would interview Senior Constable Saunders at 4 pm on Tuesday, 9/3/82, her next working day.

Further support can be found in the statutory declaration of Symes to the Commission. Symes had been provided with Saunders's Official Police Diary in order for him to peruse her notes so that he could comment upon them. This passage appeared in the statutory declaration:

With respect to page 63 she does not record any conversation that she had with Inspector Webb when he returned to the scene. I recall that he had a long conversation with her and some arrangements were made for her to see him the following morning. None of this is mentioned in her notes.

Further support can be found in Webb's own report of 7 March 1982. This report had been stamped as having been received on 8 March 1982 at the Superintendent's Office and was personally signed and dated on 8 March by T G Channells, Acting Superintendent and J W Keen, Superintendent of the North Brisbane Region. In this report the following passage appeared:

There had been some disharmony between the investigating detectives and Senior Constable Saunders after my departure and I further spoke to Saunders. She informed me that she is on a rest day on the 8th and commences duty at 4 pm on the 9th at which time she will report at this office where I will see her.

There is no doubt in my mind that Webb was truthful in his account to me. I am satisfied that Saunders was untruthful. I should add that Symes denied giving Saunders a "fair bagging in his log."

7.4 The meeting between Webb and Saunders on 9 March 1982

In Webb's statement of 19 July 1982 the following conversation is recorded as having taken place at 4.15 p.m. on 9 March 1982 between Saunders and Webb at the City Station:

She said, 'You wanted to see me, Sir?'

I said, 'Yes, please sit down.'

I said, 'Your actions with Detective Sergeant Symes on Sunday night left a lot to be desired. He was in charge of an investigation and you were plainly interfering with that investigation. I gave you credit for having more sense.'

She said, 'I'm sorry. I was upset at the time. What with

these death threats over the phone and then the guns going off like that, I've come up with something that might help. I've been speaking to a dog of mine and he told me there is a man named Rodney who runs K.J.'s Cafe in the Valley. It used to be the Eldorado. If you ring up there and leave a message for a cab driver named Noel to get in touch with you, the number is 52.1894. Noel is a dealer in hot guns and he calls at the Cafe several times a night to see if there are any messages. My dog says he has a good record and is definitely dealing in hot guns between here and Sydney. He was supposed to get some from Sydney recently, but they were too hot for him to handle. He is a bit toey. Greg Tutt is on the South Side Night Wireless car this week and I got onto him and gave him this information and asked him to make some inquiries. This Noel might get Coomer's guns.'

I said, 'I'll give this information to Inspector Hoppner of the Valley Area Office and I'll also give it to Detective Sergeant Symes. They will handle this. I want you to stay out of this investigation. You caused enough trouble on Sunday night. If you get any more information, pass it onto me or the Upper Mt Gravatt Detectives. Well I want you to stay out of this investigation yourself. Do you understand that?'

She said, 'Yes, Sir.'

Saunders then left the office.

Webb maintained this account throughout although he conceded at Saunders's trial the conversation involving the Eldorado may have occurred on the telephone the following day when Saunders telephoned him. On the other hand Saunders's account of this meeting is quite different. In the Legal Aid material further questions were prepared for cross-examination of Webb concerning discussions on this day. It was clear from these questions that she claimed to have gone there at her own instigation to complain about Symes and had done so after she had heard that Symes had given her "a real rubbishing" on the night wireless log. These questions also suggested that Saunders advised Webb more fully of the anonymous threatening phone calls and told him that she would have reported the phone calls except for the fact that Lobegeiger had told her that she couldn't as it would disclose their relationship to the department. She also claimed to have told Webb that a prowler had been around her house and she assumed it was the woman that Lobegeiger was involved with as this

woman had previously admitted to her that she had prowled around her house on a previous occasion. She also claimed to have told Webb about the telephone call that her mother had allegedly received from a member of the Task Force on Sunday evening. Reference has already been made to this alleged telephone call in the report.

Before me Webb denied that this was the subject matter of their discussions and insisted that he had "raked her over the coals a bit."

Saunders was questioned by Counsel Assisting concerning these questions posed by her in her Legal Aid material:

Now, I have read them all out and they are obviously in the form of questions because that is the way you have to write them to - you think - to get the lawyer to ask the questions that way, but they - each one of them contains a fact, does not it? It asserts that you said this or whatever. Now, are they all true and correct, all those assertions that are contained there?---Well, if I put them down there they must have been.

What is that?---I said if they're down here they must have been.

All right. Now, a lot of those things would have absolutely nothing to do with the guns missing, would they?---I've got no idea. I must have went to sleep when you were reading them. I'll just have a quick read. Yes, I think I would have talked about all that to Mr Webb.

All right. Now, this is in his office on the Tuesday, Tuesday afternoon?---Yes. I think I made some notes in my official notebook when I went back to the depot about it.

Yes, all right. My point really is what is the relevance of a lot of that? Why would you be raising with him all these calls and all that type of thing?---It was just general discussion about who could have - I suppose whether he had a suspect or - I don't know what happened, the general thing surrounding the whole business. I was pretty - obviously somebody reported the relationship, because Allan was - from what he said to me, he was hauled down

to headquarters over it as well.

But you reported the relationship on the Sunday night to Inspector Webb?---I also said to Mr Webb not to take it - that I didn't want it to become known, and he said - - -

I see. You said that as well?---Yes.

All right?---And Allan spoke to him on the phone.

Yes. Now, what I am interested in, though, on this Tuesday - all this information that you were giving to Webb was supposed to indicate - was supposed to be information that would assist him in trying to work out who the culprit was?---I didn't know he was investigating it.

What is that?---I had no idea that Mr Webb at that time was going to investigate the theft of the guns.

Well, what is the point of all this stuff, telling him, you say, that you went there to defend yourself, or make a complaint, if you like, about Symes' behaviour? That is what you say?---That's correct, and about the whole thing, I guess.

Webb says that you went there to answer some reproof that he wanted to make as to the way you had behaved on the Sunday night, but all this material here, as far as one can see, if it has any purpose, is supposed to be directed to giving Webb background information, or some such information, which might suggest who it was who was responsible for the theft of the guns?---Well, no doubt I would have.

Has it got any other purpose?---As I said, if you'd asked me in 1982, I might be able to help you.

Well, you can read it now, surely?---But, I mean - - -

These are all things you said?---I certainly said them.

Have a look at all the things - - -?---I don't know why I - I mean, who knows what they did back then in the state of mind I was in. I was upset about what had happened. I was upset over what was happening with phone calls.

Yes, all right?---I don't know.

Well, may I say that the odd thing then about that conversation with Webb is that you did not say to him, 'I would greatly suspect Mr Dodd, an informant of mine of being up to his armpits in this affair, if he can't establish an alibi of having been at Stanthorpe when the event occurred.' Now, is that not extraordinary you did not mention it to Webb?---No, because I thought he was at Stanthorpe.

No, no, no, you thought he was at Stanthorpe but he might not have been. You had no real reason to - - -?---Well, I thought he was at Stanthorpe. As far as I am aware Mr Webb wasn't the investigation officer. I was probably pouring out my soul a bit about all the problems I had had, to him.

The only evidence that you had, really, that he was at Stanthorpe at the time of the event was from Dodd himself, was it not?---And Hannigan.

No. Hannigan never told you he was there at 9 o'clock on Sunday night?---I don't know. I think, from the time - my recollection is, at the time that Hannigan thought he saw him he could not have got back to Brisbane.

I see. Well, I suggest to you that is just not right. But the fact still remains that the number one suspect for the theft of the guns was Dodd, unless he could make an alibi at Stanthorpe stand up. Would you agree with that?---No.

You would not agree with that?---I wouldn't agree, at that time. No.

Why? Because you so firmly believe this Dodd, who was such a liar and so difficult and dangerous, that you kept a special notebook - or log book - to record your contacts

Dodd stepped into the police car and they drove for another couple of kilometres before parking on the side of the road. Saunders then indicated that she wished to speak to Dodd by herself and they walked approximately 50 metres behind the police vehicle. They remained there for approximately 15 minutes. On their return Krosch spoke to Dodd for about an hour. Dodd advised him of his trip to Stanthorpe. He told Dodd that he could not use him in relation to the Ananda Marga but that he could use him to infiltrate another organisation. Arrangements were then made to have direct contact with him without the necessity to go through Saunders. When this conversation ended Saunders drove Dodd to a service station and told Krosch that she had to see Dodd for a short time because she was going to give him some money. Saunders and Dodd then went away and talked for approximately 5 minutes leaving Krosch in the car. On her return she told Krosch that she had paid him some "petrol" money as he had been doing drug work for her. She indicated the amount was \$20. At approximately 8.30 p.m. to 9 p.m. they left Dodd and returned to Brisbane.

Saunders in her Legal Aid material and Official Police Diary described somewhat different steps to locate Dodd. In the Legal Aid material the following appeared in the notes headed "Crown Witness - Barry Krosch:"

I went and phoned ... tried Helen's ... then we drove around there ... I had trouble finding it but missed the turn the first time and then remembered where Ray and I had got lost and got our bearings from a phone box ... so located Helen Dodd's and no-one home. Back to Tavern ... then I remembered the new number he'd given me and it was on a scrap of paper in my bag so tried that ... said he'd left ... returned to the car ... told Barry ... we waited and still no Dodd I was getting fairly fed up and my partner was back in town no doubt finished his correspondence and cursing me and Special Branch. Phoned again and Dodd there ... now the first call was the first time I'd spoken to the woman I subsequently knew as Spiers.

Before me Krosch produced a copy of some notes which he had made on the evening of 9 March 1982. They recorded the information that Krosch had received from Dodd. Dodd had told him that he had obtained it in Stanthorpe during the weekend. Dodd claimed before me that any information he had given police came from Saunders originally. Krosch acknowledged that the information that he received from Dodd would have

been known to Saunders. Dodd had previously given evidence that the name "Renata" which appeared in his own notebook and also in Krosch's notes had been discussed with Saunders, Krosch and others. He claimed not to have known this person but had read his name in the paper. I am unable to draw any conclusions from the fact of the mention of the name "Renata" by Dodd to Krosch on this evening, or reference to it in his notebook.

On the notes compiled by Krosch were two telephone numbers on which Dodd said he could be contacted. These were apparently given by Dodd to Krosch in front of Saunders. One of them was Spire's, the other Helena Dodd's. Saunders made no comment when the numbers were given. Krosch was unable to recall at Saunders's trial whether he had had any previous knowledge of Spire's number. Saunders had claimed that she had first obtained Spire's number earlier that day when she had arranged with Dodd to meet him that evening. Of course the relevance of this matter was that Saunders claimed not to have had Spire's number to telephone her premises on Sunday as Spire claimed. As a matter of logic it does not follow that as soon as Saunders was apprised of Spire's number by Dodd she communicated it to Krosch, who would then have been possessed of this knowledge. Therefore I am unable to draw from Krosch's recording the two telephone numbers that he was given by Dodd any conclusion as to when Saunders first obtained this number. Similarly I am not able to draw any assistance from the fact that Saunders remained silent when the number was given to Krosch.

Originally Krosch did not consider the time that Saunders had spent with Dodd away from him on the evening of 9 March 1982 as abnormal. He fully expected Saunders to be briefing Dodd concerning his unacceptability as an agent for the Ananda Marga and his possible suitability for the purpose of infiltrating another organisation. Saunders had claimed in her Legal Aid material that Krosch had requested her to speak to Dodd beforehand. Krosch was questioned by Counsel Assisting concerning the matter:

After Saunders had picked you up and she was driving you out there, at this stage, you had decided, apparently, that he was not going to be an agent for the Ananda Marga?--I knew he wouldn't be suitable for that, true.

And the important reason was because there was federal funding in relation to that sort of body and the Commonwealth authorities would not have an agent who

had a criminal record. Is that correct?---That's one of the reasons.

One of the reasons anyway. Well, you might have had some other reason, but that was one reason, and that is a reason you mentioned to Saunders on the way out. Is that so?---Yes.

And you said well you would still have a use for him in the special branch but probably with Aboriginal activists or some other group?---That's correct.

Probably told her the Aboriginal activists because as you have told us before, you do not think she ever knew about the International Socialist, I think?---That's correct.

Yes, okay, all right. Now, did you tell her, 'Now, when we get there I want you to go and talk to him and tell him that that's what I'm interested in now, to have him not for the Ananda Marga but for the Aboriginal activists'?---No. She clearly wanted to speak to him privately.

Right. So it was not at your direction that early - that first private conversation took place?---No.

Is that correct?---I mean she might have told him that during the conversation.

Yes. She might have told him that he was not an Ananda Marga agent any longer but he could well get a job as an Aboriginal activist agent. She could have told him that but that was not at your direction or, indeed, it was not with your authority even from what you are saying?---No, she

- - -

Is that right?--- - - - she wanted to speak with him.

At Saunders's trial Krosch also denied that he had asked Saunders to speak to Dodd to explain his position before he spoke to Dodd, although he had expected that she would.

Later in Krosch's evidence the following exchange with Counsel Assisting occurred:

All right. And in paragraph 40 you say:

I am of the view that I was used in relation to the meeting March 1982 but I do not know how or who may have been involved, if at all.

?---That's my view now, sir, in 1993.

Yes?---Because I've become aware of a whole series of facts, I guess, but at that time I didn't think there was anything sinister. I just thought it was a normal sort of business arrangement, recruiting an agent and trying to get an agent working.

Have you since come to think perhaps that you were being used to try to set up some kind of an alibi?---Yes, I believe that now.

You believe that there was an effort made to set you up, as it were, that somebody would give an alibi that Dodd was absent from Brisbane on the week-end of 6 and 7 March having gone to Ipswich on your business, or police business, anyway; put it that way?

THE JUDGE: Ipswich or Stanthorpe?

HAMPSON QC: Sorry, Stanthorpe, Stanthorpe on police business. Is that what you are saying?---Yes, that's what I'm saying, sir, especially in relation to the Tuesday night meeting. I believe that I was certainly used by someone as some form of alibi.

Well, the only two people that were there were Saunders and himself?---I believe I was used by - at least by Dodd.

Yes?---And I don't know about Sergeant Saunders, but I believe I was at least used by Dodd to provide some sort of alibi on that night.

Before me Saunders conceded that she had had the opportunity to speak to Dodd outside the hearing of Krosch although she denied having walked with Dodd 50 metres from the police vehicle. Saunders did not deny that

she had communicated to Dodd that the firearms had been "bloody hot" but she denied that she had told him to get rid of them. She claimed that Krosch paid Dodd money for his expenses at Stanthorpe. However in her Legal Aid material Saunders stated that she had paid Dodd \$20 that evening for his information leading to the "Wellington Point and Gatton Arrest." There is no suggestion in the Legal Aid material that Krosch paid him any money on this occasion. Dodd and Krosch both stated in their original statements that it was Saunders who paid over the money although Dodd claimed it was in the police car with Krosch present. I have no doubt Krosch did not pay Dodd on this evening. This is consistent with my previous finding that Dodd did not go to Stanthorpe on Krosch's request. Krosch did explain that he had met Dodd on one later occasion on 18 March 1982 and paid him \$10 for information concerning the organisation he had been requested to infiltrate. Saunders had nothing to do with this.

In her Legal Aid material Saunders stated that she had told Krosch of the theft of the firearms prior to locating Dodd on that evening. Krosch accepted this although he could not recall whether Saunders had advised him that Dodd was in Stanthorpe at the time. On the other hand Saunders in response to a question from Counsel Assisting agreed that she probably told Krosch as well as Knight and Tutt that Dodd had been in Stanthorpe because that was what she had believed at the time.

7.6 The disposal of the firearms by Dodd and Wills

After Dodd had explained to Webb in his record of interview that Saunders had told him to "get rid of" the firearms, he was asked these questions:

Q.65 What was the next thing you did concerning the guns?

A. I went back and told Joe that we had to get rid of them. I drove Joe over to Manly and I waited for him while he stole a car that night.

...

Q.69 What happened after Joe stole the car?

A. He took the car and went and picked up the guns and I followed him down to Beenleigh just past the

Shell Service Station and then I went ahead of him and came back onto the inbound side while he ditched the car and I then picked him up.

Q.70 What did you do with the guns?

A. The guns were left in the boot of the stolen car.

Q.71 When the car was found a firearm and some ammunition were located under the front passenger seat. What have you to say to that?

A. No. Sir. There was no firearms left out of the boot.

Q.72 What happened to the .22?

A. When the guns were put into the car all the guns that is the Armalite and the four hand guns were put into the boot and to my knowledge that was where they all were.

Q.73 Do you know anything about a telephone call being made to the Beenleigh Police at 12.31 a.m. on the 10th March 1982?

A. Yes. Sir. I got the phone call made by Joe so that the Police could find the guns.

Q.74 Did you tell Saunders that you had done this?

A. Yes. I rang her the same night at her place and told her that they had been gotten rid of and that the Beenleigh Police should have found them by now.

At the committal hearing Dodd explained that the original intention was to "flip" the motor vehicle but that did not occur. Dodd also gave evidence that when he telephoned Saunders to advise her that the firearms had been dumped at Beenleigh he told her that they were abandoned there so that they would look like they were being taken down south.

At Saunders's trial Dodd gave detailed evidence concerning the

abandonment of the motor vehicle. He indicated that they drove along Mount Cotton Road to the turnoff then, once past the turn off, Wills stopped the vehicle, knocked the glass out of the car and then drove it towards Beenleigh where it was eventually dumped. He also explained that after the guns had been dumped he told Wills to ring up the Beenleigh Police and feign a female voice.

Dodd generally maintained his account before me. He continued to deny that Spires had been responsible for the telephone call to the Beenleigh Police. In examination by Fleming QC the following exchange with Dodd occurred:

Do you think that might have damaged the working parts of the gun to have firstly put them in a swamp and secondly to have washed them?--Not if they were cleaned I don't think.

What, did you oil them and so on afterwards, did you?--No, they were all wiped down and that.

But did you oil them and - - - ?--No, they weren't oiled.

- - - ensure the working parts were still - - - ?--No, they weren't oiled.

Well, if you were going to sell these things, certainly you want to have looked after them would not you?--Well, it never entered my head.

What, to sell them?--To oil or anything like that with them.

Well, you wanted a good product, did you not, to sell?--Well, they were in good condition anyhow.

Yes, except that they had been under water?--And they were dried.

Twice?--And they dried.

In a swamp?--And then they were dried.

Yes, but they were not oiled or anything like that?---Well, not as far as I know they weren't.

Are you sure that the intention was to sell them?---Yes.

Are you sure the intention was not simply that the guns be stolen and Lorrelle Saunders could be implicated in the stealing of them?---No.

You see, they are not a very good product if they are not oiled and in good working condition, are they?---Yes. Water is not going to damage them that much if they are not there that long.

All right. She said something to you about the heat coming onto her, did she?---Yes.

Did she say where from?---No, she just said that they were too hot to handle and she was wearing the heat.

They were too hot to handle, let them be found?---They had to be found.

Too hot to handle, they had to be found?---Because she was wearing flak.

Not too hot to handle, get rid of them so that there is no evidence anywhere around, she did not say that to you?---No, that she was wearing the flak, that's all.

Yes, but, so she wanted them found?---Yes.

So that, perhaps, I do not know, some trail could be established back from where they were found, something like that, was that the idea?---Not that I know of. All I was told to do by Lorrelle was to get rid of them where they could be found, to get the heat off her.

Yes, you see I am suggesting to you that firstly, that that was never said to you?---That was said to me.

And secondly, the improbability is just beyond belief, that she, having the heat on her, would want somehow or

another these guns to be found?---How else is she going to get the heat taken off her unless they get found?

Well - - -?---She was in the car that they were stolen out of.

That is right?---That was the implication, as soon as the guns, if the guns were found the heat gets taken off her.

Yes, but if the guns are found, there is a starting point for some reasonable investigation, is there not?---Why
- - -

Where are the guns?--- - - - because they are in a car heading south, and suddenly it's gone off the road.

Yes, now tell me, was the plan to roll the car over?---Not that I know of, no, there was no plan made, it was just to dump the car.

Why were the windows knocked out?---I didn't even know there was the windows knocked out.

Wills was questioned by Webb in the record of interview of 26 March 1982 concerning the disposal of the firearms:

Q.61 When did you next have any dealings with those firearms?

A. When John got a phone call from Laurie. To say that there was too much heat and we had to ditch them. Me and John discussed how to do it.

Q.62 When did John get this particular phone call from Laurie?

A. Tuesday or Wednesday, something like that.

Q.63 What did you and John decide to do then?

A. I was to go and knock another car, put the guns in it, drive it down the Coast and roll it to make it look like the guns were headed for New South.

Q.64 *What did you do then?*

A. *We went to Manly and I flogged a car.*

Q.65 *Who went to Manly?*

A. *Me and John.*

...

Q.72 *What time of the day was it when you took that vehicle?*

A. *About 10 o'clock. Between 10 and 11, I'm not sure.*

...

Q.75 *Where did you drive to?*

A. *Back to the house. Then I threw the guns and ammunition in the back and headed off down the Coast and John was following in his car to save me walking back., I pulled over the side of the road somewhere, took all the guns out of the back seat and threw them in the boot.*

Q.76 *How did you open the boot?*

A. *I picked the lock with one of my keys.*

Q.77 *How many firearms did you put in the boot?*

A. *.357, .44, .45 and the Armalite.*

Q.78 *What did you do with the .22?*

A. *Threw it in John's car.*

Q.79 *What did you do then?*

A. *Punched all the side windows out, then got back into the Holden and drove down towards the Coast.*

I tried rolling it but I ran out of petrol.

Q.80 What did you do then?

A. Well, John met me back up the road about 300 yards. We drove off in his car and we went to a phone box. That's where I rang up the Police and told them there was a car rolled down the Highway and someone might have been hurt.

Q.81 Which Police did you ring?

A. I just rang OOO.

Q.82 When you rang the Police, did you say who you were?

A. I impersonated a woman's voice and gave a false name and address.

Q.83 Did you recall what name you used?

A. No. I said I lived somewhere at Sunnybank.

Q.84 Beenleigh Police received a telephone call at 12.31 a.m. on the 10th March, 1982, from a person who stated she was a Mrs. Julie Davis of 758 Main Street, Sunnybank. What have you got to say to that?

A. That's the name and address I gave.

Q.85 When that vehicle was towed to the Beenleigh Police Station, Constable Pfuhl made a search of it and he found a revolver and a quantity of ammunition under the front passenger side seat. What have you to say to that?

A. I threw the three pistols and the Armalite into the boot.

Q.86 When the boot was opened by the husband of the owner of the car in the Tow Yard premises at

Woodridge, an Armalite rifle and two pistols were found in the boot. What have you to say to that?

A. He should have found the three pistols in there 'cause I threw the .357, the .44, .45 and the Armalite in there.

Q.87 Did John touch the firearms at all?

A. When we loaded them in the car, he gave us a hand to shift them.

Q.88 Did you return to the address at Ferry Street with John?

A. Yes.

Q.89 Have you had possession of the .22 since that time?

A. Yes.

Q.90 What was your purpose in taking the firearms in the first place?

A. So we could sell them.

Q.91 Why did you keep possession of the .22?

A. I don't know.

Wills gave much the same account at Saunders's trial. He elaborated in one respect in that he stated that he punched out the windows of the car so that when he rolled it, as he had originally intended, the glass would not injure him. In cross-examination he explained that Dodd was aware that he had kept the .22 as it was subsequently stored in the bedroom in which Spires and Dodd slept.

When Wills gave evidence before me he maintained his account with one exception. He claimed that Spires had travelled with them when they abandoned the vehicle and that she had made the telephone call to the Beenleigh Police. He explained that the reason why he had previously lied was because he did not wish Spires to get into any trouble with the police.

He added that she did not have anything to do with the planning or the stealing of the firearms. He gave a similar account to that given by Dodd indicating that the original idea was to roll the vehicle and report it as a "roll-over" to the police so that they would find the firearms. He denied shooting out the windows as he claimed that this would have been too noisy. He believed that he either used his covered fist, a hammer or some other tool to break the windows.

Wills was questioned by Quinn concerning the reason why he retained the .22. This exchange ensued:

Now, later on, you received information from Dodds that you were to ditch, or dispose of, these very valuable weapons?---Right.

And you would agree that these weapons - any gun - is very valuable to - to people, perhaps committing criminal offences?---Yes. Yes.

And for some inexplicable reason, after you had stolen these guns, you were told then you had to ditch them without getting anything for them?---Yes. That's probably why I wanted to keep the 22 - you know - to at least get something out of what I done.

THE JUDGE: I am sorry. I did not hear what you said?---That's probably why I kept the 22, because - you know - we didn't get to sell the guns, so I probably just kept it as payment.

Salvaging something from the guns?---Yes; trying to get something back.

In evidence before me Spires was unable to recall whether she had been present when the firearms had been abandoned. She could also not recall whether she had made the telephone call to the Beenleigh Police. However she did not discount the possibility of her having been with Wills and Dodd when the firearms were dumped and subsequently having made the telephone call to the police. She gave evidence that she recalled that the original plan discussed by Wills and Dodd was that they would take a car, drive it towards the Gold Coast, roll it as if an accident had occurred, thereby giving the appearance that the firearms had been headed for Sydney.

Axel Michael Pfuhl, who was a Constable 1/c of Police attached to the Beenleigh Police Station in 1982, received a telephone call at 12.31 in the early morning of 10 March 1982 during his midnight to 8 shift. He described the voice as that belonging to a female between 20 to 30 years of age. Pfuhl stated that the caller had advised him that she had been driving in her vehicle when she noticed an upturned crashed vehicle. The caller did not know whether anyone had been injured and claimed that she was too frightened to go anywhere near the vehicle to check it out. The caller attempted to explain a number of times where the vehicle was actually located but was unable to adequately describe the location. Pfuhl formed the view that the caller seemed anxious for the police to attend the scene because of the possibility that someone may have been hurt in the accident. Pfuhl formed the opinion that the caller and the content of the call may have been a hoax as the caller was unwilling to supply a name or address. He explained to the caller that unless a name and address was provided it would be treated as a hoax call. The caller then supplied the name Julie Davis, residing at 758 Main Street, Sunnybank.

As a result of the information Pfuhl and a Constable named Josling conducted a search of the highway and on the third sweep located the vehicle about a kilometre past where the caller had claimed it would be. Pfuhl described the location of the vehicle as off the Pacific Highway towards the Gold Coast, just past the Jacobs Well turnoff, which was then beside Bullens Lion Park. The vehicle was not overturned but in an upright position. He formed the view that it had been deliberately driven there as there were no skid marks indicating the contrary. He also formed the view that the windows appeared to have been shot out with a firearm. He was able to form this opinion because of his experience in training in bullet impact. He did not search the vehicle at the scene but had it towed back to the Beenleigh Police Station.

At 2.30 that morning Sergeant Mervyn John Bainbridge and Pfuhl searched the vehicle at the police station and found a .357 concealable firearm in a black leather holster directly under the passenger seat together with 9 millimetre empty magazines. Also on the floor on the back they found some spent shells which were incompatible with the weapon and about 3 or 4 plastic reloading devices for quick loading of a revolver. They did not search the boot as it was locked and did not wish to damage it.

After securing the vehicle at the police station they ascertained that the concealable firearm was one of the Coomer weapons. Bainbridge then telephoned the Duty Inspector at Operations in Brisbane. Shortly after, a host of telephone calls from police and the media were received. The

police officers wished to know the complete details of the location of the firearms. Saunders was not one of these police officers who telephoned the station. There was no dispute over Pfuhl's evidence of events of that morning.

That afternoon the husband of the owner of the vehicle Donna Margaret Paterson arrived with a key to the boot and the boot was opened. Inside were located the armalite rifle, the .44 revolver and the .45 calibre automatic pistol which belonged to Coomer. He and his wife testified that they had last seen their vehicle at about 11 p.m. the previous night.

Carew and Company submitted that there was a number of possible explanations for the fact that the firearms were abandoned and the police telephoned soon after. Listed were the following five possible explanations:

- *Dodd at that stage was involved in setting up Saunders.*
- *Dodd was simply making trouble for his own idiotic pleasure.*
- *Dodd was worried about the complaint of unlawful carnal knowledge which Baker told him of on the morning of 9 March 1982 and about which Baker wanted to interview him.*
- *Dodd started to panic when Saunders asked him on the Monday to help find the guns - perhaps he thought she suspected him. ... with him again on the Tuesday night.*
- *Perhaps Dodd and Wills, who were generally flouting the law, got a kick out of the publicity over the guns being found.*

All these possible explanations are untenable on the evidence. There is no evidence that Dodd at that stage was setting up Saunders. It is absurd to suggest that Dodd was simply making trouble for his own "idiotic pleasure." I fail to see how the return of the guns in such circumstances could have assisted him with the inquiries being carried out by Detective Dudley Keith Franklin Baker to which I will return shortly. The dumping of the guns in such a fashion was completely inconsistent with Dodd

having panicked after discussions with Saunders. There was no suggestion that either Dodd or Wills would have got a kick out of the publicity over the guns being found. It is worth noting that these explanations do not include the one originally suggested by Saunders in her statement to the Commission that Dodd was at the time acting in concert with corrupt police.

7.7 Further discussions between Dodd and Saunders

In Dodd's record of interview of 26 March 1982 with Webb he was asked whether he had had any further conversations with Saunders concerning the firearms after he had told her that he had disposed of them. His response was as follows:

Yes. This would have been a couple of days later. She rang me at home and informed me that there was only one gun found and I said to her 'That can't be right they were all left in the car.' She said only the one was found and that was the end of the conversation then and later on she rang me and told me that all the guns had been found except for the .22 and I said that 'Someone is having games with you because all the guns should have been found in the car.'

He was then asked when was the last occasion he had spoken to Saunders about the matter and he gave this response:

Three days ago. She rang me and I met her along Broadwater again. Roy was with her and he gave me the serial number of the .22. She asked me to contact the circle in which I move and see if I could find out what happened to the .22.

At Saunders's committal hearing Dodd was unsure as to the dates on which these events occurred. He stated that he thought that the next conversation with Saunders was on the Monday and the meeting with Coomer on the Thursday night. Dodd was not asked to nominate the date of the Monday or the Thursday. At Saunders's trial Dodd was questioned extensively by counsel for Saunders concerning the discussions with Saunders after the recovery of the weapons. Dodd claimed that Saunders had telephoned him a couple of days after the theft to advise him that only the .22 had been recovered. He claimed that on the evening of 19 March 1982 he was told

by Saunders that only the .357 was found. This was the day on which he had originally claimed that the conversation in which Saunders implicated herself on tape had taken place. He then told the court that she had telephoned him after this and confirmed that only the .22 was missing.

It would seem to me that at Saunders's trial Dodd was forced to deviate from the account he had given to Webb during the record of interview on 26 March 1982. He was caught in a bind. On the one hand he had told Webb that Saunders had telephoned him a couple of days after the theft of the guns and advised him that only one firearm had been recovered, and yet, on the fabricated tape, which Dodd claimed to Webb was recorded on 19 March 1982, he had Saunders telling him:

*The Beenteigh Police said that only the .357 was found.
What happened to the rest of the guns?*

It was clear on the evidence that between 2.30 a.m. on 10 March 1982 and the afternoon of that day only the .357 had been recovered. The rest of the firearms other than the .22 were still in the boot of the abandoned vehicle waiting to be opened by the owner's husband. Somehow Dodd had become aware of this. He could not tell the court that Saunders advised him two days after the theft of the firearms that only the .357 had been found because there would have been no reason for her to repeat the statement during the discussions which ostensibly took place on 19 March 1982. He therefore had to concoct a story that Saunders had originally told him a couple of days after the theft of the guns that another firearm only had been found. In this way he attempted to explain what would otherwise have been an inconsistency between his record of interview and the conversation recorded on the fabricated tape. The question arises how did Dodd know that for a period of time only the .357 had been located?

Coomer claimed in his evidence at Saunders's trial that he met Dodd for the second occasion on approximately 22 March 1982. On this occasion Dodd gave him a \$20 bill and told him to go and get some beer and chips, which he did. Dodd and Saunders were left together. Coomer was away for about 20 minutes. On his return a discussion ensued in which he gave Dodd the serial number of the .22 revolver which had not been recovered by the police. He stated he gave Dodd the serial number because he thought that Dodd would be the best person to "keep his ear to the ground in case he heard of anything." Saunders agreed that this meeting took place. Her Legal Aid material dated it as having occurred on 22 March 1982. Her Official Police Diary recorded a similar account to that of Coomer. One must wonder why Saunders took Coomer to see Dodd on

this occasion. Saunders would have had access to the serial number of the firearm. All she had to do was obtain it from Coomer's firearm licence. There was no need for Dodd to obtain the serial number from Coomer directly.

Dodd maintained that he had had a number of discussions with Saunders after the theft of the firearms at which other subject matters were discussed. I have already referred to the matters concerning the harassment of Bull and Lobegeiger. Dodd was cross-examined at length by counsel for Saunders at Saunders's trial concerning the dates of these meetings. When Dodd first gave his account of these discussions in his statements to the police he had indicated approximate dates using terms such as "about a week before the 19th of March 1982," and "about the 16th of March 1982." It was clear from Dodd's answers to counsel for Saunders at her trial that he could not specifically nominate the date of each of the meetings. His evidence was certainly unconvincing in this respect as it had been in relation to the nomination of the early meeting dates.

In one of the statements of 28 April 1982 Dodd claimed that "about a week before 19 March 1982" he met Saunders by arrangement at the park off Broadwater Road at Mount Gravatt. According to Dodd the following conversation took place:

She said to me, 'You've been involved in armed robberies.

How would you like to do another one.'

I said, 'I've already done time for the armed robberies and

I don't fancy doing any more.'

She said, 'I know of a job where there's no violence involved. You can't be charged for an armed robbery because it's only a snatch and grab and there's no way you can get caught.'

I said, 'What is the place.'

She said, 'Tucker Furniture at Coorparoo.'

I said, 'How do you know so much about it.'

She said, 'They are friends of mine.'

I said, 'Who are the friends.'

She said, 'The daughter. I have known her for quite a while. I'll look into it and get the times they go back and forwards to the bank and I'll let you know.'

I said, 'Righto.'

In the same statement Dodd claimed "that about 16 March 1982" he met Saunders by arrangement again in the park. She had previously telephoned

him according to Dodd and the following conversation had taken place:

She said to me, on the phone, 'I've got the information on Tuckers.'

When I met her at the park, she said to me, 'The information I've got is that the people go from the shop to the Bank and back.'

I said, 'How did you get the information.'

She said, 'I've got a lot of friends around. The payroll is anything between 20 and 40,000 dollars. If you want to get that amount, you want to get it around Easter time when they pay off their employees, otherwise there mightn't be as much.'

Dodd claimed in this statement that the next day he again met Saunders in the park. On this occasion he claimed the following conversation took place:

She said to me, 'Tuckers go away the weekends down to the Coast. Their house has always got money and goods in it and it's an easy house to get into.'

I said, 'What area is it in.'

She said, 'It's on the Brisbane Corso.'

I said, 'What address.'

She said, '375 on the Brisbane Corso.'

She said, 'There is a place down the Coast that has furniture, T.V.'s, stereos, all that in it, but I'm not sure about money. I could get the addresses for you if you want them. I can also get addresses of places up the North Coast where the same sort of stuff is if you want them.'

I said, 'I'll see.'

It was while we were at the park on this night, she said to me, 'I can get the car registration numbers that belong to the Task Force. That way you can keep your eye open for them and there's no way of getting caught.'

I said, 'That is a good idea, but they move around too often. You can't tell where they're going to be.'

She said, 'I can also get the number of the Special Branch's cars, but that would be a bit harder.'

She said, 'If Lobegeiger starts any trouble, I've got evidence put away that could cause him a lot of trouble.'

I said, 'What sort of evidence.'

She said, 'Photographs of him and another woman that are

naked on the beach up north. I was there at the time.'
She said that this woman is a policewoman and they were up there together at Cairns, but I cannot recall the conversation that she used. She also said that the policewoman was either under suspension or out of the force.

She said, 'If jobs are pulled, there is a fool proof way of never getting caught. All I have to do is write out a speeding ticket for a different area that the job was done in on the same time. I've done it a few times before and there's been no come back on it. There's no worried about my partner as he goes to College and I am on my own.'
She said to me, 'I know a place out at Chermside where there is this beautiful stereo set that I'd like for myself. I've been to the house at a party and it was owned by two queers. They work during the day. The stereo is worth about \$2,000. I could make arrangements that they won't be home of an afternoon if it was to done of an afternoon.'

Dodd claimed that it was during this conversation that he was asked whether he was willing to shoot Lobegeiger's horses and also asked whether he would consider stealing a massage chair for her mother. I have already made reference to these two matters.

In the second of Dodd's statements of 28 April 1982 he claimed that he recorded Saunders at the park at Broadwater Road at Mount Gravatt. In this statement he claimed that this conversation occurred on 19 March 1982. He produced to Webb and Williams a tape recording as proof of his claim. This was established later to be a fabricated tape. An account of how he allegedly recorded Saunders was included in this statement. It was these two statements of 28 April 1982 and the tape recording which formed the basis for the charges against Saunders relating to the theft of the payroll and the murder of Lobegeiger. In a further statement dated 27 April 1982 he signed a copy of the transcript of the fabricated tape and acknowledged its accuracy. The transcript is set out in full:

<i>FEMALE VOICE:</i>	<i>Goodday Doug, how're you going.</i>
<i>DODD:</i>	<i>Alright Laurie, how's yourself.</i>
<i>FEMALE VOICE:</i>	<i>Oh, not too bad. Um listen, the Beenleigh Police say that only the 357 was found. What happened to the rest of the guns?</i>
<i>DODD:</i>	<i>They were put in the boot.</i>

FEMALE VOICE: *Were they. They reckon it was a set up. The boot was left unlocked, that's how incompetent the police are. How did your mate get them out.*

DODD: *Through, he went through the quarter glass the way it was planned, got into the back, pulled out the back seat, got the guns out of the boot, got the armalite off the seat and decided that that was enough.*

FEMALE VOICE: *Hah. Why didn't you take the car like it it was planned. Then I, then I wouldn't be a suspect. They say it was an inside job. Isn't it unreal you know.*

DODD: *But the bloody car wouldn't start.*

FEMALE VOICE: *Just stick to the story that you were down in Stanthorpe and didn't get back until after 6.30 that night and were were in the clear.*

DODD: *Okay. Well what about this other job you got set up.*

FEMALE VOICE: *You mean Tucker Furnishers over at Coorparoo.*

DODD: *Yeah that one.*

FEMALE VOICE: *That's easy. One of them goes from the shop to the bank and back. All you have to do is park the car around the corner whoever does it wait up in the lane, grab the payroll and run around the corner, throw the money into the car and keep running until he gets into the crowd and change shirts. It'll be as easy as that. What do you reckon.*

DODD: *Yeah sounds pretty easy.*

FEMALE VOICE: *But first get someone to wipe out LOBERGEIGER. I don't care who, I'll pay whatever it takes. Get bloody LOBERGEIGER. He's got*

to be wiped out. You know what, you know what he's done, he's threatened me and my mother.

DODD: *Fair dinkum.*

FEMALE VOICE: *Yeah he says that I've caused him alot of trouble.*

DODD: *Yeah you have with Gatton and all that.*

FEMALE VOICE: *He says that I'm trying to get him back but I don't want the bastard back, I just want him dead. Will you do it for me.*

DODD: *Ah look Laurie, I told you I don't go in for that sort of thing. But perhaps I know someone else. See what I can do for you.*

FEMALE VOICE: *Yeah alright, but with the people you know, you must know someone who will kill. Come up with someone, I'll pay five thousand dollars if that's what it takes. No bastard's going to threaten me or my mother. Will you help me wipe him out.*

DODD: *Yeah alright I'll see what I can do. Well listen when, will you be making anymore phone calls or will will I get in touch with you or you get in touch with me.*

FEMALE VOICE: *I'll get in touch with you.*

DODD: *Yeah okay, well listen I better go anyhow. I have another appointment later on tonight. So I'll see you around then.*

FEMALE VOICE: *Rightio.*

Dodd maintained that the facts alluded to on the tape recording were true in evidence at Saunders's committal hearing and trials. In testimony in this investigation he for the first time claimed that he had fabricated, with the assistance of Blanche Thompson, the tape recording that he had produced to Webb and Williams. To that time he had always claimed that the tape recording was genuine, even to officers of the Commission and previously to officers of the Fitzgerald Commission of Inquiry when he was

interviewed by them. Notwithstanding his admission that the tape recording was a fabrication, he claimed that the dialogue recorded on the fabricated tape was an accurate reconstruction of a conversation with Saunders which had actually taken place on the evening of 19 March 1982. In examination by Counsel Assisting Dodd was adamant that this conversation had occurred on 19 March 1982, although he was unable to explain how he fixed the date. I will return to the fabricated tape shortly.

In Saunders's Legal Aid material she had stated that during the period between 9 March 1982 and 22 March 1982 she had "phoned him about every second day mainly over any information on guns." She denied that there had been any of the discussions claimed by Dodd.

In Saunders's Official Police Diary there were entries which showed that Saunders and Dodd had been in communication on 10, 11, 12, 16, 17 and 18 March 1982. The diary recorded that on 18 March 1982 she saw Dodd in person at 2.45 p.m. at a "road special" in Merthyr Road. The other contact was recorded to be over the telephone. These entries suggested that Dodd was still seeking and obtaining drug information for Saunders.

It is clear from both Saunders's and Dodd's account that they had many discussions subsequent to the theft of the firearms. At least some of these concerned the firearms. There was clearly the opportunity for Saunders to have the discussions with Dodd which he claimed had occurred over that period even if the dates suggested by Dodd were incorrect.

Interestingly enough, in Saunders's Official Police Diary the following entries appear for 10 and 11 March 1982:

0040 hrs. Ph call house DODDS - Eldorado Cafe in Valley - 521894 - also called KJ's man named RODNEY - taxi driver NOEL could be dealing in a lot of hot gear - supposedly recently handled hot guns for Sydney - notified TUTT - N/W car - at Mobiles quest suspects. Later in day notified WEBB - WEBB advised 1 gun recovered and could let Roy know.

Ph. Johnny mid morning advised him all guns recovered - thought there was only 1 yesterday but all found. Camera/Clothing and other gear not recovered. Found in stolen car around Beenleigh - DODDS thought all the publicity must have and trying to get S. Guys at Eldorado wouldn't handle anything that was too hot.

These two entries confirm my view that the Official Police Diary was not a contemporaneous account of events, as claimed by Saunders. There would have been no good purpose in Saunders recording details about "one gun recovered" and "thought there was only one yesterday but all found," in her diary on 10 and 11 March 1982. It was not information that she had obtained from Dodd. When the fabricated tape was produced Saunders's knowledge of how many firearms had been located became an issue. Until that time there was no relevance in the information to explain its inclusion in the diary.

I am satisfied that some of the conversations which Dodd described did take place. I am satisfied that Saunders advised Dodd that only the .357 had been located. On the evidence there was no other possibility of Dodd ascertaining this information. As I have previously stated I do not believe that Saunders advised him of this on 19 March 1982 as he claimed. It would have no doubt occurred shortly after the theft of the guns because by the afternoon of 10 March 1982 the firearms in the boot of the stolen vehicle had also been located.

I am also satisfied that Dodd had some conversation with Saunders concerning photographs of Lobegeiger and Saunders on the beach at Cairns. Two photographs were before me in evidence. They show Lobegeiger and Saunders lying on the beach. Both were clad in their bathing costumes. Also depicted was a four wheel drive vehicle with a registration number which Commission officers established had related to a police vehicle. Saunders in her examination by Counsel Assisting suggested that Dodd may have seen these photographs while her car was at Hannigan's garage. I reject this. Dodd's account to Webb that Saunders had advised him that these photographs "could cause a lot of trouble to Lobegeiger," no doubt came from Saunders. In Saunders's Legal Aid material in the notes concerning Lobegeiger the following appeared:

General re Lobegeiger and G.I.'s and Dodd's ev. re photo of Lobegeiger and susp. or ex policewoman on beach.

Photos on file of I/ Lobegeiger and self on beach (Cape Tribulation)

Lobegeiger and self and Cairns police vehicle on beach (Cape Tribulation)

Taken Saturday 11th September 1980 Check his Police diary for that date gross misuse of police departmental

vehicle by Lobegeiger.

If it comes out in court nothing can happen now as he's retired but was worried about committal ... just assists to prove relationship prior to Feb 81.

It is clear from these notes that Saunders was conveying to her solicitors that Lobegeiger could be embarrassed by the photographs as they might indicate a misuse of a police vehicle. This was what Dodd had earlier stated to Webb, albeit in general terms.

Saunders's explanation of these photographs to Counsel Assisting was most unconvincing:

THE JUDGE: With whom?---Kev Hooper, cause as part of trying to, sort of, get Lobegeiger to break, Kev got a copy of a couple of photographs of Lobegeiger and I and dropped them in front of Don Lane down in Parliament House. He told me he did.

HAMPSON QC: Sorry, what was that?---There was a couple of photographs of Lobegeiger and I.

A couple of photographs of Lobegeiger and yourself in the photograph?---Yes.

Yes?---And Kev Hooper got them off me and he said that he'd dropped them on front of Don Lane at Parliament House and Don Lane went to a phone.

*I see. Well, what is the point of that? Don Lane
- - -?---Well, I don't know.*

- - - was jealous, or something or annoyed or what?---No, well - no, connection back to Don Lane and the police department that he may ring Murphy and say there's photos of them and Lobegeiger was denying the relationship.

But Lobegeiger could not deny the relationship. There was a time in which it was well-known through the police force that you were lovers, is not that right? I thought we established that?---Yes, but he was denying the period of

it and this particular photograph put him with me at a specific place with a specific police vehicle which could be checked out.

And later in the transcript this exchange occurred between Saunders and Counsel Assisting:

HAMPSON QC: Now, according to Mr Hooper - the late Mr Hooper, it was both those - the two of those he dropped on the floor somewhere at Parliament House - - - ?---Well, he dropped them, I think, on the table in the vicinity of - - -

*- - - somewhere and that caused Mr Lane
- - - ?---Lane to - - -*

- - - scamper for the phone?--- - - - that's correct. The other significant thing probably about those photographs is that one of Dodd's allegations was that I had photos of a policewoman who was either suspended or out of the police force and him naked on a beach near Cairns, I think - or naked on a beach. I don't know whether he nominated the spot, and, your know, as I said, I was the only woman under suspension from the police force and they're actual photos of him and I and we certainly aren't naked.

But do you think perhaps that at some stage you showed those photographs to Dodd and that is what gave him the idea?---I mean, they could have been in my bag or in my car but I didn't show them to him.

See, well, it is a funny coincidence, is not it, that he made some allegation about suspended policewoman with a man on the beach and so on - and he says naked - it was quite funny that - - - ?---But he specifies that the policewoman isn't me in his allegation.

- - - yes, I know, because he makes it up about another policewoman?---I mean it's very strange.

It would be an easy thing to do if he had seen those. That would give him an idea, you know, policewoman on beach,

or something of that sort of thing?---Well, I don't know, but it's certainly very strange.

Do you think he could have seen them when he was in your company? Had you shown them to him to show him who Lobegeiger was or something?---No.

It would seem to me that although Dodd gave a confused account of this conversation with Saunders, his knowledge of the value in Saunders's mind of those photographs could only have come from Saunders.

I have already made reference to the orthopaedic or massage chair in this report. It will be recalled that I formed the view that Saunders's diary entry concerning the chair had been made some time after Dodd's allegations rather than contemporaneously, as Saunders claimed. I have no doubt that discussions did take place between Saunders and Dodd concerning a massage chair; however I am not prepared to accept that Saunders asked whether he was willing to steal one.

In relation to Dodd's knowledge of the Tucker family home address at the Brisbane Corso and the house on the Gold Coast it will be recalled that I concluded that there was no evidence to indicate that Dodd had an address book of Saunders in his possession at any time, as Saunders had suggested. Although the Tucker family home and Gold Coast addresses were available in the telephone book, it is of some significance that Dodd told Webb that it was the daughter who was a friend of Saunders and not the parents. Dodd's knowledge of this fact must surely have come from Saunders. Despite this I am not satisfied that there were discussions during which Saunders suggested that the properties be broken and entered by Dodd, although the suspicion remains that they did take place.

Although Dodd's information about the Tucker Furniture payroll being between \$20,000 and \$40,000 around Easter time was incorrect, according to the evidence of the director of the company, Leonard Gordon Tucker, around Christmas time the payroll would be approximately \$25,000. Dodd also claimed to Webb that Saunders had told him that a single employee went to the bank to obtain the money. Tucker explained that this was the case. He added that on ninety percent of the occasions it would be carried by him and on the other ten percent of occasions by his secretary. He added that around Christmas time he would usually take his son because of the amount of money. Tucker indicated that around Easter time there would be no difference to the normal payroll amount of approximately \$4,500. It was also fact that Tucker Furniture did their banking through a

bank and not some other financial institution. Neither Tucker nor his daughter gave evidence that they had discussed the payroll with Saunders.

In relation to the allegations concerning the conspiracy to murder Lobegeiger there is evidence from Wills. Before me Wills gave evidence that Dodd had told him, presumably in early 1982, that Saunders had told Dodd that she wanted Lobegeiger "knocked off." Wills also testified that Dodd had asked whether he would be interested in doing the job and described how he had been shown in a street directory where Lobegeiger lived. Dodd had a street address for Lobegeiger. If Wills was telling the truth before me then, unless Dodd had some other motive for killing Saunders, it was evidence which supported Dodd's account that at the time Saunders had asked him to murder Lobegeiger.

7.8 The location of the .22

On 25 March 1982 Detective Mervyn James Neilson was stationed at the Cleveland Criminal Investigation Branch. He had commenced duty there in January 1982. Prior to that he had been at the Drug Squad. For the period 1975 to 1980 he had worked at the Wynnum Criminal Investigation Branch and had attended a number of jobs with Williams. He had only minor previous contact with Tutt.

He stated before me that on this day he received a telephone call from the proprietor of the Caltex Service Station on Ricketts Road, Thorneside. Neilson was advised that this service station had been broken into on a number of occasions and the proprietor believed that persons across the road from the service station were responsible. Neilson was told by the service station proprietor that he had seen tracks leading out of his premises through the grass towards a house at 49 Ferry Street and that two male persons had been seen loading tyres and other property on to a vehicle at that address.

Neilson gave evidence that on receipt of this information he considered that it was prudent for a number of police officers to attend the premises. His own partner, Detective Graeme Alan George Millard, was not available at that stage so he contacted Williams who was off duty. Williams arranged for Tutt to come back on duty and all three proceeded to the premises at 49 Ferry Road. Neilson indicated that Williams and Tutt often worked together. Neilson explained that it was not uncommon for Williams to come on duty when there were staff shortages. He also explained that if there had been detectives available he would not have bothered Williams at

home.

He stated that he had no idea who resided at those premises because the service station proprietor had simply provided an address and he had made no other enquiries in that regard. He stated that Williams and Tutt did not mention whether they knew who resided at that address. Neilson had no prior knowledge that there would be any firearms at the premises and Williams and Tutt did not say anything that gave him the impression that they knew that they would locate any at the premises.

Neilson explained that when they arrived at the house he and Williams went to the front door and Tutt went around to the rear. From other evidence before me I am satisfied that this occurred around 1.00 p.m. on that day. Although Neilson could not recall whether they were armed with a search warrant Tutt in evidence at Wills's committal hearing on 9 July 1982 testified that they were not. Wills answered the door and when asked his name he replied "David Joseph Anderson." Neilson later ascertained this name was false and established that Wills was the correct name. Permission was granted to enter the house to search for the property from the break and enter offence at the Caltex Service Station. Inside the house they located Dodd, Spires and a small child. Although Williams and Tutt acknowledged Dodd, Neilson could not recall any comments that they may have made to the effect that Dodd had been a police informant. A search of the house revealed a number of cigarettes which had been stolen from the Caltex Service Station. It also resulted in the location of other suspected stolen property. Although Neilson did not locate the .22 himself, he explained that either Williams or Tutt located it in the nursery of the house. When the suspected stolen property was located the proprietor of the Caltex Service Station was brought to the house. He claimed ownership of much of the property. The police then advised the occupants of the house that they would be taking possession of the property allegedly stolen and Dodd and Wills were taken to the police station. Neilson could not recall whether Spires accompanied them, although she did appear at the police station some time later. Neilson explained that he did not know Dodd, Wills or Spires prior to the search of the house at Ferry Road on this date.

In his statutory declaration to the Commission Millard explained that he had little independent recollection of the events of that day. He explained that he attended the premises at some stage during the day but could not recall whether he knew who were the occupants prior to going there. He also could not recall who had received the information concerning the suspected stolen property at the house.

Before me Williams gave an account similar to that of Neilson. He explained that he had been called at home by Neilson and he had been requested to assist on a couple of jobs. He stated that he went to the premises at 49 Ferry Road on the information that had been received by Neilson. He could not recall where Neilson obtained it from. Williams stated that he had no information at that time that there would be stolen guns at the premises and, as far as he was aware, no other police officer who attended on that day had any prior knowledge that the guns would be present. He also stated that he had no idea that Dodd was going to be at the premises. In Williams's statutory declaration he had stated that he did not think that he knew Dodd was residing at 49 Ferry Road at that time. He added that he did not believe that they had any expectation of who would be at the premises. He could not recall whether a search warrant had been executed on the premises. He stated he did not know Spires or Wills prior to this date. I have discussed elsewhere in this report his stated knowledge of Dodd at that time.

During the search Williams located a .22 calibre handgun on top of a cupboard or wardrobe in the bedroom on the northern side of the house. He believed Tutt was present when it was located. As far as he could recall the wardrobe was in a bedroom occupied by children and was covered with rubbish or toys. At some stage during the time that they were at the house after the firearm had been located Tutt advised him that he suspected it was Coomer's firearm.

At Saunders's committal hearing Williams was questioned by counsel for Saunders as to whether he knew that Dodd would be at the house. Williams replied that he had no idea who was residing at the premises when he went there. There is no evidence that as a matter of fact he did know that Dodd resided there. At Saunders's committal hearing and trial Williams only gave the general description of having located the .22 above a wardrobe in a bedroom. In Williams's statement prepared for the committal hearing of Wills it is recorded that after finding the firearm in a bedroom he had a conversation with Dodd. As a result of what Dodd told him he went and spoke to Wills. The conversation with Wills was recorded in Neilson's Official Police Notebook:

I understand you own this firearm.

Yes.

In Tutt's Official Police Notebook it is recorded that he had also asked Wills whether he owned the firearm and when Wills said that he did Tutt told him they would discuss it further at the police station.

In Tutt's evidence before me he gave a similar account to that of Neilson and Williams. He stated that they had no information at the time that there were stolen firearms at the premises. He could not recall whether Dodd was residing at the premises prior to going there on that day. He also had no recollection of whether there had been a search warrant and could not recall who they expected to find at the premises. He recalled that at the premises a .22 calibre handgun was found in or on a cupboard. He could not recall who located it but he believed the cupboard belonged to Wills. He stated that his initial thought was that the firearm was Coomer's but he did not consider that Saunders was involved although he knew she was the connection between Dodd and Coomer. At Saunders's committal hearing Tutt in response to a question from counsel for Saunders stated that he did not know that Dodd would be at Ferry Road as he was under the impression that he lived at 59 Ney Road, Capalaba. He acknowledged that he recognised Dodd immediately when he arrived but stated that he had never seen Wills or Spires before. I have discussed elsewhere in this report Tutt's stated knowledge of Dodd prior to the raid. There is no evidence that as a matter of fact he did know that Dodd resided there.

Dodd in his statement to the Commission claimed that he did not know why the police came to the premises that day. He stated that they did not have a search warrant as far as he was aware but that Spires may have let them in. As he recalled it the police did not indicate that they were looking for a firearm. They merely came inside and started searching. He stated that the firearm was actually found by Williams who ran his hand along the top of a wardrobe in one of the rooms. He could not recall in whose room it had been found.

On Spires's account there was no search warrant. She believed that the firearm was located by a police officer on top of a hanging wardrobe against the wall in her bedroom. At Saunders's trial she acknowledged that the firearm had been found on a wardrobe in her bedroom. She could not recall which police officer found it. Wills was not present when the firearm was located. Wills testified that he believed the .22 was kept in Spires's bedroom.

There was no suggestion in the previous evidence of Tutt or Williams that they were aware that there would be firearms in the premises. There was no evidence at any time from Dodd, Wills or Spires that any of them had been aware of a forthcoming police raid.

There is no doubt in my mind that the firearm had been fortuitously located after Neilson had been "tipped-off" by the proprietor of the Caltex

Service Station that offenders in relation to his premises could be found at 49 Ferry Road. The fact that the proprietor of the service station was taken to the house to identify his property was to my mind highly significant in reaching this conclusion. I am satisfied that the firearm was located on a wardrobe in Spires's bedroom and that at the house Wills claimed ownership of it.

CHAPTER 8

THE APPOINTMENT OF WEBB AND FLANAGAN TO INVESTIGATE THE THEFT OF THE FIREARMS

8.1 Webb's report of 7 March 1982

I have already made reference to the report that Webb prepared on 7 March 1982 after he had been to the scene of the theft of the firearms. In that report Webb had briefly set out the events of the evening as he saw them. At the end of the report this observation appeared:

I feel that this matter warrants further careful investigation.

The report had been originally addressed by Webb to Acting Superintendent T G Channells. On the following day Channells addressed it to the Regional Superintendent, North Brisbane Region and marked it "for his information and favour of reference to Detective Superintendent, Internal Investigations for dealing."

On 8 March 1982 Superintendent, North Brisbane Region, J W Keen, directed the report to the Detective Superintendent, Internal Investigations "for his information, recording and detailing." It was marked confidential. Although there had been no reference in the report to the possible wiping of fingerprints by Saunders the report indicated that there had been a dispute between Ellsworth and Symes and Saunders. It is clear from the fact that the report was forwarded from Channells to the Regional Superintendent for reference to the Internal Investigations Section, that at a very early time consideration had been given to Saunders's possible involvement in the theft.

In Webb's evidence before me he stated that it was he who originally suggested that someone from the Internal Investigations Section should look at the matter.

8.2 The file directed to Webb for his investigation

Webb explained in evidence before me that he was expecting someone from the Internal Investigations Section to telephone him to find out more about the matter. He stated that this never eventuated as the file was

assigned to him at the City Station where he had been stationed. He told me that he did not want the file as he had been recently on extensive sick leave for an ulcer and the last thing he wanted was to do any further criminal investigation work.

He stated that he had the carriage of this investigation whilst at the City Station as well as his normal duties there. He continued his investigations from the City Station until he was transferred to the Criminal Investigation Branch on Monday, 29 March 1982. He took the file with him and from there continued the investigation. He recalled that prior to departing from the City Station he had interviewed the owner of the motor vehicle that had been abandoned with the firearms, Pfuhl in relation to the retrieval of the firearms, and Krosch concerning his knowledge of the informant of Saunders. It would also appear from the Police Brief for the committal hearing of Saunders that he had also interviewed the vehicle owner's husband, the tow truck driver who towed the stolen vehicle to the Beenleigh Police Station and the police officer who had photographed the firearms when they were found.

Albert Pointing, who was the Superintendent in Charge of the Internal Investigations Section at the time of the theft of the firearms, was summoned to give evidence before me. He stated that the matter had been assigned to Webb because he had been the officer who had originally gone to the scene of the theft of the firearms. He added that there were two further matters which were taken into account in deciding to give the matter to Webb, his previous investigative experience and the fact that he was a commissioned officer. Pointing offered the opinion that it had become an internal investigation because a dispute had arisen between Saunders and the police officer at the scene of the crime. In his statutory declaration dated 30 September 1988 to the Fitzgerald Commission of Inquiry Pointing had expressed the view that it was not uncommon for investigations into police officers to have been conducted outside the Internal Investigations Section in such circumstances. He told me that if the Inspector originally assigned to go to the scene of the theft of the firearms had been Smith, Jones or Jackson, then Smith, Jones or Jackson would have been the person appointed to the investigation. He rejected the idea that there had been any impropriety in the nomination of Webb. He made no suggestion that Murphy had arranged for Webb to do the investigation.

Murphy stated that he had "no reason to remotely suspect" that there had been anything unusual in Webb having been assigned the investigation. He assumed the final decision would have rested with Deputy Commissioner

Les Duffy. Lewis also gave evidence that the matter rested with his Deputy Commissioner. It was clear Duffy did have some interest in the matter because he was present when the tape recording was first played by the police on 23 April 1982 and also responsible for Pointing assigning Flanagan to the case on 26 March 1982. Murphy denied that he had in any sense attempted to bring Flanagan and Webb under his control for the purpose of that investigation.

8.3 Webb's chain of command

Pointing gave evidence before me that he had expected Webb to have been seconded to the Internal Investigations Section for the purpose of investigating the file once it had been allocated to him. He had assumed that this had taken place, although he had not received any written notification to that effect, when the following incident occurred. Early in the investigation he heard Webb speaking to other officers about the investigation and he overheard him say words to the effect of:

Tony Murphy says this. Tony Murphy says that.

He spoke to Webb and reproved him telling him that he should have been reporting to him rather than to Murphy. Webb told him that he had not been seconded to the Internal Investigations Section but was attached to the Criminal Investigation Branch which was under the control of Assistant Commissioner Murphy. Pointing added that even if Webb had been in the Criminal Investigation Branch he should have been reporting to the Superintendent in Charge rather than directly to Murphy who was the Assistant Commissioner. Pointing stated that he had seen officers reporting directly to the Assistant Commissioner previously but it had created administrative problems. He could not explain who initiated the direct contact between Murphy and Webb and did not know to what extent Webb had been reporting to Murphy. He told me that Webb paid him every courtesy after he had reproved him and had briefed him more fully. He explained that Webb did not try to exclude him from any information. He also stated that as Flanagan was part of the Internal Investigations Section he (Flanagan) had continued to brief him although not in great detail. In his statutory declaration Pointing stated that because Webb reported directly to Murphy and because Flanagan and Webb were from different sections, the organisation of the investigation seemed somewhat disjointed to him.

Pointing stated that he went to see Deputy Commissioner Duffy concerning

the secondment of Webb but was told by Duffy that he did not wish to disturb the situation as he had a good rapport with both Murphy and him (Pointing). According to Pointing it remained under Murphy's control.

In cross-examination by counsel for Murphy, Pointing acknowledged that there had been nothing suspicious in Murphy wanting to know what was happening with the investigation. He conceded that he had always been wary of Murphy "empire building" and this played a part in his reaction to Webb. It was clear that he had no love for Murphy. It was also clear that Murphy had no love for him.

Murphy in his evidence before me stated that he had no recollection of regular conversations with Webb concerning the investigation but conceded that there may have been. He denied playing a part in the investigation but acknowledged a casual interest in the matter as he had always had a dislike for firearms being in the hands of criminals. He explained that Webb may have chosen to seek advice from him as he was the only one in the Commissioner's office "who had real CIB experience." Murphy did not accept Pointing's view that it was improper for an officer to go outside of his strict chain of command. He stated that he did not care what other section was handling the matter, if somebody wished to ask his assistance he would provide it. The only telephone call concerning the matter which he could recall with Webb was in relation to Saunders's bail. I will return to this call later in the report. He explained that he had no authority to direct Webb or anyone else to do anything in relation to the investigation. I must say that I have some difficulty understanding this assertion from Murphy when it was clear that by virtue of his position as Assistant Commissioner - Crime and Services he was ultimately responsible for all criminal investigations in Brisbane and probably in Queensland.

Flanagan gave evidence before me that upon his assignment to the investigation as he was in the Internal Investigation Section he reported to Pointing. He stated that because Webb was not seconded to the Internal Investigations Section he (Webb) did not have to report to Pointing. He expressed the view that the correct line of authority for Webb would have been to report to the Officer in Charge of the Criminal Investigation Branch or the Assistant Commissioner - Crime and Services.

Webb claimed that he had reported to his immediate superior, the Superintendent in Charge of the Criminal Investigation Branch. He explained that the Superintendent who was in charge when he first arrived there became very sick and died shortly afterwards. The person who replaced him was a person who Webb claimed went to lunch at 11.30 and

never returned so he had fewer dealings with him. He explained that he also discussed the allegations with Channells, McDonald, his immediate boss at the City Station, Keen and Murphy. It is clear from the evidence that he also discussed the matter with Atkinson and Duffy.

8.4 Flanagan assigned to assist Webb

Pointing gave evidence that he was asked by Duffy to assign an officer to assist Webb. As Flanagan was near retirement and "did not have much on his plate" Pointing instructed him to see Webb. On 26 March 1982 after a brief run down of the investigation Flanagan was sent to the Cleveland CIB to meet Webb to interview Dodd and Wills. There was no suggestion that Flanagan's assignment to the investigation was in any way improper. Saunders did not suggest that he did anything improper in the investigation.

8.5 Lewis's involvement in the investigation

Carew and Company accepted that there was no direct evidence linking Lewis to the prosecution of Saunders. They were correct in doing so. However there is no doubt that Lewis was kept abreast of developments in the investigation. In evidence before me he stated that his Deputy Commissioner had kept him up to date. Further confirmation for this can be seen from entries in his diary. An entry for 2 April 1982 stated:

*Supt A Lobegeiger called re: his association with
Policewoman L Saunders.*

Lewis was unable to remember these discussions. By this time of course Lobegeiger had complained about the shots at Gatton and Dodd had made allegations that Saunders had advised him that she had a rocky relationship with Lobegeiger and Bull was the third person in the triangle. A later entry for 28 April 1982 recorded:

Phoned Sir Robert Sparkes re Policewoman L Saunders.

This was one day prior to her arrest. Although Lewis had no recollection of these discussions either it seems to me that he, knowing that Saunders had political connections with the National Party and particularly with Sparkes, had telephoned him to advise him of the forthcoming arrest as a matter of courtesy and possibly to protect his own back.

I should add at this stage that in his diary is an entry for 25 April 1982. It stated:

Bolton's appalling piece on Lorrelle Saunders.

This was clearly a reference to Bolton's article in The Sunday Sun in which inaccurate allegations were made referring to Saunders. It seems to me that this comment in Lewis's diary, which he would never have expected to become public when he wrote it, evidences some sympathy for Saunders rather than any great glee for her misfortune.

Saunders in evidence before me stated that she did not think that there was anything sinister in Lewis's interest in her investigation but she suggested that it was unusual that he had such an interest in a junior officer. Lewis in his evidence explained the interest:

Certainly, many, many things took place that weren't recorded in my diaries, but some were, of course, and certainly any police officer charged. I was kept up to date by the Deputy Commissioner. He used to take responsibility for that area of activity, and he'd always keep me updated, particularly anyone that had publicity, because I think we are probably all well aware that Ministers of the Crown are conscious of publicity, and certainly in the event the Ministers that I had anything to do with were wanting to be advised how things were progressing, or if there was anything that they could be asked whereby they could give a - well, a factual answer.

Well, you say the fact that she figures in your diary is completely explicable by the fact that there was publicity attending on her as a police woman - and I do not want to be derogatory either - as a police woman - - - ?---Well, thank God there are still women.

- - - who was charged, and there was a lot of publicity attendant to it, and not because you had any particular interest in her case because of her personality, is it?---No, certainly not her personality, although I knew the lass since she was about 14 or 15 years of age, so I suppose I was more conscious of her than some of the other people in the job.

8.6 The previous association between Murphy and Webb

Saunders stated that as far as she was aware she knew of no previous connection that Webb had had with Murphy, or for that matter Lewis. She stated that since the events of 1982 she had been told by Lobegeiger that Webb was the sort of person that would do anything to get on and that the deal for Webb to set her up for Murphy was that Webb could retire wherever he nominated as a Superintendent and further that his brother, Mick, would be passed at the next Inspector's course as he had previously failed. Saunders claimed this conversation took place sometime in 1985.

I do not accept that this conversation took place. I have no doubt that after 1982 Lobegeiger had wanted nothing to do with Saunders. I cannot accept that he would have sat down and discussed with her Webb's role in the charging of her although I have no doubt she would have wished him to do so. Webb denied the allegation and stated that his brother had never failed a police examination. Webb retired as an Inspector. He was not promoted to a Superintendent.

Saunders suggested that a possible connection between Webb and Murphy was an incident that was related to her by Senior Sergeant John Faulkner who worked with her at Beenleigh. She claimed that he told her that when Webb was in Longreach he was involved in a significant incident which should have caused him to be sacked. It was alleged that he bashed and verbalised three prisoners but was written out of it by Murphy who was stationed in Longreach at the time. Officers from the Commission obtained a statutory declaration from Faulkner. He stated that he had no knowledge of Webb bashing prisoners and also knew of no connection between Webb and Murphy at that time. He stated he would not have made any reference to Murphy. Murphy described the allegation as "rubbish".

Webb stated that the incident to which Faulkner had alluded related to an assault which had occurred when he was arresting a person during a shearers' strike. This person took out a writ against him for unlawful assault and false imprisonment and it went to court. After three days the action was dismissed and costs were ordered against the other person. It would seem clear that neither Murphy nor any other police officer had "to write him out" of the matter.

I must say that I find these allegations by Saunders very similar to the type of allegations appearing in her Legal Aid material concerning Tutt which were denied by Tutt and which in many cases Saunders ultimately

conceded were gossip.

I should mention at this stage that there was no suggestion that Webb knew Dodd before the investigation into the firearms commenced. Both Dodd and Webb denied that they knew each other beforehand. There was no evidence to the contrary.

8.7 Conclusion

Although Saunders in her statement to the Commission had expressed the view that Webb's appointment to investigate the theft of the firearms was of some concern to her, I am satisfied that Webb's appointment was entirely proper and occurred purely as a result of his having been requested to see the uniform police at the restaurant on the night of 7 March 1982. I am also satisfied that he had reported to a number of senior officers including the Superintendent of the Criminal Investigation Branch and Murphy. As Webb's transfer to the Criminal Investigation Branch took effect some short time into his investigation it is not surprising that he reported to so many officers. In view of Murphy's position as the officer ultimately responsible for all criminal investigations in Brisbane I can see nothing untoward in his having reported to Murphy directly although it apparently led to some animosity.

It should be remembered that the decision to transfer Webb to the Criminal Investigation Branch occurred prior to the theft of the firearms although the transfer did not take effect until the end of March 1982. It cannot therefore be suggested that he was transferred to the Criminal Investigation Branch in order to have him under the ultimate control of Murphy. The timing of the transfer and the date of its effect may well have caused some of the confusion surrounding the belief that Webb had been seconded to the Internal Investigations Section.

It is clear in my mind that Murphy did have a keen interest in the investigation. Although there is no reason to reject his evidence that he had some interest in the matter because of his dislike of firearms in the hands of criminals I am confident that his interest went beyond this.

Evidence was given before me that Murphy had been seen in the public gallery at Saunders's committal after his retirement in 1982. Murphy stated that he had no recollection of attending court other than on one occasion. Notwithstanding this there was no doubt that he was still interested in the matter as late as 1984. This is established by an entry in Lewis's diary for

16 February 1984 which recorded:

Phoned A Murphy re comments by PW L Saunders.

Later in the diary an entry dated 12 March 1984 recorded:

*A Murphy called re special duty needs and c'tee of inquiry
re PW Saunders.*

Lewis had no recollection of these conversations with Murphy and Murphy had no recollection of any matters recorded in Lewis's diary.

Whether I am correct in my assessment that Murphy had a greater interest in the investigation than he admitted in evidence before me the point is really academic because there is no evidence that he acted improperly in any respect concerning the investigation or its aftermath.

Although the diary entries to which I have referred and others show that Lewis was kept informed of the progress of the investigation as he admitted, I do not find this at all surprising bearing in mind the interest shown by Lewis in many other things as evidenced by his diary. There was certainly no suggestion in the entries that he had formed a view as to her guilt or innocence or requested his junior officers to "get her." I have no doubt that some of the interest that Lewis showed in Saunders was because of his past dealings with her. She was certainly a person who had come to his notice many times over the preceding years. It would indeed have been surprising if he had not kept a close interest in the investigation of her. Although Lewis had been kept up to date by his deputy one cannot conclude that he in any way acted improperly concerning the investigation. There is simply no evidence that he did.

CHAPTER 9

THE EVENTS AT THE CLEVELAND CIB ON 25, 26 AND 27 MARCH 1982

9.1 The interview of Dodd and Wills at the Cleveland CIB on 25 March 1982

I derived some assistance in considering the events at the Cleveland CIB from a handwritten schedule which Tutt had provided to officers of the Commission. This document read:

<i>11AM to MIDDAY</i>	<i>AT House.</i>
<i>12.30</i>	<i>LEFT HOUSE TO STN.</i>
<i>12.45 - 3PM APP.</i>	<i>INTERVIEW WILLS</i>
<i>3PM - 4PM APP.</i>	<i>TO HOUSE LOCATE SHOTGUN.</i>
<i>4.25PM</i>	<i>WILLS CHGD</i>
<i>4.45 - 6.30/7PM</i>	<i>UP AT WEST END/HIGHGATE HILL</i>
<i>7PM - 7.30</i>	<i>INTERVIEW WILLS RE GUNS</i>
<i>7.30 - 8.30PM</i>	<i>INTERVIEW WILL. RE ARMED ROBBERY</i>
<i>8.30PM - 10.40PM</i>	<i>TO BRISBANE - SERIEL NO. W/T TO EIGHT MILES PLAINS N/M</i>
<i>10.40PM - 11.45</i>	<i>CONTINUE TO INTERVIEW WILLS</i>
<i>11.45 - 0020</i>	<i>INTERVIEW & CHG DODDS RECEIVING N/M</i>
<i>0045</i>	<i>DODDS BAILED</i>
<i>12MN TO</i>	
<i>2PM - 2.30PM</i>	<i>TYPING AT OFFICES BRIEFS & CHGS - WILLS & DODDS.</i>

Tutt stated that the times and events recorded in the schedule were accurate as far as he could recall. He explained that he had obviously written them out for a court matter some time previously. He was unable to be more specific. Williams also relied on the document for the preparation of his statutory declaration to the Commission. He stated he had no reason to believe it was an inaccurate account of events.

It would seem that the document was not prepared for Wills's committal hearing on 9 July 1982 because there Tutt described his time of arrival at

the house at 12.45 p.m. - 1.00 p.m. which was consistent with his Official Police Diary which recorded that he was brought on duty early at 12.30 in the afternoon. He had been scheduled to commence at 2.00 p.m.. In examination by Fleming QC in relation to the time of arrival at the house that he had recorded in the schedule Tutt testified:

As I said, I wasn't - it was around mid-lunch-time that we went there. I wasn't 100 percent certain on the times.

In Neilson's Official Police Notebook it was recorded that they arrived at Ferry Road at 12.45 p.m.. Williams had recorded the same time in the statement he had prepared for Wills's committal hearing.

I am satisfied that the police did arrive at the house at approximately 1.00 p.m. and stayed there for about two hours which was the period suggested by Tutt during Wills's committal hearing. It would seem that at approximately 3.00 on the afternoon of 25 March 1982 Tutt, Williams, Neilson and Millard returned to the Cleveland CIB with Wills and Dodd. Spires was also taken for questioning although Neilson only had a recollection of her being at the CIB sometime later.

Wills and Dodd were placed in two separate interview rooms and police officers commenced to interview them. It is not clear where Spires was. Williams and Tutt concentrated on interviewing Dodd. Williams made notes in his Official Police Notebook of the conversations he had with Dodd. I was advised by letter dated 14 April 1993 from the Acting Assistant Administration Officer - Secretariat, Queensland Police Service that notwithstanding extensive inquiries Williams's notebooks and diaries for the relevant period could not be located. No adverse inference should be drawn from this.

According to Dodd, Tutt did most of the questioning of him whilst Williams went between the two interviewing rooms. During this period Dodd claimed that he received a "clip" on the chin from Tutt. Dodd added that he deserved it because he was a bit of a "smart arse." There is no support for the assertion that he was struck by Tutt. Millard and Neilson concentrated on Wills. It is clear that Millard and Neilson interviewed Wills in relation to a number of property offences and offences relating to the unlawful use of a motor vehicle. They obtained from him a number of handwritten confessional statements in which Wills admitted committing the offences. He implicated a certain David Burns as his partner in some of them. These confessional statements were tendered when Wills was sentenced. They do not implicate Dodd in any way. Neilson made notes

of his discussions with Wills in his Official Police Notebook. These notes confirms that Wills nominated Burns as his partner in crime and not Dodd.

Dodd in the mean time implicated Wills in an armed robbery at the Glen Snack Bar and some other offences and advised Williams that a sawn-off shotgun which had been the proceeds of a break and enter by Wills could be located back at Ferry Road. The police officers returned to Ferry Road that afternoon and located a sawn-off Bentley shotgun. They then returned to the Cleveland CIB. Wills was then questioned by Tutt and Williams concerning the .22 and the sawn-off shotgun. Tutt recorded these conversations in his Official Police Notebook. The relevant pages of the notebook were tendered at Wills's committal hearing. The notebook recorded the following conversation between Tutt and Wills:

Q. I have received information that you committed an armed robbery with this firearm on the Glen Snack Bar on the night of the 13/3/82. Do you understand that.

A. Yes.

Q. Did you, in fact, commit the armed robbery.

A. Yes.

He was then advised that a record of interview would be taken from him. He agreed to this.

The diary records that Williams then asked a series of questions concerning the shotgun:

*Q. D.U. own the sawn-off Shot Gun.
(Indicated Bally 12 gauge Shot Gun)*

A. Yes

Q. Who cut this firearm down to make it a concealable firearm.

A. I did.

Q. Det Tutt found this firearm under a heap of toys at 49 Ferry Rd Thornside.

A. *Yes I had it there.*

Q. *Do you admit having possession of these two firearms at your dwelling house at 49 Ferry Rd. Thornside today.
(Indicated S/Gun & .22 revolver.)*

A. *Yes.*

Q. *R.U. aware it is an offence against the provisions of the Firearms Act to be in possession of a concealable firearm.*

A. *Yes.*

Q. *Where did you get this Smith & Wesson revolver from.
(Indicated .22 revolver.)*

A. *I got it off a fellow called David BURNS - He down in Grafton - I don't know his address.*

Q. *Where did you get the shot gun from.
(Indic Bally Shot Gun)*

A. *I stole it from a shop at Thornside. I can show you the place.*

Q. *What did you intend doing with the firearms.*

A. *I told you what I did with the revolver, I did the stick up on the Snack Bar.*

Q. *What did you intend to do with the shot gun.*

A. *I don't know, I just cut it down. I hadn't got around to do anything.*

Q. *Were you going to do a robbery.*

A. *I don't know.*

Neilson stated that he and Millard did not canvass with Wills the issue of

the possession of the sawn-off shotgun or the .22. He indicated that this was left to Williams and Tutt. Although Williams did charge Wills with the possession of the concealable firearms, at some stage earlier Neilson had obtained handwritten confessional statements from Wills concerning the theft of and wilful damage to the sawn-off Bentley shotgun. Notes in Neilson's Official Police Notebook confirm this.

The watchhouse charge book showed that at 4.25 p.m. Wills was charged with seven offences of breaking and entering, one of unlawful use of a motor vehicle and one of stealing. The sawn-off shotgun was alleged to have been stolen during one of the offences of break and entering.

At 4.45 p.m. Williams, Tutt and some of the other police attended at premises in the West End/Highgate Hill area in relation to other information that Neilson had originally obtained. It would seem that this information had nothing to do with Wills or Dodd. They returned to the Cleveland CIB at 7 p.m.. Sometime between 4.45 p.m. and 7.00 p.m. it would appear that Dodd was required to remove two tyres from his motor vehicle. These were the subject of a receiving stolen property charge later in the evening.

There is no doubt that on 25 March 1982 Wills did claim possession of the .22. He first claimed he owned the firearm when asked by Williams at Ferry Road during the search of the property. He maintained the claim when subsequently questioned at the police station by Williams and Tutt as recorded in Tutt's Official Police Notebook. He then maintained the account in a formal record of interview conducted by Tutt. This commenced at approximately 7.30 p.m.. The record of interview was dated 26 March 1982 although it was clearly conducted on 25 March 1982. At Wills's committal hearing Neilson testified that it was a typographical error. Carew and Company submitted that the incorrect date "was calculated to deceive." It was not suggested why it was done or who it was hoped to deceive. There is no basis for the submission. The following questions and answers appeared in the record of interview:

Q. I would like you to look at this firearm that we located at the residence in Ferry Street, Thorneside today.

A. Yes it's a .22.

Q. What can you tell me about this firearm?

- A. *That's the firearm that David did the hold up with. We kept it with us and he gave it to me last night when we went away.*
- Q. *Are you prepared to tell me where the firearm came from in the first place?*
- A. *David Burns had it. I am not sure where he got it from.*
- Q. *When did you first see the firearm?*
- A. *When we were driving back to the snack bar David pulled it out from under the seat or off the floor and then he put it on the seat and then we drove up to the snack bar. I saw him put it down onto the seat but I didn't take any notice of it.*

The record of interview recorded that at 8.30 p.m. Neilson and Millard went to the Glen Snack Bar with Wills where he gave them an account of how the robbery occurred. Millard and Neilson then returned with Wills to the Cleveland CIB where they again took up with Tutt at approximately 10.40 p.m.. Tutt and Williams had, during the absence of Millard and Neilson, gone to the Metropolitan CIB. The record of interview recorded that at 10.40 p.m. Tutt recommenced interviewing Wills about the armed robbery. Wills continued to implicate David Burns as his co-offender. Dodd was not implicated. There was no alteration to the account of how he obtained the firearm. The interview continued until 11.45 p.m. at which time Wills signed a typed record of interview. It would seem that some time shortly after this Wills was charged with having been in possession of the two firearms, having wilfully damaged the shotgun and having committed the robbery on the Glen Snack Bar. He was remanded in custody. No doubt Wills's confessional statements concerning the two firearms precluded any action against Dodd for possession of the .22 although it was found in the room shared by Spires and Dodd. The Wynnum watchhouse charge book showed Wills was kept at the Wynnum watchhouse overnight. On 26 March 1982 he appeared in the Cleveland Magistrates Court where he was remanded in custody on the armed robbery charge to appear in court on the morning of 29 March 1982.

Wills maintained in cross-examination at Saunders's trial that he had not implicated Dodd in the armed robbery when questioned. He also maintained that he had possession of the .22 despite it having been kept in

the room occupied by Spires and Dodd.

I should mention at this stage some evidence given by Neilson. In his statutory declaration to the Commission he stated that when he carried out his investigation of Wills concerning the circumstances of the armed hold-up, Wills made a comment to the effect that he was frightened about other matters about which the police did not know. Wills would not explain what he meant to Neilson. Neilson stated that Wills seemed to be concerned for his personal safety. When questioned by Counsel Assisting concerning the cause of this fear Neilson replied:

Well having regard to the information further down the track, that came to light, I would say it would be the association of Dodd and Saunders, and in relation to the firearms.

Neilson was then asked whether he was aware of anything else which could have caused this apprehension in Wills. He replied that he was not.

That night Williams and Tutt continued with the interviewing of Dodd and when they completed this Millard and Neilson were asked to charge Dodd with receiving stolen property. Millard then formally interviewed Dodd and made notes in his police notebook. Dodd admitted to having received a carton of stolen Camel cigarettes and two motor vehicle tyres which Wills had confessed to stealing with Burns from the Caltex Service Station. Dodd maintained then and throughout his evidence subsequently given that he had made no admissions in relation to either firearm at that time. Williams and Tutt confirm that at the time he made no such admissions. In cross-examination by counsel for Saunders at her trial Dodd acknowledged that he knew that if he had made such an admission and had been convicted of having been in possession of a firearm at that time he would have been liable to an automatic prison term. He had therefore a strong motive to deny any association with the weapons. I do not believe Dodd made any such admissions. Dodd in his record of interview with Webb on the following day continued to deny that he took possession on 7 March 1982 of the Coomer firearms after Wills returned with them from Coomer's vehicle. He maintained this lie until cross-examined at Saunders's trial. He was clearly aware of the significance of admitting to possession of any firearm.

Dodd was charged by Millard with receiving the stolen cigarettes and tyres. He was released on bail on his own undertaking at 40 minutes past midnight. The watchhouse charge book did not record the time the charge

was laid.

In his statutory declaration to the Commission Neilson stated that there had been no feedback during the day between the interview that Williams and Tutt had been having with Dodd and the interview that he and Millard had been carrying out with Wills. He stated he considered this odd because there would normally have been greater communication between the investigating teams where there were possible co-offenders. Neilson was questioned by Counsel Assisting concerning this passage:

You say in paragraph 32 of your statutory declaration there was this separate interviewing of Wills and Dodd and you point out there was no feedback between the interview, between Williams, Tutt and Dodd - Williams, Tutt and so forth in the interview carried out with Wills. You thought that was odd?---Yes.

Well, did you think there was any reason why some of them were trying to get Dodd off by himself, say Williams and Tutt were?---Not at that particular time, no.

At any time did you think that?---Well, later on. Just the general lack of feedback on the interview with Dodd seemed strange at the time. I assumed that Williams and Tutt must have been chasing him for bigger and better things.

Well, would it be consistent with the fact that Dodd had early - fairly early in the piece implicated another police officer? Would that be - - - ?---Thinking further down the track, yes.

That would be a sufficient explanation that they tried to seal off their interview with Dodd from any other police officers?---Certainly, yes.

We have had expressions of opinion here that there is a - some police who were interviewed in relation to charges that were being preferred against Sergeant Saunders, for example, felt that they - felt rather wrong that they were treated like civilians and not like police witnesses in that they were not kept briefed as to what the inquiry was about. Do you follow what I mean?---Yes, I do. Having

regard for the overall tenor of the inquiry at that particular time, I would say that that is the way they should have been treated.

Yes. Because it just occurs, to an outsider anyway, that if a police officer has been charged, it could well be that you have police who are quite friendly with the person being charged or investigated and who might unconsciously, or deliberately, let information go to that person which would hamper the further investigation?---Certainly.

And so therefore there could be a good reason why you would, as it were, try to seal off the investigation from other police?---That's right.

And you would agree with that as being proper practice apparently, from what you are saying?---Yes.

Is there - I suppose there could be a more sinister view; that perhaps that Williams and Tutt had something against Saunders and thought: 'Well, here is Dodd, a person - we might be able to get him to make up a story', do you follow, against Saunders or something of that kind?---Well, you could also construe that on the situation as well, yes.

Yes. Well, do you have any information that would suggest that that was a possibility?---Well, it'd be a possibility I'd discount, having regard for the fact that Saunders had been at the station just prior to this matter and had been seeking out Detective Sergeant Tutt - had been conversing with him. That would seem strange to me that all of a sudden they'd do an about-face and try and load Lorrelle Saunders up so to speak.

What you are saying is from what you could understand the position, there seemed to be a reasonably friendly relationship between Saunders and Tutt?---Yes.

In examination of Neilson by Fleming QC the following exchange took place:

All right. Now, let us assume that prior to your raid Dodd

had not implicated Saunders in any way whatsoever, not implicated Saunders?---Prior to the raid, Dodd had not - - -

Prior to your raid, Dodd had not implicated Saunders in any way whatsoever?---To who?

To anybody?---Right.

How do you now explain what went on. You see, in an explanation to my learned friend, he put all sorts of propositions to you and one is that it would not have been surprising if Dodd had mentioned Saunders as being involved in some way. But, you see, let us assume for a moment that nobody had said Saunders was involved before your raid, nobody at all, well, now, what explanation do you have for them taking off Dodd under those circumstances?---None whatsoever. I can't give an explanation for something I don't know about.

Well, I noticed you were giving my learned friend explanations - or at least agreeing with the propositions that he had put?---I am agreeing that that could have occurred, yes. I've got no knowledge of what occurred in the - - -

All right?--- - - - the meetings between Williams and Webb or the interview with Dodd.

Well, equally - equally, there could have been something very strange going on if Dodd had not suggested that Saunders was involved, but they took him off and quarantined him, in effect, from yourself?---I'd have to agree that you could also assume that, yes.

I cannot agree with the conclusion suggested by Fleming QC and accepted by Neilson. Notwithstanding the fact that neither Tutt nor Williams could recall discussing the possibility of Saunders being involved in the theft at this stage, it would be most surprising that the possibility had not been canvassed between them, especially after Tutt's comment to Williams at Ferry Road that he believed the firearm may have been Coomer's. Saunders was the connection between Coomer and Dodd. I think that experienced police officers would have at least alerted their minds to the

possibility of involvement by Saunders. This was especially the case when Tutt had been advised by Saunders that a dispute had broken out between herself and the investigating detectives at the scene of the theft of the firearms. Neither Williams nor Tutt ruled out the possibility that such conversations had taken place.

Williams denied that there had been no communication between him and Tutt and Neilson and Millard. He stated that some information that they had received from Dodd caused Wills to be interviewed in relation to some of the offences he subsequently admitted committing. This was certainly the case in relation to the armed robbery and the sawn-off shotgun. In any event Neilson stated that there was nothing in the way that Williams and Tutt handled the matters on 25 March 1982 which he considered to be in any way sinister.

I do not consider that any adverse inference could be drawn against Tutt or Williams in respect of their reluctance to communicate fully with other police in the circumstances in which they found themselves. It was in the interests of the integrity of their enquiries that they did not do so.

9.2 Communication between Saunders and Tutt on the evening of 25 March 1982

In Saunders's statement to the Commission she claimed that around 4 or 5 o'clock in the afternoon of 25 March 1982 Tutt telephoned her and told her that he believed that they had found Coomer's .22 revolver. She stated that Tutt wanted to know the serial number and she advised him that Coomer was with her but he had to go to his vehicle to get details of it. She then told Tutt that she would telephone him back. After Coomer obtained the serial number from his vehicle she telephoned the Cleveland Criminal Investigation Branch and Williams answered the telephone. She can recall that he put Tutt on. The following passage then appeared in her statement:

I briefly spoke to Tutt and then my recollection is that I put Coomer on and that Coomer told Tutt the serial number of the gun and then hung up.

According to her statement a few minutes later Tutt telephoned again and told her it was definitely Coomer's firearm that had been found.

In Saunders's Legal Aid material the following account of the telephone conversation with Tutt is recorded:

Next contact was on Thursday 25th March and Roy was at my home for dinner ... were just starting to get dinner ready ... about 4.45 pm and he rang to say Dodd had been picked up. Didn't know he'd be there etc and wasn't trying to get in first on the info I'd given him Sunday night. Had a gun could be Roys, was singing like a bird ... didn't think he was right for too much. Mostly young fellow Wills who was no doubt the Tony I had been told about. Didn't have the APB re guns did I know serial number ... Said Roy was there and I'd get it ... he'd ring back as still interviewing ... my next reaction was "Christ I hope those bull bars Ray bought weren't stolen." No ... no mention of anything like that ... tyres .. cigs. another gun ... was Roy only missing the 1 ... Rang back and then I put Roy on ... think Mum may have answered the phone ...

In the statement Coomer provided to Menary and Pointing of 13 March 1984 the following passage relating to the telephone conversation of this evening appeared:

On Thursday, 25/3/82 I went to Lorrelle's for dinner and Greg Tutt phoned and said he had picked up Dodd and some others with a .22 revolver. Lorrelle phoned him back with the serial number of my gun and it was found it was my gun.

Greg had not been able to find the number of the gun. Greg had said that Dodd was singing like a bird and he didn't think he was involved.

As I have stated elsewhere in the report I am unable to rely on any of Coomer's lengthy written statements as an accurate account of events without some supporting evidence. I have concluded that his statements had been drafted by Saunders and contained information which would have had no relevance to him. Some of the details in these statements were clearly false. It will be noted that the phrase "singing like a bird" appeared in both Coomer's statement and Saunders's Legal Aid material.

Before me Williams stated that Tutt had received a telephone call from Saunders but he was unable to say what was said.

In Tutt's original statement dated 1 April 1982 he stated that he had received a telephone call on 25 March 1982 from Saunders after he had

returned to the Cleveland Criminal Investigation Branch with Wills and Dodd. The following passage from this statement sets out Tutt's account of the circumstances of the call.

After Dodd had been released and whilst I was taking a Record of Interview from Wills, I received a telephone call from Saunders.

She said, 'What's going on?'

I said, 'It's pretty busy. We've got some fellows in for a heap of busts.'

I'm not sure of how the subject of guns arose during this particular conversation but I do recall her saying, 'Have you got the .22?'

I said, 'I don't know. It looks very much like it. It's too busy now. I can't talk to you, I'll have to go. I'm in the middle of a Record of Interview.'

I then hung up.

Tutt was examined at some length by Fleming QC in relation to his assertion in his statement of 1 April 1982 that he had received a telephone call from Saunders after Dodd had been released and whilst he was interviewing Wills.

It was put to Tutt that according to his handwritten schedule Saunders could not have telephoned him after Dodd had been released and whilst he was taking a record of interview from Wills because Dodd was not released until after Wills had been interviewed. The following question was then put to Tutt by Fleming QC:

Alright, the inference to be drawn [from Tutt's statement] is that Dodd was released, got on the phone to Saunders. Saunders then immediately rang you and said, 'Have you got the .22?' That was the inference that you wanted drawn from that, isn't it?

Tutt's response was:

No it wasn't any inference that I wanted drawn from anything.

And then added:

I didn't make any inferences on anything.

In the submissions from Carew and Company I was asked to conclude that Tutt had wanted that inference to be drawn. It would appear that Tutt's statement of 1 April 1982 was incorrect in its assertion that Dodd had been released before Saunders's communication with him. However I am not prepared to infer that Tutt had consciously drafted his statement in this fashion so that the inference suggested by Fleming QC could be drawn against Saunders. If Tutt had intended to have that inference drawn from his statement then no doubt he would have ensured that he gave the same account at Saunders's subsequent committal hearing. He did not. The following passage from the transcript of the committal hearing showed that Tutt did not adopt his initial statement when giving evidence:

Prosecutor: Right now did you receive a telephone call after Dodd had been released?

Tutt: I received a telephone call from - while I was typing a record of interview.

Tutt had the opportunity to agree with the prosecutor's question. He did not. He did not add at any later stage in his evidence that this record of interview had been typed after Dodd had been released or that the call was received after Dodd's release. Tutt was not called to give evidence at Saunders's trial.

In Tutt's statement of 1 April 1982 he had been asked to include in his statement whether or not he had a sexual relationship with Saunders. He was also asked to explain his movements for the weekend of 6 and 7 March 1982. He was directed by Webb to stay out of the investigation. It was clear that at that time Webb considered that Tutt may have been in league in some way with Saunders. Webb confirmed this when he told me that he was not sure where any one stood at the time because of the number of people who had been to Stanthorpe during the weekend of 6 and 7 March 1982. I certainly found no motive for Tutt falsely to implicate Saunders.

It was submitted by Carew and Company that perhaps Webb directed Tutt to keep out of the investigation because "Tutt knew Saunders's voice much better than Webb." This submission ignores the fact that Tutt gave his statement on 1 April 1982 - well before the tape appeared. The submission also completely ignores the fact that Tutt was asked to explain his involvement with Saunders and his movements on 6 and 7 March 1982.

Carew and Company further submitted that Tutt was not called to give evidence at Saunders's trial because of some attempt to hide the truth. Tutt

had been called at Saunders's committal hearing and his evidence had already been exposed to the defence who were entitled to call him if they wished. It was a matter for the Crown not Webb to determine who was to be called.

It is not disputed that there had been regular communication between Saunders and Tutt after the theft of the firearms. There is no reason to suspect that it did not continue up to and including 25 March 1982. I do not think anything turns on who rang whom but as will become evident from the next paragraph I am satisfied that positive identification of the .22 as one of Coomer's firearms did not occur until after Williams and Tutt had attended at the Metropolitan CIB later that night. It follows that I am satisfied that it did not occur as a result of communication between Tutt and Saunders.

9.3 Williams and Tutt attend at the Metropolitan Criminal Investigation Branch

It was not contested that Williams and Tutt visited the Metropolitan CIB on the evening of 25 March 1982. It was submitted by Carew and Company that they had contacted Webb that evening and had identified the firearm. In Saunders's statement to the Commission this passage appeared:

I do not understand why WILLIAMS had to return to the Brisbane CIB to obtain the serial number of the weapon. First of all, they could have got the information in relation to the firearm by ringing Operations, or if necessary attending at Operations rather than at the CIB. There may even have been a copy of a telex on the telex machine either at Cleveland or Wynnum with the All Points Bulletin in relation to the firearms. There would have been a number of other ways in which the serial number of the gun could have been ascertained.

Williams had given evidence at Saunders's trial that on the evening of 25 March 1982 they had gone to the Brisbane CIB to ascertain the serial number of the firearm. He described having obtained an All Points Bulletin (APB) which recorded the serial number of Coomer's stolen .22. He then removed the wood clamp from the handle of the firearm and checked the serial number that was on the base of the butt and ascertained that the serial number was the same as that recorded on the APB.

In Williams's statement to the Commission he stated that as far as he could recall he went to the Metropolitan CIB between 8.30 p.m. and 10.40 p.m. to look at Occurrence Sheets to ascertain the owner of the firearm. He believed that he spoke to an officer named Leigh Gorrie at Woolloongabba over the telephone in relation to the firearms but he could not recall any further details. He stated that in those days all records in relation to any incident including the theft of firearms were kept at the Metropolitan CIB or at the Woolloongabba CIB. He could not remember to whom he spoke whilst at the Metropolitan CIB but he could recall that it certainly was not Murphy, Flanagan or Webb. As far as he could remember Saunders's name was not mentioned whilst they were at the Metropolitan CIB; however it was possible that her name was referred to in the context of her being with Coomer when the firearms were stolen. When Williams gave evidence before me he was fairly confident that although they had gone into the Metropolitan CIB to obtain the serial number, it was not until the following morning that he had contacted Gorrie who advised him how to locate the serial number of the firearm.

In his statement of 1 April 1982 Tutt explained that at some time on the night of 25 March 1982 he and Williams went to the Metropolitan CIB where they compared the serial number on the .22 which they had located at Ferry Road with the record of the serial number of the .22 which had been stolen from Coomer on 7 March 1982. He stated that the serial numbers were identical.

At Saunders's committal hearing Tutt told the prosecutor that because he and Williams could not locate the serial number on the firearm they attended at the Brisbane CIB to get assistance in this regard.

When Tutt gave evidence before me he was questioned by Counsel Assisting concerning the process of identification of the .22. He indicated that he could not recall whether they had gone to the South Brisbane Area Office or the City CIB. He was also not certain whether they confirmed it was Coomer's firearm that night or the following morning, although in examination by Fleming QC it would seem that he acknowledged the identity of the firearm was established in town on that night. He testified that although he knew at that time that other officers were conducting an investigation into the theft of the guns he did not know who they were. He testified that they did not see Webb that night.

When Neilson gave evidence at Wills's committal hearing on 9 July 1982 he was asked by Counsel for Wills whether there was any special reason why Tutt did not accompany Wills and Neilson to the scene of the armed

robbery in the evening of 25 March 1982. Neilson responded:

Well there was a reason for it. I didn't know it ... what it was at that particular time. He and Sergeant Williams had to have a conversation with Inspector Webb, I believe.

Before me Neilson whose attention was not drawn to his previous evidence at Wills's committal hearing testified that he was not privy to the decision and did not know why it was that Tutt did not come with him. He added that he still did not know what the reason was. I do not believe Neilson attempted to mislead me. It seems clear to me that he never had direct knowledge of where Tutt went. It is not surprising that after all this time his present recollection is that he never knew the reason why Tutt could not come with him to the scene of the armed robbery.

Dodd in his statutory declaration to the Commission stated that some time after he had been at the Cleveland CIB on 25 March 1982, and possibly even after he had been placed in the watchhouse, he remembered having been told that the firearm had come from the Coomer theft. He stated that he may have been told by Williams but he was not positive.

Webb always denied that he had been seen or spoken to that evening by Williams or Tutt.

I am satisfied that Williams and Tutt went to the Metropolitan CIB and there identified the .22 as one of Coomer's firearms. I have difficulty accepting that they did not attempt to make contact with Webb on that evening in light of Tutt's knowledge that other officers were conducting inquiries into the firearms. Neilson's evidence at Wills's committal hearing is consistent with attempts having been made but not necessarily successfully. For reasons I will return to shortly I am satisfied that they did not communicate with Webb whilst there. Although the account of Tutt and Williams before me differed from their previous accounts and they could not recall attempts to contact the officer investigating the theft of the firearms this is not surprising in view of the effluxion of time. I certainly did not consider that they had attempted to mislead me. I could see no motive for them to do so.

As I stated in the previous paragraph I am satisfied that the positive identification of the .22 did not result from communication between Tutt and Saunders. Saunders objected to Williams's and Tutt's claim that they had to go to Metropolitan CIB to identify the firearm on the basis that they could have ascertained the details by making a telephone call to Operations

or obtaining a copy of a telex at either Cleveland or Wynnum. These were the same objections that she raised in her Legal Aid material. One would have thought that if Saunders had communicated the serial number of the firearm to Tutt, either directly or through Coomer, she would have claimed that there had been no reason to go to town to ascertain the serial number of the .22 as she or Coomer had furnished it to him earlier that day. She did not.

I must confess that I cannot see that very much turns on whether the identification occurred on the Friday evening or the Saturday morning. In any event the evidence before me shows that neither Wills nor Dodd had made any admissions concerning the theft of the firearm on 25 March 1982. Wills had claimed that it had been left in his possession by Burns. On all the evidence Dodd was not implicated in the theft that night. Establishing that it was Coomer's did not of itself mean that there was sufficient evidence to charge Dodd with its theft or sufficient grounds to refuse him bail on the receiving charge, as suggested by Fleming QC. They still required an admission from Dodd concerning its theft especially in circumstances where Wills had claimed that Burns had stolen it and left it with him.

9.4 Alterations to the Cleveland Watchhouse Charge Book

In the submissions from Saunders's solicitors it was submitted that it was "significant" that there had been alterations in the Cleveland watchhouse charge book. That significance was not spelt out.

The watchhouse charge book recorded that Wills was charged at 1625 hours or 4.25 p.m. on 25 March 1982. On the proforma charge book sheet was a space consisting of a number of boxes in which officers were required to insert in numerical form the date of release of the prisoner. Each digit of the number was required to be placed in a separate box. Next to that space was a series of boxes in which to record the time of the release of the prisoner. There was also a blank space available for comments on the nature of the release. It is clear from the remarks on other sheets that "release" included not only release on bail, but also a transfer to another watchhouse or to another prison. In relation to Wills the following notation appeared in the blank space available for comments:

Held in custody. Number of offences. And has no fixed place of abode.

Beneath that in another coloured ink is the following:

Escorted Wynnum w/house 7 pm, 25/3/82.

In the "time released" section of the sheet the figure 1900 hours appeared. Each of the digits of the number was written in a separate box. The digits "1" and "9" in the first two boxes were clearly not the original digits written in these boxes. Each of them had been inserted over the top of another digit obscuring the original digit. Fleming QC examined Tutt at length concerning this alteration. He put to Tutt that it was a "fabrication" because the time of 1900 could not have been the correct time that Wills was transferred to Wynnum as he was at that time according to Tutt's own handwritten schedule being interviewed at the Cleveland CIB. From the nature of the examination and the use of the word "fabrication" I took Fleming QC to be implying that serious and sinister connotations attached to the alteration. Tutt did not agree with the suggestion but could not explain the alteration. It is clear however on closer scrutiny of the entry that the digits which had been obscured were "2" and "5" respectively. There of course is no time 2500 hours. The simple explanation would seem to be that when the officer was completing the charge book sheet he commenced incorrectly to write the first two digits of the date, namely 25/3/1982, in the "time released" section rather than in the adjacent "date released" section. 25/3/82 appears in the "date released" section. On recognising his error he placed the date in the appropriate space and corrected the first two digits of the "time released" section to reflect the time of intended transfer. I am satisfied that there had been no "fabrication."

Notwithstanding my satisfaction that no "fabrication" occurred the entry "escorted Wynnum w/house 7 pm" cannot be correct. According to Tutt's handwritten schedule Wills was being interviewed in relation to the guns at this time. It is also clear from Wills's record of interview with Tutt and Neilson that between the hours of 7.30 and 8.30 pm he was at the Cleveland CIB, that he was with Millard and Neilson at the scene of the armed robbery between the hours of 8.30 and 10.40 p.m., and that from 10.40 to 11.45 p.m. he was completing his record of interview with Tutt and Neilson back at the Cleveland CIB. This is largely confirmed by notes in Neilson's Official Police Notebook.

I do not think that anything turns on the discrepancy. If for some unknown reason there had been some attempt to hide the fact that Wills had been at the Cleveland CIB or with police officers from the Cleveland CIB after 7 p.m. on that evening, I have no doubt there would have been

no reference to the time in Wills's record of interview. After all it had been conducted by the same officers who were responsible for ensuring the watchhouse charge book was duly noted.

Williams was asked to comment upon the entry in the Cleveland watchhouse charge book. He explained that it was possible that, although the Cleveland watchhouse charge book had been noted to indicate a transfer of a prisoner to the Wynnum watchhouse had been intended, the transfer may not have been made as circumstances concerning the availability of staff at Cleveland may have altered. This could be an explanation for the entry as the handwritten schedule compiled by Tutt showed that police officers returned in number to the Cleveland CIB at 7 p.m. after the raid in the West End/Highgate Hill area.

I should add that although the Wynnum watchhouse charge book established that Wills had been transferred to the Wynnum watchhouse sometime that evening or early the following morning the specific time had not been noted. However his return to Cleveland to attend court was noted as having occurred at 6.45 a.m. the morning of 26 March 1982.

9.5 Dodd released on bail

At 12.40 am on the morning of 26 March 1982 Dodd was released on watchhouse bail after having been charged with one count of receiving a carton of Camel cigarettes and two motor vehicle tyres. The value sought for the purposes of restitution by the arresting officer, Millard, was \$116 for the two tyres and \$8.83 for the carton of cigarettes.

Saunders in her statement to the Commission stated that she found it difficult to understand why Dodd was given bail. Dodd of course had previously been on bail in relation to the possession of the firearm charge of December 1991. Counsel Assisting questioned Williams in relation to the propriety of allowing Dodd bail on this occasion.

Was there anything unusual about his being released on bail in respect of that charge?--I don't consider it unusual. In fact, I consider it quite proper.

It was a sort of rather petty receiving charge?--That's correct. If we locked up everyone or held them in bail overnight on charges such as that - a busy police station like the Cleveland Police Station - it would be full of

prisoners.

All right. Did you know at that time that he was already on bail for another charge? He had report-in conditions?--I never knew, to be quite honest, that he ever reported to the police station, Dodd. I really can't answer that question with all honesty - when they bailed him, whether they knew that he was reporting. But I would imagine so - that I did.

You would probably know because you are frequently at the police station and you would see him come on occasions when he was reporting?--No, that's not quite true, because the - that was one of the problems at Cleveland: they used to come to the uniform section, and we were very seldom - and I remember complaining about it on many occasions - we were never told these people were coming in and reporting.

The matter was further explored by Fleming QC in his examination of Williams:

I am sorry - that he has committed an offence, an alleged offence, whilst he is on bail - you do not think that is enough to hold him there overnight?--I don't believe it's enough. He was charged with a small receiving charge, and - - -

A small receiving charge?--That's right - it's not a very large charge.

But in addition - in addition, there is a gun in his house which he says was used in an armed hold-up; there is another shotgun in his house; and none of that - - -?--But he didn't say he used it.

Oh, no, he might not have said he used them?--Yes.

But they are in his house; in his possession, perhaps, because they are in his house?--No. No.

No?--I don't believe so. It - look, it's a matter of evidence.

Yes?---It's a matter of evidence, Mr Fleming, and it's - so it's no good going to court with no evidence.

I am not even suggesting that you should have gone to court?---Well - - -

What I am suggesting is that you let him go?---I let him go, and I believe that to be a correct procedure to follow. Also, we've got to follow the views of the magistrates, and I know even in those days when the Bail Act was a little bit tighter than it is today that the magistrates would take a dim view of a person being held overnight for receiving a few cigarettes.

But one who was already out on bail?---Well, I said - - -

Come, come, Mr Williams?---As 'Come, come, Mr Williams,' I'm telling you now, I'm not certain that I knew that he was out on bail, but I may have. However, if I did know, the decision would still be the same.

When Williams gave evidence at Saunders's committal hearing he stated he did not know about the previous charge that Dodd was facing. He also told counsel for Saunders that he considered that the matter was a minor one and could see no reason why bail should not be given.

Neilson stated that he was not told by Williams that Dodd was facing an earlier charge. He presumed that if Williams had known he would have told him. Neilson added that at the time he was not aware of Dodd's outstanding charge himself.

I do not consider that any valid objection can be made to the release of Dodd on bail on that morning. The offence was indeed a minor one involving property to the value of less than \$120. According to Dodd, Williams and Tutt, Dodd had not implicated himself and Saunders in the theft of the .22 at that stage. There is no evidence to the contrary although Williams did acknowledge that Dodd criticised Saunders some time on the evening of 25 March 1982. He was unable to recall whether this was before or after they went to the Metropolitan CIB to identify the .22. Dodd had not made any other admissions in relation to the firearms and despite any suspicions Williams and Tutt may have had concerning Dodd's involvement they had no evidence. Williams knew where Dodd resided

and no doubt by this time would have known of his association with Spires. There was little prospect that he would abscond and indeed he turned up later that day at the police station. I have no doubt that the fact that Dodd had provided information concerning Wills to Williams and Tutt would have played some part in granting him bail as well.

9.6 Webb's arrival at the Cleveland CIB on 26 March 1982

Webb arrived at the Cleveland CIB on the morning of 26 March 1982 with Symes and Ellsworth. The evidence is not clear whether Webb turned up of his own volition or whether he was notified by Williams or someone else at Cleveland early that morning. Williams and Tutt both testified before me that Webb's attendance was unannounced.

Webb's first full account of his arrival at the Cleveland CIB on 26 March 1982 appeared in his statement dated 19 July 1982. In that the following passage appeared:

On the morning of Friday, 26 March 1982 I had a conversation with Detective Senior Constable Krosch at the City Police Station and he told me something. Later that morning in company with Symes and Ellsworth I went to the Cleveland Police Station. I then had a conversation with Detective Sergeant Williams and he told me something. He handed to me a .22 calibre Smith and Wesson revolver.

On oath at Saunders's trial he gave the following evidence:

--- I made certain inquiries and on the morning of Friday, 26 March I had a conversation about 8 o'clock with Detective Barry Krosch. And then I saw Detective Sergeant Symes and Detective Ellsworth at the City Police Station. I had made certain arrangements with them the afternoon before. I then received a telephone call from - and then in company with Symes and Ellsworth I went to Cleveland Police Station where I had a conversation with Detective Sergeant Graham Williams and he handed me a .22 calibre pistol.

At Dodd's trial for perjury the following exchange took place between the prosecutor and Webb:

You had no knowledge of Mr Dodd prior to that date? [15 April 1982] --- I had met Dodd first on 26 March.

Was that at Cleveland? --- Cleveland Police Station.

Were you there all the time that he was there? --- No he had been there since the night before and Williams had contacted me on the morning of 26th.

Webb gave evidence before me that he had been carrying out inquiries concerning the theft of the firearms when he decided to speak to Krosch. He explained that he had been told by Saunders on 9 March 1982 that she was going to introduce her "dog" to Krosch on that evening. After speaking to Krosch at 8.00 a.m. on the morning of 26 March 1982 he ascertained from Krosch that Dodd was Saunders's informant. Webb immediately carried out a criminal history search on Dodd and established that it was extensive. As most of Dodd's convictions were in the Cleveland area he thought he would approach Williams whom he had previously met on one occasion. He telephoned Symes and Ellsworth to pick him up and drive him to Cleveland. When Symes and Ellsworth arrived he showed them Dodd's criminal history and stated to them that:

Saunders has got to be in this up to her back teeth.

He then expressed his concern to Symes and Ellsworth that a couple of hours after Saunders had talked to Dodd the firearms "turn up." He told Symes and Ellsworth that they would go down to Cleveland and get a warrant and "turn his place over." Webb said that Symes and Ellsworth agreed. They went to Cleveland and when they arrived Dodd, Wills and a number of detectives including Williams were at the station. He then spoke to Williams who showed him the .22 and introduced him to Dodd.

Ellsworth could not recall the circumstances in which he attended at the Cleveland CIB on 26 March 1982 although there is an entry in his diary which recorded that he had seen Webb at the City Station earlier that morning. Symes did not assist in relation to this matter.

Although Webb had never previously given evidence that Saunders had on 9 March 1982 mentioned Krosch to him, Webb's account of having found out about Saunders's "dog" from Krosch on that morning is consistent with the record of interview dated 26 March 1982 with Krosch which was exhibited before me. This was a very brief record of interview which only canvassed whether Dodd was Saunders's informant, whether Krosch had

met him on 9 March 1982 in the presence of Saunders and whether she had private discussions with Dodd on that evening. It was suggested that it was unusual for Krosch to be interviewed by way of a record of interview. Although there was evidence before me that it was not unusual at that time to interview other police in this fashion, I am sure that the interview was reduced to writing because Webb did not then know where the loyalties of each of the police lay.

I am unsure as to the circumstances in which Webb found himself at the Cleveland Criminal Investigation Branch on the morning of 26 March 1982. Certainly the testimony given before me was inconsistent with Webb having been notified the previous evening. Webb's earliest statements and his evidence at Saunders's and Dodd's trials were inconsistent with knowledge prior to the morning of 26 March 1982. So was Tutt's statement of 1 April 1982 in which it was recorded that Tutt had a conversation with Webb on the morning of 26 March 1982. No reference was made in the statement to a conversation with Webb the previous evening. Significantly when Webb first went to Cleveland he went without having made plans to have another officer assigned to the investigation. It was only after he had spoken to Dodd at Cleveland that morning that he requested assistance. This indicates that this was the first time that Dodd had made the admissions concerning Saunders and the theft of the firearms. Although Webb had given differing accounts I am satisfied that whatever inconsistencies occurred did so because of the effect of the passage of time. I do not believe it is of great significance in any event. Although much was made in the submissions by Carew and Company as to these inconsistencies no reason was furnished to me for any of the police officers to have lied to or to have misled me in this matter. I was unable to attribute a motive for anyone to lie.

9.7 Dodd's initial interview by Webb

Webb originally testified before me that after Williams had introduced him to Dodd he (Webb) had asked Williams to leave. Webb then had a conversation with Dodd who admitted being involved in the theft of the firearms. He implicated Saunders. Webb had stated both at Dodd's committal and at Dodd's Supreme Court trial that he had taken notes of this conversation in his Official Police Notebook. I was advised by letter dated 14 April 1993 from the Acting Assistant Administration Officer, Secretariat, Queensland Police Service that notwithstanding extensive inquiries Webb's notebooks and diaries for the relevant period could not be located. No adverse inference should be drawn from this. Webb then left

the room and spoke to Williams again. He advised Williams that he had a long way to go in the job and told him:

I want you to stay right out of this because I don't want you tainted with investigating another cop.

When questioned by Fleming QC he was not as positive concerning the circumstances of the initial contact with Dodd. The following exchange took place:

Did you ever have a conversation with Mr Dodd by himself?--I gave evidence yesterday that I'd never, but I was thinking of it last night and I - the only time I ever did was for the first few minutes when I met him at Cleveland.

What happened there?--That was when I first spoke to him and then - then I delayed speaking to him until after Flanagan got there.

Yes; but what happened? Why did you speak with him for the first couple of minutes?--Williams introduced me to him.

Yes?--And I sat down and spoke to him about the firearm and he then told me the story that Saunders was involved.

And that was out of the hearing of Mr Williams?--Williams - I can remember Williams introducing me to Dodd. I can remember telling Williams that Dodd had involved Saunders and that he was - he had a long way to go in the police and to stay out of this as much as he could and - I didn't speak to Dodd for long. At some stage, there I think I was alone with him but it would've been for a very short space of time and it was then I made that - phone calls back to Brisbane seeking assistance.

So, you had a conversation with him after Mr Williams left and before you made the phone calls back to Brisbane to seek assistance?--I think that was it. I am not sure now with the passage of time.

All Webb's evidence prior to this investigation suggested Williams had been present.

On 5 July 1982 Webb prepared a statement for the purposes of Wills's and Dodd's committal hearings. This statement had not become available until after Webb had given evidence before me. In it appeared an account of Williams having been present in the initial discussions with Dodd. In the statement the following details of the conversation he had had with Dodd that morning were recorded:

I said, 'I understand that this .22 revolver was located by Police at your home yesterday. Is that correct?'

He said, 'Yes.'

I showed the Defendant Dodd a .22 calibre revolver which Williams had handed to me.

I said, 'This particular firearm was one of those stolen from Mt Gravatt. Will you tell me what you know about this matter?'

He said, 'Inspector, you look like you are fair dinkum to me. One thing I hate is a crooked cop. Do you know a policewoman named Lorrie Saunders?'

I said, 'Yes. I know her. She was driving a car at Mt. Gravatt when the guns were stolen.'

He said, 'That's right. Well she set it all up. She wanted me to steal the guns.'

I said, 'Why did she want you to steal the guns?'

He said, 'She was setting me up to get into the Ananda Marga for the Games. She said it would be easy to get in with them if I could offer them the guns.'

I said, 'How long have you known Saunders?'

He said, 'I met her a few months ago. I have been giving her information and she wanted me to work for the Special Branch and made the arrangements for me and Joe to steal the guns while they were having tea. It was a set up.'

I said, 'I understand that she introduced you to Detective Krosch of the Special Branch on Tuesday, 9 March 1982, two nights after the guns were stolen. Is that correct?'

He said, 'Yes.'

I said, 'When you refer to Joe, who do you mean?'

He said, 'Joe Wills, he is in the cells here now.'

In the statement Webb explained that after speaking to Dodd, he (Webb) and Williams went and saw Wills in the cells. The following conversation

was recorded in Webb's statement of 5 July 1982 as having occurred with Wills:

I said, 'I understand that you and Douglas Dodd or John Dodd as he is also known, stole the guns. Is that correct?'

Wills said, 'Yes.'

I said, 'Was any other person involved with you and Dodd?'

Wills said, 'Only Laurie, she was a friend of John's but I never ever met her.'

I said, 'Is this the gun you stole?' I showed the Defendant the .22 revolver I had taken possession of from Williams.

Wills said, 'Yes.'

At the committal hearings of Dodd and Wills on 9 July 1982 Webb adopted this statement in full. The depositions of these committal hearings also became available after Webb had testified before me.

When Webb gave evidence at Saunders's committal hearings he stated that he was never alone when he saw Dodd. He did not give evidence of the above conversations as they were hearsay as against Saunders. This transcript of evidence was before me when Webb gave evidence. He was not examined about the apparent inconsistency between the evidence he had given before me and this evidence he had given at Saunders's committal hearings.

Williams's first account of the initial meeting between Dodd and Webb is in a statement dated 5 July 1982 prepared for the committal hearing of Dodd and Wills. This statement was not available at the time Williams gave evidence before me. In it Williams corroborated the account given by Webb in his statement of 5 July 1982. I assume that the detailed conversations to which I have just referred were those which Webb had originally recorded in his Official Police Notebook and Williams recounted in his statement of 5 July 1982. When Williams gave evidence at Dodd's trial he stated that on occasions Webb had spoken to Dodd in his absence but did not nominate the first meeting as one of those occasions.

In his statutory declaration to the Commission he had said that he was not present. Before me he was not as sure:

All right. Now, when was it in relation to his visit then that you first knew that Dodd was making some allegations

against Saunders?--I introduced him to Dodd. I was there for the initial introductions. I don't know, to be quite honest, but Webb must have told me at some stage. I don't know whether he told me everything. I don't think I've ever seen the statement, but he must have gave me some breakdown of what was taking place that morning, or during the day.

Although Webb's and Williams's present recollections suggested Williams had not been present I am satisfied that he was. I do not believe there was any intent to deliberately mislead me. The error can be explained by the effluxion of time since the events. Webb's statement to Williams to "stay right out" of the matter I am confident was made prior to Webb's request for someone from headquarters to be sent to assist him and after the initial interview with Dodd. It is consistent with Williams having been present during the initial interview and then having been advised that it would be in his interests to stay out of the matter. Once again I can see no reason for either person to lie. If conversations in furtherance of a conspiracy had taken place during this initial phase I have no doubt that the two police officers would have come before me insisting that both were present and nothing untoward occurred, thus corroborating each other. If Webb were corrupt he would not have been prepared to abandon his corroborator. I am in no doubt that had Webb and Williams been examined concerning their statements of 5 July 1982 they too would have agreed that their memories had failed them in respect to Williams's presence during this initial conversation between Dodd and Webb. Naturally enough they would have accepted statements that they had made a few months after the events rather than relied on their recollections after 11 years.

9.8 Assistance for Webb

Webb testified before me that shortly after he had initially spoken to Dodd he telephoned his immediate boss, Don McDonald, who was the Superintendent at the City Station. As he was out to lunch he rang Regional Superintendent Keen, who was also out to lunch. He left messages for both of them to telephone him at Cleveland. The next most senior officer was Assistant Commissioner Murphy so he telephoned him and told him the story and Murphy advised him that he would arrange for somebody to come down to assist him. Shortly after Inspector Channells telephoned after he had come into McDonald's office and saw the message that had been left for McDonald to contact Webb. Webb told Channells the story. Shortly after that telephone call he received another telephone

call from Murphy to say that Flanagan was on his way down. In the mean time Keen had received his message and he telephoned Webb and Webb advised him of the full story. Later Flanagan arrived and he and Flanagan conducted the records of interview with Wills and Dodd to which reference has been made many times before in this report. Neither Williams nor Tutt were involved. Webb told Tutt to stay out of the investigation. Tutt had no further relevant involvement in the conduct of the investigation.

Flanagan testified before me that at about 2.35 p.m. on Friday, 26 March 1982 he received instructions from Detective Superintendent Albert Pointing, the then officer in charge of the Police Internal Investigation Section, to go up to the Cleveland Police Station and take up with Webb and assist him in his investigation of allegations made against Saunders.

When Flanagan arrived the situation was briefly explained to him by Webb. Wills was interviewed at 3.10 p.m.. He signed his typed record of interview at 4.32 p.m.. The interview with Dodd commenced at 4.38 p.m. and he signed his typed record of interview at 6.25 p.m.. The watchhouse charge book showed that Dodd was charged by Webb on 27 March 1982 at 2.13 a.m. with the theft of the firearms and the unlawful use of the motor vehicle in which they had been abandoned and Wills was charged by Webb for the same offences at 2.24 a.m.. Both were denied bail.

Although there seems to have been a lengthy delay between the completion of their records of interview and the time of their being charged there is a simple explanation. At 4.00 p.m. Williams and Neilson reinterviewed Wills in relation to the Glen Snack Bar armed robbery. He was again questioned in relation to the .22 which the previous day he had stated had been given to him by Burns. On this occasion he admitted that he had stolen it from a motor vehicle. A record of interview which commenced at 4.50 p.m. was signed by Wills at 5.44 p.m.. After that further inquiries were conducted by Millard and Neilson in relation to the arson and unlawful use of another motor vehicle. This record of interview commenced at 10.50 p.m. and finished at 12.30 a.m. on 27 March 1982. Neilson's Official Police Notebook records that at 12.40 a.m. Wills was further questioned by Neilson concerning yet another vehicle.

In the mean time Saunders had attended at the Cleveland CIB at the request of Webb. Webb and Flanagan had just completed taking a statement from Coomer. Flanagan and Webb conducted a record of interview with Saunders and at 1.27 a.m. on 27 March 1982 Dodd was brought in to enable him to make his allegations directly to her and to allow a response from her. At 1.40 a.m. he was taken from the room by

Webb. He was charged less than an hour later and remanded in custody to appear before the Magistrate on Monday, 29 March 1982.

9.9 The interview of Spires

Spires was taken back to the Cleveland police station and interviewed by police. It is not clear which officers interviewed her but presumably it was either Williams or Tutt. In any event she claimed that there was never any attempt to work out a deal with her so that she shouldn't be charged. She also denied that the police had agreed to help her by not charging her with offences.

When Wills gave evidence at Saunders's trial he was cross-examined by counsel for Saunders concerning Spires's involvement in the offences Wills had admitted on 25 March 1982. The following exchange took place:

By Mr Jerrard: You have agreed, or you have told us, that at some stage you agreed with Mr Dodd to tell lies - a lie to keep him out of trouble?--It wasn't to keep him out of trouble, it was to keep Joselyn out of trouble.

What lie was that?--I said I would take the rap, you know, for most of the stuff.

Was Joselyn involved?--She wasn't involved in any way but the police that got us, they were sort of saying they could bust her for stuff and she was pretty close to losing the kids and I didn't want her to lose the kids over it.

I haven't quite followed the logic. You agreed to take the rap to keep Joselyn ----?--When we got outside, right?

Yes?--The coppers were searching the joint and me and Doddsy went into the lounge room where they were sleeping. He said he was going to blame Joselyn for it and I said, 'No, I'll take it.'

By his Honour: And what was 'it' that he was saying?--Some of the raps for the stuff we had done wrong.

Relating to the stolen property or something of that kind?--Relating to the jobs I did, yes.

How could it be that he could blame her for something which you did, particularly if it related to something done outside the house?--I was real sure - it was just when he said it, you know. He was just going to try and pin it on Joselyn and I said, 'No way.' I have known Joselyn since I was going to primary school, sort of thing. Like I said, she used to babysit me, you know. You've got to sort of protect your own.

By Mr Jerrard: Did Mr Dodd tell you to blame Joselyn Spires for what you had done?--No. He just said, 'We'll put the rap on Joselyn' and I said, 'No, I'll take the rap.'

You say if he says, 'We'll put the rap on Joselyn,' apart from feature that he is then suggesting that to blame this woman for what has been done, that sounds as if you and he had been doing a number of things together?--Yes, we did. We stole the guns and we took the car down.

Was he suggesting that you blame Joselyn Spires for that?--That and a lot of other things, yes; some of the jobs I had done because he thought that we could try and get out of it, and I said no.

And you say Joselyn Spires wasn't involved in anything?--She wasn't, no. The only thing she was involved in was having us under the same roof as her.

Wills again alluded to "taking the rap" for Spires when cross-examined at Dodd's perjury trial:

Firstly, when you say you were busted you were first taken into custody on 25 March 1982? --- I take it that is when it was, yes.

The police told you that Dodd had informed on you about the armed robbery? --- No. They were asking me all this stuff, you know, when I first got busted I give them a false name and tried to blame them, you see. Then they made a bit of a deal with me which I am not going to say what it was, and then I just signed myself up after that.

In re-examination the Crown Prosecutor questioned him further concerning

this "deal":

By Mr Godsall: You did mention something about a bit of a deal you made with the police. I am not going to ask you what it was. Did you know anything at that time about any tape or anything of that nature? --- No, because that is when I was first busted - arrested - and I don't think I knew about the tape at that stage.

So, that was nothing about Mr Dodd, or anything? --- No, it concerned Jocelyn.

Before me and in his statutory declaration to the Commission Wills vehemently denied that there had ever been any deal struck between him and the police for him to give false evidence.

Before me Williams was questioned by Counsel Assisting concerning the manner in which Spires was dealt with at the Cleveland CIB on 25 March 1982:

All right. There was - was there any reason why there was no charges laid to get Spires?---Well, there was no evidence to - against the lady Spires.

Yes?---It is fair comment that police officers have some standards we've set. If we - if criminals are bringing stolen property home and there's a woman destitute in the house with a few children, we are not going to go all out to try to wrap a flimsy brief round the lady of the house and that's the way I operate and I stand to be judged on it.

Yes?---She would appear to have no involvement in the break and entering of those shops and that's it, and I wasn't going to have her with two little kids terrorised by detectives into a secondary or a subsidiary charge.

The only pretence of any evidence against her would be that she was resident in the house where the stolen goods were?---Exactly.

Neilson stated that Wills never implicated Spires and opined that in the circumstances in which she had been found he would see nothing untoward in her not being interviewed. He acknowledged the existence of the police

practice concerning spouses which Williams had described to Counsel Assisting. It would appear that there is a practice amongst police officers that female occupants of premises, in circumstances in which Spires found herself in March 1982, are not pursued with vigour where the male offenders have already admitted committing the relevant offences.

There is no reason to suspect that any "deal" to protect Spires was struck between Spires and any of the police officers or between the police and either Wills or Dodd. No doubt the fact that Spires occupied the home at which the stolen property had been located could have given the police some form of leverage over Wills, but in any event he was quite happy to "take the rap" himself rather than to involve Spires. There was certainly no evidence that Wills entered in a "deal" to falsely implicate Saunders in return for the protection of Spires.

There was nothing untoward in Spires not having been charged at that time with any offence.

9.10 The interview of Saunders by Webb and Flanagan on 26 March 1982

Saunders was rostered 6 p.m. to 2 a.m. on the evening of 26 March 1982. She was carrying out normal duties when she was informed by Sergeant Tanzer that she was required to attend the Cleveland CIB as a female officer was required to carry out a drug raid. Tanzer, Carnes and Saunders then drove to the Cleveland CIB expecting to do the drug raid. When they arrived there Carnes and Tanzer were told by an officer who Saunders seemed to remember was Webb that they were not required. According to Saunders she went to collect her bag from the car but was told to leave it. She was therefore left without any money, keys or the contents of her bag. When she went inside she found that she was not required for a drug raid. She was to be interviewed by Webb and Flanagan. Saunders's account of being asked to go to the Cleveland CIB on the pretence of being required for a drug raid was supported by Carnes in his statutory declaration to the Commission.

In evidence before me Flanagan stated he knew nothing about this pretence. He explained that he had nothing to do with organising Saunders to attend and could only assume that Webb had arranged it.

On Webb's account he could not recall whether he had received a telephone call from Murphy or whether he had telephoned Murphy, but in any event he told Murphy shortly after Wills's and Dodd's interviews that it

would be necessary to interview Saunders as quickly as possible. According to Webb Murphy advised him that arrangements had already been made for Saunders to come to the Cleveland CIB that evening as she was working a late shift at the Task Force.

There is little doubt that Saunders was requested to attend the Cleveland CIB without having been explained the real reason for her attendance there.

It is not clear who was responsible for the pretence to have Saunders attend at the Cleveland CIB but, although inappropriate, little turns on it as she could have been directed to attend as she was then on duty.

It is clear that within three hours of the completion of the records of interview with Dodd and Wills, Saunders was at the Cleveland CIB being questioned about her involvement in the theft of the firearms. There is no doubt that Saunders was interviewed in circumstances which minimised the possibility that she could be forewarned about the allegations that Dodd and Wills had made. Notwithstanding this she was forewarned. In Krosch's statement of 30 March 1982 to Webb he stated that Saunders had telephoned him in the period of time between Dodd's and Saunders's interviews. She told him that Dodd was dropping her name and his. Krosch stated that he believed that she had told him that Tutt had advised her of this. Saunders claimed in her Legal Aid material and before me that Lobegeiger had forewarned her. In any event it was clear that the element of surprise had been lost. It would seem to me that this attempt to have Saunders interviewed expeditiously and without forewarning can be largely explained by Webb's uncertainty as to where the loyalty of other police officers associated with the matter lay.

Before me Saunders observed that she did not have the opportunity to think about any answers beforehand in the same way as other police officers who were required for questioning at that time. She referred to the Fitzgerald Report for the methods of interrogation which were then normally used by the Internal Investigations Section. It would appear that that section normally provided to the police officer some time in advance an outline of the allegations to be canvassed with the police officer. However Webb was not a part of the Internal Investigations Section and one may assume that he was unfamiliar with their procedures. This accords with the answer he gave to Counsel Assisting when asked to comment upon the practice:

I don't see how a police officer can be dealt with differently to any other person in the community.

I do not believe that Webb or Flanagan can be criticised for interviewing Saunders without having given her the opportunity to consider the allegations beforehand as may have been the normal practice of the Internal Investigations Section. As Flanagan explained this was a normal investigation to him except that the suspect was a police officer. Lay suspects would not normally be given the benefit of a general outline of the allegations beforehand so they can reflect on the matters before being questioned.

Saunders also observed that she was not given the opportunity to obtain the services of a solicitor. Flanagan explained that Saunders did not ask for a solicitor but had she done so he would have ensured that she obtained one. Saunders did not suggest that she did seek a solicitor. Webb and Flanagan were entitled to interview Saunders without a solicitor. She was an experienced police officer and Webb and Flanagan were entitled to assume that if she wished a solicitor to be present she would have stopped the interview and asked for one. Saunders stated that it would have been difficult to obtain a solicitor at that time of night. That may have been the case but she always had the option to withdraw from the interview until she was able to obtain the services of one. There was no obligation on her to remain.

Saunders could not understand why she was interviewed at the Cleveland CIB because the offence of the theft of the guns occurred in the Holland Park division. I think it obvious she was interviewed at the Cleveland CIB because that is where Dodd and Wills were being held. Saunders was ultimately confronted by Dodd later in her record of interview. It was the logical place for her to be interviewed.

Saunders conceded in her statement to the Commission that notwithstanding the way in which the interview came about, she was not "verballed" during the interview. She considered that the reason for this was the presence of Flanagan. Notwithstanding her acceptance that she had not been "verballed" she claimed there had been one matter which had not been accurately reflected in the record of interview. She stated that when it became apparent during the record of interview that she and Lobegeiger were associated, Flanagan appeared not to have any previous idea about it. When he started to type the fact of the association into the record of interview Webb told him to keep Lobegeiger "out of it" and not to type anything concerning him. Flanagan agreed to do so. Flanagan and Webb both denied that this occurred. Flanagan added that there had been no need to mention Lobegeiger's name as far as he was concerned as the relationship between Saunders and Lobegeiger had nothing to do with the

matter of the investigation. Webb stated that all answers given by Saunders were recorded accurately in the record of interview. It is interesting to note that in her Legal Aid material she claimed that it was she who asked Flanagan to leave Lobegeiger "out of it."

In the Legal Aid material Saunders drew to the attention of her solicitors a number of relatively minor matters which she claimed were inaccurately recorded in her record of interview. Webb and Flanagan denied that the record of interview was inaccurate. In view of Saunders's statement before me that she had not been "verballed" I do not think that any great significance should be attached to these matters.

In examination of Webb by Fleming QC he explained that it was mere oversight that he did not put to Saunders the allegations made by Symes and Ellsworth concerning the wiping of the fingerprints. I accept this. It is not difficult to understand how this occurred. Although Webb commenced to question Saunders concerning the confrontation between Symes and her he was largely putting to Saunders those allegations which Dodd had made a few hours earlier.

It was submitted by Carew and Company that Webb's failure to specify Symes's allegations concerning the possible wiping of fingerprints in his report of 7 March 1982 and Webb's failure to put Symes's account to Saunders during his interview of her on 26 March 1982 led to the conclusion that the allegation was not made until after 26 March 1982. Although Flanagan did leave open the possibility that Webb had not raised the allegation with him prior to Saunders's interview that would not at all have been surprising bearing in mind Flanagan came into the picture a number of hours prior to the interview of Saunders during which time Coomer, Wills and Dodd had been formally interviewed. In any event the mere fact that Webb reported on 7 March 1982 that the matter warrants "further careful investigation" could only have arisen from the suggestions made by Symes and Ellsworth concerning the fingerprints. At that stage Webb would have had no other knowledge concerning the theft of the guns which would have caused him to make that observation in his report. Furthermore Symes and Ellsworth had on the evening of 7 March 1982 made handwritten notes on foolscap of the incident. Even more persuasive is the fact that Saunders never denied that Symes and she did have an argument concerning fingerprints being wiped from the motor vehicle. In her statement to the Commission she indeed had conceded that:

I told the CIB police that I had already opened the door previously and that the prints were more likely to be on the

quarter glass or the interior lock and interior of the car.

In conclusion I do not believe that Flanagan and Webb acted improperly in interviewing Saunders in the way that they did. Saunders always had the option to discontinue the interview and in any event she made no admissions. I have little doubt that before Webb commenced the interview he genuinely believed that Saunders "was right for" the theft of the firearms. Evidence was given before me that it was the general perception that she was "right for it." I am confident that to some extent the haste and manner in which the interview with Saunders was undertaken arose from this perception rather than from any impropriety.

9.11 Wills questioned further on 27 March 1982

After Wills and Dodd had admitted stealing the firearms from Coomer's vehicle on 26 March 1982 Millard and Neilson investigated other possible offences involving Wills. On 27 March 1982 Williams, Tutt and Millard were taken by Wills to bushland where they located a number of burnt out vehicles. On Wills's return to the police station he was questioned about these vehicles by Neilson. According to Neilson's Official Police Notebook this commenced at 4.05 p.m.. Wills made a number of admissions concerning them and at 9.30 that evening he was charged with a further eight counts relating to a number of vehicles. He was remanded in custody to appear before the Magistrate on Monday, 29 March 1982.

At this stage I should mention the numbering of the charges in the watchhouse charge book relating to Wills. He was charged with twelve charges on 25 March 1982, two charges in the early hours of 27 March 1982 and a further eight later in the evening of 27 March 1982. There were in total 22 charges made against him. Millard explained that in relation to the first twelve charges recorded in the watchhouse charge book for 25 March 1982 he had numbered the charges in red ink from one to twelve. The last four of these had been altered in blue ink from 9, 10, 11 and 12 to 19, 20, 21 and 22 respectively. It was obvious from the alterations that it had not been intended to hide the fact of the changes. Millard explained that he had originally marked the charges in red to assist in supplying the court briefs to the police prosecutor. He could not explain the change in numeration. There is no reason suggested by the evidence. I do not see that anything turns on it as there was no alteration to the substantive charges or the final number of charges.

9.12 Dodd and Wills transferred to the Wynnum watchhouse

After Dodd had been charged in the early hours of 27 March 1982 he was held in the Cleveland watchhouse until transferred to the Wynnum watchhouse later that evening. Wills was transferred at the same time. Although the Cleveland watchhouse charge book shows that both were "released" at 9.55 p.m., it is clear by reference to the Wynnum watchhouse charge book that the release was into the custody of a police officer who transferred them to the Wynnum watchhouse. The Wynnum watchhouse charge book records that they were held at the watchhouse at Wynnum from 10.30 that evening until they were required to return to Cleveland on 29 March 1982. If there had been any doubt that Wills and Dodd had remained at Wynnum until the morning of 29 March 1982 it was dispelled by reference to a Police Department document headed "Prisoners' Meals Voucher" and dated 2 April 1982. It confirmed that Wills and Dodd had been held at the Wynnum watchhouse from 2230 hours on 27 March 1982 until 0930 hours on 29 March 1982. It recorded that during that time they were each provided with four meals. It had been furnished by an officer completely unconnected with the investigations conducted at the Cleveland Criminal Investigation Branch.

It is fair to say that both the Wynnum and the Cleveland watchhouse charge books left a lot to be desired. Throughout these books there were many instances of times and other details having been omitted. It would appear that very little care was taken with recording details in the books. The entries concerning Wills and Dodd were no exception. For example, there had been no notation in the Cleveland watchhouse charge book that Wills and Dodd had been transferred to Wynnum at 9.55 p.m. on 27 March 1982. The solicitors for Saunders submitted that there were a number of indicia in the Cleveland watchhouse charge book consistent with the release of Wills and Dodd at 9.55 p.m. rather than with their transfer to the Wynnum watchhouse. If looked at in isolation and without reference to the police evidence an interpretation of these indicia consistent with their release was possible, albeit unlikely. After I considered all the evidence and in particular the Wynnum watchhouse charge book and the Prisoners' Meals Voucher for Dodd and Wills I was in no doubt that they had not been released to return home. They had been transferred to and held at the Wynnum watchhouse. I have referred to this material in the introduction of the report.

9.13 The telephone call from Spires to Saunders on 27 March 1982

Spires stated in her statement to Webb of 29 March 1982 that on 27 March 1982 at approximately 1.30 p.m. she went to the Cleveland Police Station and went to the cell block where she saw Dodd. During that conversation Dodd told her that he wanted to see Saunders urgently. Dodd had told her that she should ring Saunders and tell her that:

He can clear her but he wouldn't clear her until he saw Barry otherwise he would implicate her further.

At approximately 3 p.m. she rang the number which Dodd had given her. This was not a police telephone number. She spoke to Saunders and conveyed the message to her. Spires claimed that Saunders told her that she would get in contact with Krosch and ring her back. A short time later Spires again telephoned Saunders who told her that she had contacted Krosch and would ring him back at 4 o'clock as he was carrying out some inquiries. Spires said that she would ring back about a quarter of an hour after this, which she did. Saunders told her that Krosch could not come down and see her and that she should tell Dodd that he would have to make an official request through the investigating officers. Saunders then added:

I don't know why he's telling all these lies.

After Saunders had received the first phone call from Spires she telephoned Flanagan and advised him of the call. She also telephoned Krosch who made inquiries with his superiors and was advised not to contact Dodd.

Until this investigation Dodd throughout maintained that the only reason he asked Spires to tell Saunders that he was the only one that could clear her was because he believed that she would not get in touch with Krosch unless he said something to this effect. He maintained that he did not have Krosch's telephone number at the watchhouse and therefore had to communicate with him through Saunders. In his statutory declaration to the Commission he claimed that he wished to make contact with Krosch in order to pass on some information concerning the Commonwealth Games to him. This explanation I regard as completely unacceptable.

In Saunders's statement to the Commission she made the following comments concerning this telephone call:

I regard it as pretty unusual that prisoners in a police

watchhouse are granted access to persons like Spires. If Spires was able to speak to Dodd about this matter, I wonder what other conversations occurred in the watchhouse concerning me and who else was involved. I regard it as strange that Dodd had Spires ring me after he has just nominated me for a job I did not commit. I recognise that it is possible that Dodd asked Spires to contact me rather than directly contacting Krosch, as there was a greater chance that Krosch would take some notice of what I asked him to do rather than Spires. It is a possibility that, as Krosch was not forthcoming with Webb during his interview on 26 March 1982, there was an attempt to have Krosch attend Dodd in the watchhouse so that he (Dodd) could covertly record Krosch's full knowledge of the matter.

Spires gave evidence before me describing the manner in which she gained access to Dodd during this period. She stated that there had been no difficulty getting permission to see him although she could not recall doing so. She described the lock-up as a separate building next to the car park and behind the police station. She explained that she did not have to go into the building as she could speak to him through the barred doors and windows. This evidence was not contradicted. I can see nothing untoward in Spires having been allowed to communicate with Dodd. Spires was Dodd's defacto by this time. It would indeed have been strange if she had been denied access to him. I have already given Dodd's explanation for the reason he had Spires telephone Saunders rather than have her communicate with Krosch directly. I do not know the real reason he did. I must say that to my mind the suggestion that in some way Dodd was used to have Krosch attend at the watchhouse to be covertly recorded is fanciful. There was certainly no suggestion in the evidence that an attempt had been made to have Krosch attend upon Dodd to ascertain through trickery Krosch's full knowledge of the matter.

CHAPTER 10

THE EVENTS LEADING TO THE ARREST OF SAUNDERS ON 29 APRIL 1982

10.1 Dodd on remand

When Dodd appeared before the Magistrates Court on 29 March 1982 on the outstanding charges bail was opposed by the police. He was remanded in custody and was required to attend before the Magistrate for the matter to be mentioned again on 15 April 1982. He remained in the Remand Section at Boggo Road until that date.

In this context I should refer to some evidence given by Mark William Woods. Woods, who had a lengthy criminal history, was an inmate at Boggo Road at the same time as Dodd was on remand between 29 March 1982 and 15 April 1982 and after Dodd had commenced his sentence for offences committed early in 1982. This term of imprisonment commenced on 7 October 1982. Woods stated that when Dodd was originally on remand he became very friendly with him. Originally Dodd told Woods that Saunders had approached him in relation to the theft of some handguns and the disposal of them and further that she wanted him to kill Lobegeiger. Woods added that there were discussions with Dodd in which Dodd suggested that Saunders and he were planning to steal a substantial amount of money as well. Woods claimed to have seen several persons dressed like police visiting Dodd whilst he was on remand. Dodd subsequently told him that they were high ranking police.

Woods stated that when Dodd returned to prison in October 1982 Dodd told him that he and the police officers with whom he had been involved had manufactured the tape to use against Saunders. Woods recalled that Dodd told him he was prepared to help the police as he had committed a serious offence. Woods stated that he believed the offence was an armed robbery which would have meant a lengthy sentence for him if they chose to charge him with the offence. I asked Woods whether he was satisfied that it was an armed robbery and he replied:

It was either an armed robbery or stolen cars. Look honestly I don't recall.

Woods added that he believed that Dodd told him that the tape was manufactured in the car park of Police Headquarters and they had used a

prostitute who sounded like Saunders on the tape. Woods conceded he may have heard some of this information in the press or from a source other than Dodd. Woods went on to say that Dodd told him that the police were paying him a substantial amount of money to "set-up" Saunders. Woods recollected a figure of \$30,000.00 in respect of this. Woods recalled that one of the names of the police officers was "Bulger" or "Bulgler" and this was the person that Dodd stated was the person who came to see him in prison. He could also recall the name "Tutt."

Prison visitor records indicate that no police officers attended upon Dodd during his remand period at Boggo Road. Prison diaries completed by prison officers who were required to be present to record details of conversations between prisoners and police officers do not record any conversations between Dodd and police for the relevant period in late March and early April 1982. Webb denied that he visited Dodd at the prison during this period. There is no evidence that he did.

It would seem however that the prison records were not completely accurate. In a written statement dated 20 December 1982 by Baker compiled when he was investigating the unlawful carnal knowledge charge against Dodd, it is recorded that he and Detective Williams interviewed Dodd at Boggo Road on 10 April 1982 in relation to the unlawful carnal knowledge charge. From the statement it would seem that the "Williams" referred to was his senior officer Detective Sergeant Clarrie Williams and not Graham Williams. The visit was not documented in any prison record. There was also evidence in the form of a statutory declaration dated 22 December 1993 from former Prison Superintendent Thomas David King which suggested that not all visits to the prison by police officers had been recorded by prison staff in the past. King was the Deputy Superintendent of the Brisbane Prison from 1972 to 1974, Superintendent of the remand prison from 1974 to 1977, Superintendent of the Woodford Prison from 1977 to 1985 and in head office from 1985 to 1986. In his statutory declaration King stated that as a result of his experience within the prison system, particularly as Superintendent, he was aware that visits by police officers to a prison were normally recorded in one of three places, namely the gate books, the police interview books or the official visitors book. He added that it was possible however for visits to be made without a record of the visit being made if such visit was outside the prison gates. He stated that this could occur in prisons where the Superintendent's office was outside the gate, for example Brisbane Prison. He explained that this course of action was usually undertaken in the case of police informants so that there would be no official record of the visit in the event that any of the books fell into prisoners' hands or the contents related to them by

prison staff. King made no comment upon whether Dodd had been interviewed in this fashion.

It was therefore possible that Woods had seen police officers speaking to Dodd, albeit in circumstances quite different from those procedures described by King which were aimed at ensuring that no other inmate was aware of the visit. It would seem that the police he had seen were Baker and Clarrie Williams.

Woods accepted that the conversations he had with Dodd at the time were relatively inconsequential bearing in mind his own predicament and also the fact that he was to give evidence in a murder trial. He recognised that the conversations had occurred more than 10 years ago. Whether or not these conversations with Dodd are accurately recalled by Woods is not of great moment. I should say that the \$30,000.00 figure suggested as a payment to Dodd is to my mind inconsistent with the original claim made by Woods that Dodd was willing to perform the task so he would not be charged with a more serious offence. Woods himself described Dodd as a "pathological liar" and conceded that he was relying solely on Dodd's word for the truth of the information he was given by Dodd. As will become evident later in the report it is clear the tape was not manufactured in the car park of Police Headquarters and a prostitute was not used to perform the female role, as Dodd well knew. Even if I were prepared to accept that Woods's recollection of what Dodd told him was reasonably reliable I would not accept that Dodd's statements to Woods were accurate or true.

In Carew and Company's written submissions under the heading titled "Mystery Visitor" is a reference to a visit recorded in the prison records of a "M Dawson" to Dodd on 2 April 1982. The clear impression from that submission was that this M Dawson was Webb or some other police officer. Reference was made to Dodd's evidence in Saunders's committal hearing where he answered that he could not recall who the person Dawson was and that the name meant nothing to him, the inference being that Dodd was lying about it. The submissions suggested that the person M Dawson may have visited Dodd on more than one occasion according to the prison records.

If one has further reference to the committal hearing transcript one will see that Acting Deputy Superintendent of the Brisbane Prison Colebourne gave evidence that although there were two applications for M Dawson to attend the gate records suggested that there had only been the one attendance. The first application had been for "Spires, defacto, and M Dawson (fr)" to attend. "(fr)" was explained to be short for "friend." The prison records to

which Carew and Company refer show that this visit was made. The second application listed "Spires, M Dawson (fr) and three minors." The records show that this visit was not made. One would hardly expect Webb or any other police officer to plan to attend upon Dodd without a police corroborator but with Spires and three minors for the purposes of furthering some sort of conspiracy. Similarly one would not expect Spires to be present when the supposed conspiracy was taken further. The suggestion is fatuous.

10.2 The release of Dodd on bail on 15 April 1982

On the 15th Dodd was returned to the Cleveland watchhouse to await his appearance before the court. Williams was first asked to give detailed evidence of the events of 15 April 1982 at Dodd's trial in 1985. There he stated that in the morning he was in the uniformed section of the Cleveland Police Station when Dodd called to him from the watchhouse and told him that he wished to speak to him. Williams walked over to the cell and Dodd advised him that he had a tape of a conversation between Saunders and himself on which she talked about doing busts and murdering Lobegeiger. Dodd advised him that the tape was in a safe place and that he wished to talk to somebody about it. Williams departed after telling Dodd that he would get someone to talk to him. This was the first occasion that Dodd had advised anyone that he had a tape recording implicating Saunders. There seems to be little doubt that this conversation took place before Dodd appeared before the court.

Williams telephoned Flanagan and advised him of Dodd's conversation. Flanagan's diary recorded that he was advised at 9.15 a.m. by Williams. The relevant diary entry for 15 April 1982 was:

At 9.15 a.m. received call from Det Sgt Graham Williams re Dodd allegations that he has taped conversations between Saunders and himself and would produce them if released on bail. TUV Assistant Commissioner Atkinson and he agrees for Dodd to be released on bail and to report daily. Advised D/S Williams accordingly. Later he advised that tapes in possession of friend at Stanthorpe. I advised him to go to Stanthorpe with Det Inspector Webb and have Dodd obtain tapes.

Flanagan confirmed the accuracy of the entry before me.

Webb maintained throughout that on this day he had gone to the Cleveland Court House to be present when Dodd appeared on remand. When he arrived there Williams came up to him and advised him of his discussions with Dodd. Webb then went over and spoke to Dodd. At Dodd's trial he stated that this was in the presence of Spires but before me he stated that Williams had also been present. Williams in his evidence at Dodd's trial and in his statutory declaration to the Commission stated that these conversations were held in his absence. I am satisfied that Webb's present recollection is erroneous.

Webb's first detailed account on oath of his conversations with Dodd was given in his evidence at Dodd's committal hearing. He later gave a similar account at his trial. He gave evidence that he asked Dodd where the tape was and Dodd told him that he had given the tape to a trusted friend of his. He stated that Dodd had told him that this person served time with him in prison. Dodd would not mention the name of the friend. He stated he did not want him involved. Dodd claimed that he would not give the tape recording to police because it was the only insurance he had that it would not be destroyed. He said that if he gave it to the police they would destroy it because Saunders was a police officer. Dodd again told him that it was the only insurance that he had and if something happened to him the tape recording would be given to Hooper MLA. After further discussion Dodd eventually told Webb that the tape recording was at Stanthorpe. Webb told him that if he went up there and recovered the tape recording he could remain in his presence all the time and they could return to Brisbane and have the tape recording handed to a Justice of the Peace, Magistrate or any other person whom he wished to nominate. Dodd agreed to go to Stanthorpe to collect the tape recording.

Before me Webb gave a similar account of these discussions. Fleming QC asked Webb whether Dodd had raised in the watchhouse the possibility of 'going light' on him if he produced the tape recording. Webb replied that he had not. The following exchange then took place between Webb and Fleming QC:

He did not say, 'If you let me out on bail, I'll give you this tape'?--Oh, yes, he wanted bail, yes. That's why we got him remanded until that afternoon.

But nothing else?--That's all. All he wanted was the bail.

It seems clear from the court records that Dodd subsequently appeared

before the court for the purpose that he had been originally brought from Boggo Road. The Bench Charge Sheet, which was completed by the Acting Magistrate, recorded that Dodd was remanded in custody till 10 a.m. the following day and a Warrant of Remand issued to authorise his retention until then.

In the meantime Flanagan had been seeking out senior officers to obtain guidance in what should next be done with Dodd. According to Webb's evidence before me he telephoned Flanagan and Flanagan advised him that he had been in touch with Atkinson who had agreed not to oppose bail as it was vitally important that they obtain possession of the tape recording. At Saunders's trial Webb gave evidence that he telephoned Atkinson and advised him of the situation and Atkinson told him directly that the police were not to oppose bail but to ask for a reporting condition to the Cleveland Police. I do not see that anything turns on this discrepancy. It may well have been that Webb spoke to Atkinson as well as Flanagan. There was no evidence that this did not occur.

According to Webb he acted upon this advice and bail was not opposed before the court.

According to the court records an application was made to the Acting Magistrate to have the question of Dodd's remand reopened. The Bench Charge Sheet recorded that:

The prosecutor does not now oppose bail in defts. own undertaking but asked for daily reporting conditions between 3 and 4 pm at police station Cleveland.

Remand Warrant recalled.

It is clear that the unusual step of reopening the question of remand was made some time after the initial decision to remand Dodd in custody till the following day. For present purposes it is not relevant how long after the initial decision this occurred. The fact that there was a need to reopen the matter suggests to me that Webb had not been in a position to properly consider Dodd's situation when first advised of his claims. It is consistent with Webb having no forewarning of Dodd's claims and is inconsistent with a "police conspiracy." If the idea of a tape recording had been seeded in Dodd's mind by corrupt police some time earlier I am certain he would not have been remanded in custody to the next day. Bail would not have been opposed. Of course if a deal had been struck on the weekend of 27 and 28 March 1982 bail would not have been opposed on 29 March 1982.

Saunders in her statement to the Commission stated that she regarded the circumstances of his release on bail on this occasion as "extremely suspicious."

Webb was questioned extensively by Fleming QC concerning the question of Dodd's bail on 15 April 1982. The following exchange between Fleming QC and Webb took place:

FLEMING QC: And then on 15 April 1982 he did get bail?--Yes.

All right. Would you then go please to the transcript of evidence - the committal hearing - which is dated 8 August 1982. That is the committal hearing of Lorrelle Saunders?--At what page was that please?

If you would go to page 260?--Yes.

Now, you are dealing in the Magistrates Court with the reason why you were happy enough for him to get out of jail on the 15th?--It wasn't that I was happy, I was forced into it.

Well, let us just read what you said, bottom of page 260:

How was the change in circumstances on the 15th of April - now what was the change in circumstances

I should say,

on 15th of April? Did the prosecution oppose bail on that day? Well, they asked for a reporting condition for bail. What caused the change in heart? Anything that Dodd had said or done caused the change in heart? Well,

And you are asked:

He still had a serious criminal record, he was still likely to abscond, they were still charges involving guns? Yes. He was then -

You say:

He was then living with the woman Jocelyn Spiers.

Now, can I just contrast that with what you - what you said about why you held him first time around. You said:

At that stage he had just left one woman and gone to another and there were no real ties for him at Cleveland to hold him.

That is the reason you gave for opposing his bail on the 26th, and yet 16 or 18 days later you were saying 'He was then living with the woman Jocelyn Spiers.' And going down a little bit further, middle of the page:

She was going to take him back and if we could get a reporting condition on him, I felt that he'd stay with her.

Down a little bit further, another long question:

I don't feel so, I think that he was going to go back and stay with Spiers. I thought there'd be no likelihood of his absconding at that stage.

So, 16 or 18 days, you have totally changed your mind. What has happened?---Well, you go down a bit further, he also told us that he had the tape.

Yes. Yes, that is true?---And that's why the condition of bail was changed very considerably.

Yes. Yes. But what did you tell the court; that is the important thing here, Mr Webb. What was said to the court?---I forget now what was said to the court.

Well, you would not have said - - -?---I don't think the matter of the - - -

- - - to the magistrate - - -?---I don't think the matter of the tape would have been told to the court.

unreasonable for them to believe that Saunders had some involvement in the theft of the firearms.

Carew and Company submitted that the failure of Webb to suggest to Dodd that he (Webb) be provided with a copy of the tape recording prior to Dodd's release was consistent with police knowing or suspecting that the tape recording did not exist at that time. Webb's failure to do so was also consistent with his evidence that he feared that Dodd might refuse to further co-operate or it may have been that the idea of asking for a copy of the tape did not even occur to Webb at that time.

10.3 The further interview of Wills on 15 April 1982

When Wills appeared before the Magistrates Court on 29 March 1982 he was remanded in custody until 15 April 1982. He was held in the Remand Section at Boggo Road and brought back to the Cleveland Watchhouse to attend court on the morning of 15 April 1982. On this day Wills was questioned again concerning the armed robbery which he had previously admitted committing with Burns. Prior to the interview on 28 March 1982 Neilson and Williams had travelled to Grafton to question Burns. The interview with Wills is recorded in Neilson's official police notebook. It is recorded that Williams advised Wills that Burns had denied being involved in the offence and that in fact on the night in question he had been in Grafton. Wills in response stated, "Yes, that's right. I am sorry for naming him. He was not involved." Williams then asked the following question, "Did you name him to protect Dodds?" To which Wills responded, "No I did it on my own." When Wills next appeared before the Magistrates Court at the time of his committal hearing the Prosecutor sought an amendment of the armed robbery charge to delete the words "and in company." Wills testified before me that in fact he had committed the offence with another person whose nickname was "Wombat." To my mind the fact that this matter was canvassed with Wills on 15 April 1982 evidenced Williams's genuine attempts to investigate the armed robbery and in particular whether it had involved Dodd. The interview was inconsistent with an unwillingness on the part of the police investigators to prosecute Dodd for offences. It was also inconsistent with Wills having earlier implicated Dodd in the armed robbery.

Later that day Wills was released on bail by the Magistrate to appear at his committal hearing on 9 July 1982. The bench charge sheet for the armed robbery offence established that before Wills was released the court required "one surety in the sum of \$5,000 or two sureties in the sum of

\$2,500." As a further special condition his mother was required to place the Deed to a Queensland property with the court. The Certificate of Title to the property was furnished and held in the office safe. I consider that it was neither inappropriate nor improper to have Wills released on these conditions. After Wills had been committed on 9 July 1982 to appear in the Supreme Court he was released on bail on his own undertaking. The prosecutor stated that he had instructions not to oppose Wills's bail on his own undertaking. No doubt the decision not to object to Wills being granted bail on his own undertaking would have been made after consideration of the fact that Wills had not absconded prior to the committal. Of course by this stage the Court had been informed of all the facts concerning the offences.

It was submitted by Carew and Company that Wills's part of the "deal" to make false allegations against Saunders was for Wills to be released from custody on 15 April 1982 rather than be kept on remand. If there was merit in this submission and Wills had been a party to "setting-up" Saunders on or before he gave his record of interview to Webb on 26 March 1982 why was he kept in custody until 15 April 1982 - almost twenty days? The submission ignored the facts highlighted by the prosecutor at Saunders's trial. There the Prosecutor correctly pointed out that no statement was obtained from Wills for the prosecution of Saunders and he did not give evidence at her committal. When Wills was asked by the prosecutor when he first discovered that he was to give evidence at Saunders's trial. The following exchange followed:

The day I got dragged out of Woodford and said I'm going to Court and then I sat in the slops downstairs from about 10 o'clock in the morning till about 1.30 in the afternoon and I finally asked them, 'What am I here for?', because they said I am facing more charges.

By his Honour: When was this that you are talking about? --- The day before yesterday, Wednesday.

By Mr Callanan: Was it myself and Mr Mackenzie here who explained to you why you were there? --- Yes, you came down Thursday but I sat there all day Wednesday not knowing what was going on.

As far as you are aware, had there been any suggestion prior to that that you would be called in to give evidence? --- No.

I reject the submission.

10.4 The trip to Stanthorpe on 15 April 1982

The first time that Webb was asked on oath to give a detailed account of the trip to Stanthorpe on 15 April 1982 was at Dodd's committal hearing on 20 February 1984. There had been no reference to it in his original statement of 19 July 1982 which had been prepared for Saunders's committal hearing. When he gave evidence at Saunders's committal hearing there was again no reference to going to Stanthorpe on 15 April 1982, although he mentioned on more than one occasion the fact that there were three trips to Stanthorpe with Dodd prior to the receipt of the tape recording. At Saunders's trial he was only asked general questions concerning this trip. There was no questioning of him concerning any discussions he may have had with Dodd enroute to Stanthorpe on 15 April 1982. In his undated statement prepared for Dodd's committal hearing he made reference to further discussions occurring during the trip but did not specify them.

At Dodd's committal hearing he gave evidence that he and Flanagan went to Stanthorpe on this day. There is little doubt that he was in error here as all the reliable evidence indicates that it was Williams and Webb who took Dodd, Spires and her two children to Stanthorpe on this occasion. He described how after having the discussions at the watchhouse prior to Dodd having been released on bail that they drove to Stanthorpe in two cars. Dodd drove his own car with Spires and the two children in it. Dodd's car broke down at Warwick and the occupants then travelled in the police car. He did not give any evidence of any relevant discussions having taken place in the car during this journey. When they arrived at Stanthorpe a car was made available to Dodd and he left the police station and returned after about an hour. Webb stated that the following conversation then took place:

He told me that he had been to the man's house, and the man was not there, that he was in Brisbane. He told me this man was a salesman and he spent a lot of time away from Stanthorpe. The woman at the house did not know of the existence of the tape, and Dodd himself, did not know where this man had secreted the tape, so he said he was not in a position to get the tape unless this particular man was present. I asked why he had not placed the tape recording in the hands of a solicitor, or some responsible

person, and he said this particular man at Stanthorpe was the only person that he trusted, and that was why he had given him the tape to mind.

Webb did not nominate the name of this person. Webb gave evidence to the Magistrate that Dodd had told him that he wanted to keep this man's identity secret. Webb described how Dodd was again allowed to leave in order to obtain the tape recording but once again he returned empty handed.

On 14 January 1985 Webb gave evidence at Dodd's trial. This was nearly three years after the events of 15 April 1982. On this occasion for the first time he gave evidence that during the trip to Stanthorpe he had been told by Dodd that the person who had custody of the tape recording was a friend named John Barton whom he normally met at the Inala Skating Rink. Dodd told Webb that Barton was married and his wife did not want Barton to have any association at all with Dodd. Dodd claimed that because of his wife's attitude he normally had dealings with Barton in her absence. Dodd explained that Barton was a salesman and was quite regularly away from Stanthorpe and he did not want police to be with him when he went to Barton's house to collect the tape recording. When they arrived at Stanthorpe Webb made arrangements with the local garage to obtain a motor vehicle for the use of Dodd. Spires and the two children stayed at the police station with Webb and Williams and Dodd departed alone. He returned approximately an hour to an hour and a half later and advised them that Barton was not home. They had tea at the police station and Dodd was allowed to depart alone again. He returned some time afterwards and told them that he had spoken to Barton's wife and Barton had not come home. He claimed that she told him that she did not know when Barton would be back. He stated she did not know where the tape recording was. They departed Stanthorpe and returned to Warwick to collect Dodd's car which had had some repairs effected to it. On the way back it broke down again on the Cunningham Highway so the occupants were again placed in the police vehicle and the journey continued. They drove back to Cleveland arriving at approximately 4 in the morning. Dodd advised Webb that he would keep in touch with him and when he heard from Barton he would let him know and they would go to Stanthorpe to pick up the tape recording.

Before me Webb gave much the same account as he had given at Dodd's trial. He repeated his evidence that Dodd advised him on the way up to Stanthorpe on this occasion that the tape recording was with Barton. Fleming QC questioned Webb about his inquiries concerning Barton:

Did you make an inquiry while you were up there as to whether or not a person called Barton actually lived up there?---Course I did.

Or was it - - - ?---Course I did, yes.

And what information did you get?---And I also checked to see if a person named Barton had ever served a term of imprisonment in any jail in Australia with Dodd.

And what did you find?---Nil.

Now, one objective fact you verified and it was known to be false?---You verified it as false - - - ?---This was the following day I feel, yes.

You still believed him?---It wasn't a matter of believing, you had to take him on trust.

Why would you do it after you had established that the critical feature of the storage of this tape - the safe-keeping of this tape - was false? Why would you trust him?---It's quite often that people like Dodd, who seem to live in a different world to us - - -

Sorry. Keep going?---Use different names of people, and so forth, you know, and they say it's John Smith. It's not necessary John Smith. He supplied the name and that's the name we had to run with at that time.

You could not run with it any further than the 16th because you had established there was no person called Barton, yes - - -?---No; no person named Barton who'd served time with him.

Who had served time with him?---Yes. This is what he said, see.

But that was his story. He trusted this man, Barton?---Yes.

He knew him because he had served time with him and the tape was with him?---Yes.

All right. On the 16th, you established there was no person called Barton with whom he had served any time at all, however, as I understand what you were going on to say, perhaps he was just giving us the wrong name?---No. Now, on - it could've been the 16th, 17th, 18. I had to check - that wasn't an inquiry that you did in an hour. You had to check the different gaols he'd been in and the people Barton - probably took us a couple of days to run out the story.

I understand Webb to be saying that no matter what checks were made in relation to the existence of a person named Barton they would not be conclusive as there was a possibility that Barton was not the person's correct name because criminals were often known by aliases.

Although I am satisfied that Webb honestly believed that he did carry out checks on the name Barton immediately upon his return from the first trip to Stanthorpe on 15 April 1982, I have no doubt that he is mistaken. All the evidence suggests that the name of Barton was first revealed by Dodd at Saunders's committal hearing on 9 November 1982. In Dodd's original statement of 28 April 1982 it is recorded that he did not wish to nominate the person in Stanthorpe from whom he had claimed to have obtained the tape recording. At the committal hearing Dodd had been giving evidence of the making of and his subsequent dealing with the tape recording when he was asked by counsel for Saunders from whom he had received it when in Stanthorpe. Dodd refused to answer the question on the basis that he did not want to involve the person. An adjournment was granted for Dodd to obtain legal advice. After the adjournment Dodd returned with a solicitor and revealed the name John Leslie Barton.

The accounts of Williams, Spires and Dodd were for all relevant purposes consistent with Webb's account at Dodd's committal hearing. Spires was asked at Dodd's committal hearing whether Dodd had on the way to Stanthorpe named to Webb the person who ostensibly held the tape recording. She replied that he had not.

There is little doubt that Webb did question Dodd on 15 April 1982 about the identity of the person who ostensibly had the tape recording in Stanthorpe. However I am satisfied that Dodd did not reveal the name Barton to anyone at this time.

There is no doubt that Webb did carry out some inquiries concerning Barton but these would have been done after Dodd had revealed the name

Barton at Saunders's committal hearing on 9 November 1982. Some entries in the Boggo Road Prisoner Interview Book support the view that the checks made on Barton were conducted much later than 15 April 1982. As I have previously stated this book was required to be completed by prison officers whenever a prisoner was interviewed by police officers. The prison officer was required to record details of the conversation between the prisoner and the police officer. In this book there is an entry dated 21/12/82 which records:

Det. Insp. B.P. Webb

" " R.M. Rynders to interview Pris. Dodd

Commenced 11.16 A.M.

*Pris Dodd gave police directions to a house at Stanthorpe
& drew a map for police in reference to same.*

Ended 11.30 A.M.

The entry was recorded a few weeks after Dodd had given evidence of the name Barton at the committal. In evidence before me Webb stated that at this meeting he had attempted to obtain directions to the house at which Dodd claimed Barton had resided.

A further entry in the Prisoner Interview Book dated 24/2/82 is also relevant. It is clear that the entry "24/2/82" should be "24/2/83" from its position in relation to other entries in the Prisoner Interview Book. In that entry the prison officer recorded that Webb was attempting to ascertain the location of a home in Stanthorpe. The entry also indicated that Dodd was questioned about "John Leslie Barton." Webb denied making any other trips to the prison to see Dodd. There is no evidence that he did. Further support for my conclusion can be found in Flanagan's notebook and diary in which the steps of the investigation were recorded. There is no reference in them to the name Barton or of any enquiries having been made on any person at Stanthorpe. Flanagan retired from the Police Force on 1 November 1982 prior to Dodd giving evidence at Saunders's committal hearing. Webb had previously given evidence that the only record of the investigation was to be found in Flanagan's notebook and diary. He had not kept details himself.

It would appear to me that when Webb gave his evidence at Dodd's trial three years after the events he recalled the conversations that he had had with Dodd on 15 April 1982 and, having been subsequently made aware of the name Barton, combined the two in his own mind to convince himself that the name Barton had been furnished to him originally by Dodd. There is little doubt in my mind that after all these years Webb has convinced

himself that the inquiries he carried out concerning Barton occurred shortly after the first trip to Stanthorpe whereas in reality they occurred towards the end of 1982 and the beginning of 1983. I stress I do not believe that Webb was in any way trying to mislead me. I am satisfied that this was an honest and understandable mistake on his part.

10.5 Dodd furnishes documents to Webb between 15 and 23 April 1982

Between 15 April and 23 April 1982 Dodd reported on a daily basis to the Cleveland Police Station and had a number of meetings with Webb. Webb acknowledged that he in fact thought that Dodd was giving him the "run around" and told Flanagan so at the time. Flanagan confirmed this. Webb told me that notwithstanding this belief he had continued to allow Dodd a free rein to see what would happen. It was during this period that Dodd supplied to Webb the documentation which referred to the priest who had been arrested for drink driving at Surfers Paradise and the senior officer who was threatened that his wife would be prosecuted if he did not resign his commission. I have already made reference to this documentation in the report. It will be recalled that I concluded in relation to this documentation that Flanagan and Webb quite properly would have had regard to it in considering the reliability of Dodd's allegations against Saunders and in particular in assessing the nature of the association between Dodd and Saunders. In light of the receipt of this material it can be understood why further pressure was not brought to bear upon Dodd to produce the tape recording after 15 April and before 23 April 1982. I imagine that while cogent material continued to flow from Dodd to Webb and Flanagan they were prepared to allow Dodd to "run."

At this stage I should refer to an incident which Saunders referred to in her Legal Aid material. It appeared in notes headed, "Dealings with Dodd" concerning damage done to a plate glass door at the rear of her residence on 20 April 1982:

On Thursday, 15 April 1982 I was on 4 pm 12 mn shift and worked overtime. On return home mother very frightened and said there's been another prowler.

On Tuesday 20/4/82 I came home from VIP Squad Trg at Belmont at about 1.30 pm with Greg Carnes and a guy from Special Branch ... possibly Rogers ... Greg was buying a juice extractor mother was selling ...

We sat in the garden and had a drink. After the guys left I mowed the back lawn. Had just finished ... and the mower stopped for about 5 min. I was turning the petrol off and there was a crack like a .22 shot. Then a crackling sound. The shot was just as I bent down ... I saw that our rear sliding glass door (one of the large side 1x panels was glazing. Mother came out ... The indent point on the glass was about my headheight. Whatever had hit had ricocheted off ... made a search ... inside and out. Called the insurance ... glass coy came and the man said he thought could be caused by a bullet. Very unlikely to be stone damage and I'd stopped mowing anyway. I notified the Holland Park Police ... Const I/c Cameron attended but by the time they arrived it was dark. I asked them to make a search of the back paddock ... Neg. too dark and I didn't want to do it alone ... Coomer came over and brought a rifle ... didn't want it but he left it there ... sub. taken by Cassidy. Scientific attended the next morning and we found 4/6 beer cans by my fence ... not faded and looked very recent ... were XXXX. Taken possession of.

I nominated Dodd as only possible suspect. To my knowledge Wills was in prison.

After my suspension Cameron phoned me one night and said he'd been told to write the file off and that nothing had been done about it.

The relevant Criminal Offence Report was located by officers of the Commission. It had been completed by Constable Cameron and his partner, Constable Brown. It did not record Dodd as the suspect and did not nominate that the damage had been caused by a gunshot. Brown and Cameron were interviewed by officers of the Commission but only had a vague recollection of the incident. Brown stated that from his memory of attending the complaint he was of the opinion that the damage may have been caused by a stone shot from a shanghai or thrown from a motor mower although he seems to recall that Saunders had suggested the damage had been caused by a gunshot. He could recall finding nothing in the way of a projectile. Neither Brown nor Cameron could assist in relation to who completed the investigation but neither gave any indication that they had been told to write the file off.

Although Dodd did have the opportunity on 20 April 1982 to prowl outside

of Saunders's home there is no evidence that he did. In relation to the suggestion that he had been prowling around the home on 15 April 1982 it is clear that Dodd could not have been the culprit as he had travelled to Stanthorpe with police and had not returned until 3 or 4 o'clock the following morning.

10.6 The statement of 20 April 1982 of Bernard Gerald Hannigan

Hannigan provided a statement to Webb in which he related a number of discussions that he claimed to have had with Saunders after Dodd's arrest. In his statutory declaration to the Commission he explained that on 20 April 1982 Webb came and saw him and asked him if he knew Saunders. Webb told Hannigan that Saunders was putting a lot of "shit" on his father, Bill Hannigan, and his brother Garry Hannigan. Webb then requested him to make a statement if he wished to do so. He explained that the events of the time were very hazy in his mind because of the amount of alcohol he had been consuming at the time and the stress he was under in relation to his business. He added that he had not been interested in the events and did not wish to get involved at the time as it might have had an adverse effect on his business and custom. When shown his statement of 20 April 1982 he stated that it was true and correct as far as he recalled and that there was nothing in it that he wished to alter. He also stated that he was under no pressure either directly or indirectly to record any of the details in the statement.

Notwithstanding Hannigan's claim that his original statement of 20 April 1982 was true and correct, he had given evidence at Saunders's committal hearing and trial and had been to a large extent discredited. It is fair to say that no jury could have relied on any of his evidence. I am not prepared to rely on his recollection of discussions with Saunders either. His recall of events was extremely poor.

Although I have not relied upon the truth of the assertions in his statement I shall include reference to its contents because it is relevant from the point of view of assessing the bona fides of the police investigation in 1982. Webb and Flanagan were entitled to act upon the statement made by Hannigan as being a truthful and accurate account of events between Saunders and Hannigan and amounted, if accepted, to damning evidence against Saunders. They could not have known that Hannigan would later be discredited because of his poor memory and confused state of mind.

In his statement Hannigan claimed that on the Friday (26 March 1982)

Saunders came to his workshop and said to him:

Doug was locked up last night. Just watch out he doesn't start mouthing off about different people.

In his statement he claimed that the following day Saunders arrived at his workshop with a man in a Landcruiser. Saunders stated that this man was the person who had "lost his guns." Hannigan was then shown the record of interview that Webb and Flanagan had taken from Saunders the previous evening. Saunders asked what did he think about the statement and Hannigan claimed that he stated:

It is nothing to do with me.

Saunders asked to see him later that afternoon at her place and Hannigan replied that he would see what he could do. Saunders and the man in the Landcruiser then left.

The statement recorded that at about midday Saunders rang Hannigan and arranged to meet him at the Mansfield Hotel. The following extract then appeared in the statement:

At about 2 pm that afternoon I was at the Mansfield Hotel when she arrived. She said, 'We'll have a yarn about a story you've got to tell if Brian Webb comes out to have a yarn to you about the guns.'

I said, 'O.K. Just tell me what you want me to say.'

She said, 'Just tell him that I met Doug at the workshop and he overheard us talking about us going up to Gatton to see Allan Lobegeiger and that on the way up there with my mother Doug had followed me up and seen where Lobegeiger lived.'

She said, 'Say that I had seen Doug on the farm when I got up there.'

She asked me to repeat what she had told me and I did so. She said, 'That's alright.' She shouted me a couple of beers and then she left the hotel.

In Hannigan's statement he claimed that the following day he went to the

Mansfield Hotel again where once more he saw Saunders. He claimed the following conversation took place:

She said, 'We will change the story. The part about the workshop we will keep the same just say that Doug got jealous about her going with another man, an older man, he had followed me up to Gatton so he could have a go at Lobegeiger.'

I said, 'Right oh.'

She asked me to repeat what she had told me and I did so. She said, 'That's alright.'

The statement goes on to record that on the following Tuesday Saunders rang him at about 9.30 p.m. and arrangements were made to meet in about half an hour at his workshop. He claimed the following conversation took place:

She said, 'Just keep the first part of the story right, also about Doug going up to Gatton say that he was real jealous about me and that he had been following me around. He has been trying to make passes at me all the time and say that he has asked questions about me. Say that Doug was going to shoot Lobegeiger if we don't break up.'

I said, 'I'm getting a bit confused about the stories.'

She said, 'Do you still want to go through with it.'

I said, 'I'll think about it.'

Hannigan claimed in his statement that when he was at the Mansfield Hotel the following Saturday the following conversation took place between himself and Saunders:

She said to me, 'Do you know anyone who can get into the watchhouse and see Doug and tell him to shut his mouth.'

I said, 'I'd probably know a bloke.'

She said, 'If you can I'll give him fifty bucks to get locked

up to tell Doug to shut his mouth.'

I said, 'Which Watchhouse is he locked up at.'

She said, 'Either Cleveland or Wynnum, I'm not sure. I'll try and find out and I'll ring you at home before you go out.'

The statement recorded that on another unspecified occasion Saunders came to his workshop and the following exchange took place:

She said to me, 'Tell Doug not to put anyone else in over the guns.'

I said, 'I got no chance of seeing him.'

She said, 'Do the best you can.'

In Saunders's Legal Aid material appeared a statement dated 27 March 1982 signed by Saunders and Coomer. Saunders claimed it was an accurate account of events. Amongst other matters it purported to record the conversation between Saunders and Hannigan at Hannigan's workshop on the occasion that Saunders visited him in the presence of Coomer. Substantial extracts of this statement were put to Hannigan by counsel for Saunders at Saunders's committal hearing. Hannigan agreed with some parts of the conversation that were put to him but had no recollection of a significant part.

The conversations recorded by Saunders are extraordinarily detailed. There is in excess of 6 pages of small type recording in the first person the purported dialogue between Coomer, Hannigan and Saunders. It is completely self-serving.

Before me Coomer was questioned by Counsel Assisting concerning this statement. After having large portions of it read to him the following exchange took place:

Anything about any of those things that have just been read to you - or you have just read?--No, I can't think of anything.

As far as you are concerned, you are hearing it for the first time now, as events that were supposed to have

happened?---Yes.

Later in the examination the following questions were asked and answers given:

All right. Well, then, if you go over to page 13, do you agree that is your signature?---Yes.

You see, it says:

Statement removed from typewriter, signed -

and then there is your signature, Coomer, and L.A. Saunders. See the two signatures?---Mm.

Then it goes on:

Statement returned to typewriter.

And then we have got record Saunders, again, you see:

Roy, I will give you a copy of this -

she types out; that is what is supposed to be said:

If you're to be interviewed again at a later date in relation to this morning, take this with you and ask that you be allowed to refer to it, as it was made contemporaneously in the first instance, our conversations here, and while all conversation was fresh in your memory in the second instance, the conversation prior to the commencement of this statement, conversation at Bernie's, and to and from the workshop.

And that you were supposed to say:

"All right. But after the way they stood over me last night, I won't go again without a solicitor."
Signed and received.

Do you see that?---Mm.

Do you remember that?--No, I don't.

The business about being present when it was typed; it came out of the typewriter, you signed it, it went back into the typewriter for that last bit?--No, I don't remember it.

I see. Well, you agree it is your signature?--Yes.

But so far as I have been taking you right through the statement all the - I think just about every passage I have read to you you have said it is really news to you?--Yes, well, I don't remember reading it.

You do not remember reading it, but also it is supposed to record facts, is not it?--Yes.

And you - you have got no recollection of the facts that it is supposed to record?--No, I say - sorry, I haven't read it but I've signed it.

Exactly. Even though, as you now read it, you find that it is incorrect. It contains things that actually did not happen?--Right.

Is that right?--I would say so, yes.

Although in examination by Fleming QC Coomer claimed that he would not have lied for Saunders I am satisfied that he did adopt statements prepared by Saunders in which she had "rewritten history." I have no doubt that the statement was prepared by Saunders some time after she was aware of the allegations against her. The document was intended to discredit Hannigan's account of the conversation held with Coomer and Saunders. In the statement reference is made to a number of events which Dodd had referred to in his statements to Webb. If the events as described in the conversations were correct then Dodd's account of these events to Webb was discredited. There is no doubt in my mind that the document was also created for the purpose of discrediting Dodd.

There was no reason at all for Saunders to commit to paper on this day a substantial discussion with Hannigan. It only became relevant when Hannigan made allegations against her subsequently. Interestingly enough in this self-serving statement is recorded a conversation between her and

Coomer during which she stated the purported reason for recording the discussions with Hannigan. This conversation ostensibly took place at Saunders's residence prior to their departure for the workshop:

I said, 'Thanks, I would like you to try and remember all of the conversation we have there and when we get back I want to type it down.'

Coomer said, 'Why, Lorrelle?'

I said, 'As I said anything new could become important later. Try remembering all we've already talked about this morning in a month's time. If only we had typed down our talks with Dodds.'

Coomer said, 'I see what you mean. They had me so mixed up last night. I was terrified of them.'

The statement made it clear that the sentence "I was terrified of them" was a reference to Coomer's interview by Webb and Flanagan on 26 March 1982.

To my mind this is the clearest indication that this document was not written at the time but at some substantial time later. One of the first questions that would have been asked of Saunders when she produced this statement was why at the time she recorded the discussions because there was no logical reason for her having done so. No doubt in expectation of this she inserted the false self-serving reason. If Saunders had genuinely wished to record any discussions she had with Hannigan she could have tape recorded them. She had access to a number of tape recorders and was not loathe to use them.

10.7 The trip to Stanthorpe on 23 April 1982

There is no doubt that on 23 April 1982 Williams, Webb, Spires and her two children returned to Stanthorpe. Webb's first detailed account of the trip was at Dodd's committal hearing. Prior to this he had given consistent accounts although they were not as detailed. Webb told the Magistrate that on 22 April 1982 he received a telephone call from Williams. As a result of that it was planned to go to Stanthorpe the following day. The next day Dodd advised him that he had been in touch with the person who had the tape and that he was prepared to go and get it. Dodd stated that he did not

want to be followed and if the police tried to follow him he would not bring the tape back. He stated he wanted to keep the man's identity a secret. Just shortly before they drove into the township of Stanthorpe Dodd told him that he had better hurry up as he had made arrangements to meet the person at midday. Webb asked him why he had not told him that earlier as it was only a short time to midday and they had a number of miles still to travel. Dodd told him that he just forgot. When they got to Stanthorpe Dodd left and came back to the police station about 1 o'clock with a sealed envelope. It contained the tape recording.

Webb gave evidence at Dodd's trial that Dodd telephoned him and advised him that they could go to Stanthorpe the following day. I do not think anything turns on this discrepancy. He repeated the conversation with Dodd which he had described at Dodd's committal hearing but on this occasion claimed that he had been told that the name was Barton. Before me he gave the same account as he did at Dodd's trial. For the reasons that I have already expressed I do not believe that the name Barton was furnished by Dodd at this time. I do not believe that Webb was attempting to mislead me or the previous court but that he had incorrectly recollected that day's conversation with Dodd.

I will return to how the tape recording found its way to Stanthorpe later in the report when I consider in more detail how the tape recording was made.

After Dodd returned with the tape recording Webb telephoned Flanagan who had remained in Brisbane. He asked him to make arrangements to have the tape recording played that afternoon. They then left Stanthorpe and came straight back to Brisbane and the tape was played in Dodd's presence on that afternoon at the Bureau of Criminal Intelligence. Flanagan had arranged a photographer and a technician to be present for the playing of the tape recording. Webb and Dodd signed the tape recording. Present in the room were the technician, John Neideck, who was a plain clothes Sergeant 2/c, Deputy Commissioner Duffy, Inspector Brian Murphy, who was in charge of the Bureau of Criminal Intelligence, Webb, Williams and Dodd. Flanagan was also present. Spires may also have been in the vicinity. Webb explained before me that when the tape was played he considered it was Saunders's voice. He stated that the only dissenter was Flanagan. In evidence before me Flanagan expressed the view that he had dissented at the time and had also told Webb some time later that he did not believe that it was Saunders's voice on the tape. He stated that when he first dissented no one else voiced agreement with his view and he assumed that they did not consider he was correct. Williams

could not recall whether there had been any dissent when it had been suggested it was Saunders's voice. However it was both his and Webb's recollection that he and Dodd had been standing some distance away at the door. That evening the tape recording was placed in the safe.

I should note at this stage that the original tape recording, envelope and accompanying letter were exhibited before me. The envelope was a standard white envelope with the following words written on the front:

To be only opened if something happens to me

On the back of the envelope the date "19-3-82" and Dodd's signature appeared written across the seal. Dodd's signature appeared once again below that.

The accompanying letter read as follows:

*Johnnie Dodd
19-3-82*

If anything should happen to me that is my death with out natural causes this tape is to be sent to the member of Parliment Mr Kevin Hooper of Inala so he can do with as he sees fit. It is a recording between Detective Constable Laurie Saunders of the Brisbane Task Force and myself.

I Johnnie Dodd have been doing undercover work for Laurie but I am serving my work with her as I suspected and now know that she is a crooked cop.

J. Dodd

There was a suggestion that surveillance should have been used to follow Dodd after he had left the Stanthorpe Police Station. I do not believe that Dodd would have allowed himself to be followed. At Dodd's committal hearing Webb stated that Dodd had told him that if the police tried to follow him he would not bring the tape back. I have no doubt Dodd did make such threats. He could not afford to be followed as it would have revealed that he did not have a genuine destination from which to obtain the tape recording. I recognise that covert surveillance is a very difficult exercise. Webb expressed this view and stated that it would have been impossible in a small town like Stanthorpe to have successfully discreetly followed Dodd. There is no evidence to suggest his observations were

inaccurate.

In her statement to the Commission Saunders stated that it was "strange" that Webb and Williams did not play the tape recording as soon as Dodd produced it to see if it appeared genuine instead of waiting till they returned to Brisbane before they played it. Webb explained that when he returned to Brisbane with the envelope containing the tape recording, the envelope and the tape recording were photographed and he believed fingerprinted. I found no evidence to support Webb's stated belief that the tape recording had been fingerprinted. The tape recording, the envelope in which it was contained and the accompanying note were all photographed. I do not consider there is anything strange in returning to Brisbane before opening the sealed envelope. Indeed if Webb and Williams had opened the envelope and attempted to play the cassette in Stanthorpe prior to photographs having been taken valuable evidence may have been damaged or destroyed.

In Saunders's statement she indicated that she found it curious that in all the statements prepared for her committal hearing there was no reference to the first trip to Stanthorpe on 15 April 1982. It is true that there was no reference to this trip in the statements of Dodd, Flanagan, Williams and Webb. This can be to a large extent explained by the fact that any discussions held on this day concerning Dodd would have been considered hearsay in any trial of Saunders. The Crown Prosecutor at Saunders's committal hearing and trial did not consider that the event was significant because he did not ask any questions about the first trip to Stanthorpe. Williams could not explain the fact that there was no reference to the first trip in his statement and Webb put it down to his workload. Dodd stated in his statutory declaration to the Commission that he was not told to exclude it from his statement. At Saunders's committal hearing Webb volunteered that he had been to Stanthorpe with Dodd on three occasions before he obtained possession of the tape. This was inconsistent with any desire on the part of Webb to hide the fact of previous trips with Dodd to Stanthorpe. I am satisfied that there was nothing untoward in the non-disclosure.

At Saunders's trial Webb was asked whether he did in fact take three trips to Stanthorpe to get the tape recording. He explained that he had two actual trips to Stanthorpe but on the first occasion that they went there Dodd left twice to go away for the tape. He conceded that he had made a mistake when he had said at the committal hearing that he had made three trips to Stanthorpe to get the tape. I am satisfied that only two trips were made to Stanthorpe by Webb in the company of Dodd and I am sure that

he made an innocent error when he claimed in the committal hearing that he had been on three occasions to pick up the tape recording. I imagine another source of confusion for Webb when he originally answered the question would have been the fact that on 6 April 1982 he and Flanagan had gone to Stanthorpe to make inquiries at the wineries there. The trip to the wineries had not been referred to in any of his statements because as he explained to me there was no evidentiary value in it. Webb explained to me the reason that he went to Stanthorpe on this occasion. He stated that around this time he and Flanagan had discussed how incredible it was that so many people had been to Stanthorpe. He referred to Dodd, Spires, Bernie Hannigan, Helena Dodd and Tutt. He told me that he considered that there was a possibility that Saunders may have signed one of the visitor's books at one of the wineries around this period which would have established that she had been there as well.

In Saunders's statement to the Commission after referring to Webb's evidence at the committal hearing to the effect that he had taken three trips to Stanthorpe the following appeared:

This is especially significant when Wills, in his evidence at Dodd's trial at page 188 of the transcript, states that he spoke to Dodd about the tape whilst in Boggo Road after the trip to Stanthorpe. Unless this is a reference to a time when Dodd was imprisoned much later, it can only be a reference to Dodd being taken to Stanthorpe and returned to prison. This is, of course, inconsistent with Dodd being on bail after he picked up the tape.

And in the next paragraph of her statement to the Commission the following appeared:

It is interesting to note that at page 183 of the transcript of evidence of Dodd's trial, Wills says that he believed that Dodd's had spoken to him before the first trip to Stanthorpe informing him that the tape contained the voice of a 'bikie chick or some bird he knew that was up at Stanthorpe or something.' This would seem to suggest that a tape had already been made at this stage.

In Wills's evidence at Dodd's trial it was clear from the transcript that he had a very poor recollection of the events to which reference was made in Saunders's statement.

I have no doubt from Wills's evidence at Dodd's trial that he had the discussion concerning the tape recording with Dodd in the watchhouse on 15 April 1982 after Dodd had spoken to Williams and Webb but before either of them had been released on bail in the afternoon. Before me Wills confirmed that the discussion concerning the tape recording occurred in the lock-up at Cleveland. He, like Dodd, had to appear at the Cleveland Magistrates Court on that day as they had been remanded to that date on 29 March 1982. Both Dodd and Wills were granted bail on 15 April 1982. There was no opportunity for Dodd and Wills to discuss it at a later stage in Boggo Road unless of course it was when Dodd returned to jail on 7 October 1982 to serve his sentence for the offences for which he was charged on 26 and 27 March 1982.

In any event Wills did not say at Dodd's trial that as a matter of fact Dodd had told him a tape recording had been made. He left open the possibility that Dodd had advised him that he was going to make a tape recording some time in the future. I do not see there is any significance in this evidence.

10.8 The transcription of the tape recording on 27 April 1982

After the tape recording had been played at the Bureau of Criminal Intelligence on 23 April 1982 it was placed with a copy which had been made by Neideck, the envelope in which it had come and the accompanying letter in the safe at the Internal Investigation Section office. On 27 April 1982 Flanagan and Webb returned to the Bureau of Criminal Intelligence and with Dodd and Spires and an officer from the Crown Law Office, Lawrence John Ryan, spent the rest of that day attempting to transcribe the conversation on the tape recording. A transcript was finalised and signed by those present; Dodd, Ryan, Webb, Flanagan, Inspector Brian Murphy, Neideck, Spires and the typist, K A Leask. At Saunders's trial Webb conceded that the tape recording was of very poor quality and had to be played and replayed over a number of hours. The conversation on the tape recording lasted only about three minutes.

In a statutory declaration to the Commission Ryan stated that he was a Crown Prosecutor at the time. He had been assigned to attend at Police Headquarters to act as an independent person during the transcription of the tape recording. He stated that he could not recall any conversations which took place concerning the identity of the voices on the tape. He stated that he could not recall anything about the police present on that day that was out of the ordinary. He added he could not recall the behaviour of any of

those persons that caused him to have any concern. He explained that he was not asked for any legal advice by the police and did not give any. As he did not know the parties involved he could not give an opinion as to the identity of the voices on the tape.

Prior to Flanagan attending at the Bureau of Criminal Intelligence on that morning he had received a telephone call at 9:05 from Saunders's solicitor, Herbert QC, who complained about articles in The Sunday Sun on 25 April 1982 and in The Australian the following day. The articles alleged that a top level investigation was underway into allegations that a policewoman had plotted with a criminal to murder a senior Queensland policeman. The article in The Sunday Sun alleged that it was intended to ambush the officer, kill him and have his body dumped in the sea. There were a number of other allegations which could only have referred to Saunders. A number of the allegations were reported inaccurately.

Webb told me that when the articles were published he and Flanagan were furious. Webb stated that he later made enquiries with Brian Bolton, the author of the article which appeared in The Sunday Sun to ascertain his source but he would not reveal it. Webb did not know who was responsible.

In her statement to the Commission Saunders stated that she was told by Hooper, who she claimed had many contacts at The Sunday Sun, that the information had come originally from Tony Murphy. Saunders stated that this was later confirmed to her by Rick Allen of The Sunday Mail. It is unnecessary for me to determine who was the source of this article but I must say that in view of the inaccuracies in the report it would seem to me that the source was someone quite removed from the investigation. I should note that there was a further article the following day in The Telegraph.

10.9 Dodd further interviewed on 28 April 1982

Dodd was again interviewed at the Criminal Investigation Branch at Brisbane on 28 April 1982. He furnished two statements on this date. Reference to these statements has been made on a number of occasions previously in this report. It was in these statements that Dodd for the first time related his allegations concerning the Tucker Furniture Factory and the attempted conspiracy to murder Lobbeiger. He also described in some detail what he claimed were the events of 19 March 1982, the date which he nominated as the one on which he had recorded his conversation with

Saunders. One of the statements also referred to instances of harassment of Lobegeiger and Bull which I have already mentioned. This statement also made reference to the documentation relating to the priest who had been charged with drink driving and the senior officer who had been asked to resign his commission.

It would seem that whilst Webb was with Dodd when these two statements were prepared Flanagan was with Lobegeiger obtaining a statement from him at the Internal Investigations Section. It was in this statement that Lobegeiger first recorded his account of events at Gatton in February 1982. It was immediately before this statement was taken from Lobegeiger that both Albert Pointing and Flanagan observed that Lobegeiger was very much ill at ease and appeared to be terrified of Saunders. I have already made reference in some detail to this matter earlier in the report.

10.10 The arrest of Saunders on 29 April 1982

Albert Pointing and Webb gave evidence that on the morning of 29 April 1982 they had a meeting with Murphy and Flanagan concerning the investigation. Murphy and Flanagan had no recollection of this meeting although they did not deny that it had occurred. Murphy suggested that it may have been Inspector Brian Murphy who had been present but Pointing was adamant that it had not been. Pointing suggested that the discussions centred around the charges to be preferred. Webb stated that Saunders had been granted six or seven weeks' recreation leave and it had been decided that they may not be able to interview her for quite some time so it was imperative to reach her that day. I have little doubt that in light of Saunders's arrest later that day that at least some of the conversation revolved around the charges to be laid against her.

Clearly by this stage it had been determined that Saunders would be charged. Although both Flanagan and Webb gave evidence before me that they had determined to charge her prior to the receipt of the tape recording from Dodd I have no doubt that Hannigan's statement, the receipt from Dodd of the tape recording and the documentation concerning the priest and the senior officer on the Gold Coast, coupled with the terror shown by Lobegeiger the previous day, were the catalysts for the decision to charge her as quickly as possible.

At 2 p.m. Flanagan, Webb, Williams and a Detective Senior Constable Vicki Greenhill went to Saunders's residence. They were advised by Saunders's mother that she was not at home. Saunders stated to me that

she was in fact home but had given instructions to her mother to tell the police that she was not. Having failed to locate Saunders at her residence the police officers went to the Upper Mt Gravatt Police Station where they telephoned Herbert QC, Saunders's solicitor. They then proceeded back to the Internal Investigations Section where they received a telephone call from Herbert QC. They all proceeded to the offices of Alex Mackay and Company, Solicitors at Toowong and took up with Herbert QC and Saunders, who had recently arrived. Garry Hannigan was also present in his capacity as a member of the Executive of the Queensland Union of Employees. According to Webb they were to question Saunders but they were told that she would not answer any questions. Flanagan claimed that he was not present for any discussions and Williams claimed to have been waiting outside the office or on the footpath. In his statutory declaration to the Commission Herbert QC stated that he had no recollection of any police officer asking to interview Saunders prior to her arrest. He added however that if such a request had been made his advice to Saunders would have been to the effect that taking part in the interview would not have prevented her being arrested and she had nothing to gain by participating in such an interview. He concluded that he would not have recommended that she voluntarily participate in such an interview.

Saunders was subsequently arrested and charged by Webb with stealing the firearms from Coomer's vehicle, attempting to procure the theft of the Tucker payroll and attempting to procure Dodd to conspire with another to murder Lobegeiger.

Saunders suggested that she was only aware of police officers having been charged by way of summons rather than being arrested in the past. The watchhouse keeper at the time of Saunders's arrest, Senior Sergeant Mervyn James Carmody, gave evidence before me that in the past police officers had been arrested. This view was shared by the Charge Sergeant on the night, Lyle Patrick Pratt. In any event there would not be too many instances of one police officer having been charged with conspiring to kill another. Carmody had never heard of a police officer having been charged with a similar offence. I have little doubt that Lobegeiger's state of terror the previous day would have had some effect upon the police officers' decision to arrest her rather than charge her by way of summons.

In Saunders's statement to the Commission she stated that Greenhill had subsequently told her that she had something to tell her about her being arrested but never was able to get back to her. Greenhill furnished a statutory declaration to the Commission. She denied that she made any such comment to Saunders. Although she only had limited involvement in

the investigation in that she was present on the day of her arrest and conducted a limited body search of Saunders, she stated that she could not recall any action on the part of any police officer that caused her to have any doubts as to the propriety of the investigation.

10.11 Saunders refused bail

It is unclear whether the question of bail was raised at the offices of Alex Mackay and Company. There is no evidence before me that it had been raised but by the same token there was no evidence that it had not been raised.

After Saunders was arrested she was taken to the police depot where her departmental firearm was recovered. She was then taken to the watchhouse. Herbert QC was not present when they first arrived. From a letter sent to the Commissioner of Police by Herbert QC on 30 April 1982 it seems that Herbert QC arrived at the watchhouse at 5.20 p.m.. He had no present recollection of having attended the watchhouse on that evening. According to the watchhouse charge book she had been charged at 4.51 p.m.. It is clear that the decision regarding bail was finalised before he had arrived. This was confirmed by the contents of the letter. Saunders stated that she was in such "a state of total shock" and she had little recollection of the events of that night. In her statement to the Commission Saunders stated:

I could not really understand what was happening to me.

In evidence before me Webb gave the following account of his arrival at the watchhouse:

When we arrived there, everyone knew we were coming. You could cut the air with a knife at the watchhouse and I, then - I was concerned at her state of health. I had a conversation with Murphy and I endorsed the watchhouse book that she was an unacceptable risk for - to be released on bail and I - I told the senior sergeant that, in my opinion, she was suicidal.

When Webb was asked whether he had genuinely held the opinion that she was suicidal he responded that he had.

After Webb had stated that he had genuinely believed Saunders was

suicidal the following exchange took place with Counsel Assisting:

And what were the grounds for forming that opinion, so far as you were concerned, Mr Webb?---It had happened to me once before with a young woman.

Yes, but I was thinking happening in this case?---In this case, she was very highly emotional. She was in a tremendous state of shock. I don't think she believed what was going on and I thought that she could do anything.

Yes, all right. And you, then, were present the next day when she was given bail, were you?---Yes. She was a lot more composed the next morning.

And later in the transcript the following exchange between Counsel Assisting and Webb appeared:

Did you take any extra steps when it became a question of bail for Sergeant Saunders to advise the watch house staff, for example, that you believed she was suicidal and they should check on her or - - -?---I told a senior sergeant that in my opinion, she was suicidal.

Yes. As far as you were concerned, that is a matter for him then?---That was a matter for him, from there on.

I see. You did not see yourself as having necessity to get the, for example, the government medical officer down to check or anything like that?---That wasn't my job; it was the watch house keeper's job.

And who did you say that you rang?---Murphy.

You did ring Murphy. All right?---Yes. He said I rang him at home, but I rang him at his office.

Yes?---It was after 4, or 4.30. Everyone had gone, but I knew he'd still be in his office, and I rang him.

And - was the point of your phone call that you believed she was suicidal and to get his approval to take the course you did?---Yes.

You were not asking him his view as to whether she was suicidal or not, I mean?--No, I was telling him that in my opinion, she was suicidal and should not be allowed out on bail, and he agreed with me.

In examination of Webb by Fleming QC the following exchange took place:

FLEMING QC: What information did you have about the fact that Lorrelle Saunders might suicide if she was let out of gaol on bail on the day you arrested her?--She was in a very, very distressed state. She was in a state of shock.

Yes?--Flanagan had told me the story that she had threatened to cut her wrists in Lobegeiger's drive-way.

...

And - but looking at her myself, I - I felt that she was suicidal. I felt very strongly about that. She gave every appearance to me that she could - she could do anything. I had a very bad experience before and I didn't want another one.

FLEMING QC: Yes. Well, now, she had her own solicitor with her, did not she?--Well, he was - he was on his way. Whether he was - he went there independently of us.

Oh, yes, but he was at the watch-house, was not he?--He was there at one stage, yes.

He was there when she was charged?--I don't know whether he was or not. There was a lot of activity in the watch-house that day, a lot of people there.

Yes?--And I can't say who was there and who wasn't.

And she was an unacceptable risk so far as you were concerned, even though she had her solicitor there, even though she had arranged the arrest?--Look, the one I had deeply embedded in me, the solicitor was the man -

and I will give you his name if you want it - who got her out on bail and I had to go out and cut her down where she hung herself in a woolshed.

You did not think to say anything except that she was an unacceptable risk for - - - ?---I told a senior sergeant in - in my opinion she was suicidal and I endorsed the book that she was unacceptable risk. I'm prepared to write down the name of the solicitor and - and the woman who died.

THE JUDGE: I do not think we need to write any names down.

FLEMING QC: But you just tell me why you thought she was suicidal?---Because of her hold - she was just stunned; she - she was in a - in a - in a frightful state. I don't think she realised what was happening to her. She was in a terrible condition.

You see many people like that, do not you, who are charged?---Not - not as - not as bad as she was that day. She was in a - she was in a shocking condition. I think the sergeant gave that evidence - the - at the watchhouse - the book sergeant that day. She was in a frightful state.

Webb had previously given evidence at Saunders's committal hearing in August 1982 of a female having committed suicide after he had released her on bail.

According to Flanagan he had previously received information from Lobegeiger that Saunders had threatened suicide by cutting her wrists in Lobegeiger's driveway. He stated that he and Webb discussed the matter and both agreed that they should oppose bail and have her remain in custody overnight until the following morning when she would be more composed. He denied the suggestion that there had been any direction from a senior officer to oppose bail.

Presumably Flanagan had received the information the previous day when interviewing Lobegeiger. The information did not appear in Lobegeiger's statement of 28 April 1982. It was recorded in his later statement of 7

May 1982. The relevant passage is set out below:

Between 1 pm and 2 pm on Tuesday, the 13 April 1982, I received a telephone call from the defendant at Surfers Paradise Police Station and she said to me, 'Allan, when can I see you?'

I said, 'What for?'

She said, 'I want to discuss this thing of mine.'

I said, 'I'm not interested in seeing you.'

She said, 'You soon find out who your friends are. I want you to have a look at my Record of Interview.'

I said, 'What for?'

She said, 'Oh well, I want some advice,' or words to that effect.

I said, 'If you get yourself into these things, that's your worry.'

She said, 'Anyway, they say there's nothing in it. I've got nothing to worry about.'

I said, 'Who said that?'

She said, 'Some Commissioned Officers.'

I said, 'Who?'

She said, 'I can't tell you. You can tell by the way the record went that it changed when I told Webb and Flanagan what I knew about them.'

She said, 'I'll come round and see you.'

I said, 'No way.'

She said, 'Will you come to my funeral?'

I said, 'What funeral?'

She said, 'If I commit suicide. What about if I did it in your driveway?'

That was the end of the conversation.

Saunders denied that this conversation with Lobegeiger had taken place. I reject the possibility that Lobegeiger was persuaded to include in his statement of 7 May 1982 a made up account of a threat to commit suicide by Saunders. On all the evidence Lobegeiger wished the matter to go away. He was not enthusiastic about charges being laid against her. I cannot accept that in these circumstances he would include a falsehood in his statement in relation to which he might have to perjure himself later when giving evidence on oath. It should also be remembered that Lobegeiger was suspicious that Saunders had been tape recording their conversations. He would hardly have risked committing perjury in relation to this conversation if there was a possibility that she had recorded the

conversation.

The watchhouse keeper, Carmody, stated that he was called over by Pratt, the Charge Sergeant, to speak to the arresting officer, Webb, concerning his attitude to bail. Pratt could recall no conversations with Webb or Carmody relating to bail. Carmody stated that prior to speaking to Webb, Webb made a telephone call but he did not know to whom. When Webb returned from having made his telephone call he was told words to the effect that Saunders was not to get bail as she was suicidal. In his statutory declaration Carmody stated that this was a direction from Webb. He also stated that he had considered her "entitled to bail."

The question of Carmody's role as watchkeeper that night had previously been raised in the letter by Herbert QC to the Commissioner of Police. It stated that when Herbert QC arrived he spoke to Carmody who told him that he had been:

instructed from higher up that she was not to be released that evening.

That letter stated that any such instruction to the watchhouse keeper was directly in breach of the provisions of the Bail Act and therefore unlawful. The decision to grant or refuse bail was for the watchhouse keeper and Herbert QC argued that his discretion had been fettered by the instruction from the senior officer. The letter sought an explanation of the situation. The matter was investigated by Albert Pointing. He interviewed Carmody and prepared a report dated 20 May 1982 addressed to the Commissioner. The relevant part of the report is set out below:

I have interviewed Senior Sergeant Carmody and he informed me that the officer 'higher up' to whom he referred when speaking to Mr Herbert, was none other than Inspector Webb.

He stated that he was not 'instructed' by Inspector Webb to refuse bail to Saunders, but was informed by him that she was an unacceptable risk to be released on bail.

He informed me that the Inspector told him that, when he was inquiring into the question of granting bail, as required by him by virtue of Section 7(1)(a) of the Bail Act.

On being advised by Inspector Webb that Saunders had

allegedly threatened to commit suicide, and considering the seriousness of the charge of attempting to procure Dodd to conspire to unlawfully kill, preferred against her, the Senior Sergeant was satisfied that Saunders was an unacceptable risk and he therefore refused bail.

He informed me that he made this decision on his own initiative and was most definitely not 'instructed' in his decision making by anyone. He said that he did not believe that he told Mr Herbert that he had been 'instructed,' but if he did so, it was merely a bad choice of language.

Carmody was questioned about the conversations recorded in the report but he had no present recollection of them or of having spoken to Herbert QC at the watchhouse.

Before me Carmody accepted that Webb had passed this information to him so that he, in his capacity as watchhouse keeper, could determine the question of bail as required by section 7(1) of the *Bail Act*. Carmody stated that as Webb endorsed the watchhouse charge book on his request he became satisfied that she should not be released on bail. In the watchhouse charge book recorded in Webb's handwriting was the following endorsement:

In my opinion this person is an unacceptable risk to be released on an undertaking.

Carmody explained that if Webb had not endorsed the watchhouse charge book to this effect he would have released Saunders on bail. He stated he regarded this endorsement in effect as evidence from Webb of his stated view that she was an unacceptable risk. Strangely enough Carmody expressed the view that if Saunders had been a civilian he would have automatically refused her bail in the same circumstances unless fairly strong representations had been made on her behalf by her solicitor and guarantees made that she would be cared for and looked after. This view by Carmody seemed to suggest to me that he considered the fact that Saunders was a police officer was a relevant consideration for the purposes of bail. It also seems to me that he must have had some concern for Saunders's well-being as he would not have volunteered that he would have required the solicitors to make guarantees that the civilian who was released would be cared for and looked after. He had told me he did not consider her suicidal although in his opinion she was greatly stressed and

not in a condition to speak.

In questioning of Carmody by Quinn, Solicitor for Webb, he conceded that it was perfectly normal procedure that a police officer share with the watchhouse keeper or the charge sergeant all relevant information concerning the question of bail as the watchhouse keeper would normally be ignorant of all the facts. It followed that it was normal for watchhouse keepers to heed the advice of the arresting officer.

In questioning by Carew on behalf of Saunders, Carmody explained that when he first spoke to Webb, Webb did not object to bail. He only objected to it after he made the telephone call. I understood this to mean that Webb did not voice an opinion on bail until after he had made the telephone call rather than Webb having agreed to bail beforehand and then changed his mind after the telephone call. There is certainly no evidence in support of this latter scenario.

Carmody stated that the Police Department was out of control at the time that Saunders had been charged. He was questioned about this comment by Carew:

CAREW: Mr Carmody, you mentioned when you were being asked questions before by Mr Hampson, that at the time that Lorrelle Saunders was arrested, the police department was out of control?---Yes.

And - - - ?---Well, yes.

- - - you said that the attitude was - I am - I have just taken notes, so I do not know whether these are your exact words; but I have written down that you said that: 'The attitude was that we'll throw someone to the wolves'?---Yes.

'Then they'd go about their business'?---Yes.

What do you mean by that - what did you mean by that?---Well, if somebody's - there is a sort of a clique in the police force and somebody's - if they decide somebody's playing up or they want to distract attention from something, they just throw somebody - they just arrest somebody or sack somebody.

You said the - - - ?---Well, it's just a term that's used in the police - - -

Yes?--- - - - we'll throw someone to the wolves and let them sort themselves out, yes.

And that would be - that could be done and was done when the administration wanted to distract attention from something else, is that your experience?---Sometimes, sometimes, yes. I'd say so, yes.

And you said: 'The administration would single a person out' for that reason?---Yes.

That correct?---Yes.

Now, you also said that when Lorrelle Saunders was brought in by Mr Webb and others, under arrest, that it 'just looked wrong' to you at the time?---Yes.

Now, do you mean that it looked wrong because you thought that she was one of these police officers being thrown to the wolves?---No. It's just a general feeling that I - I get over the years, that's all.

Right?---I wouldn't say it's particularly her, no, I wouldn't say that. It's just a general feeling.

But you had a - you had a feeling that it looked wrong at the time?---Yes.

Are you - you were - how long had you been a - at the City Watchhouse?---About 9 months - 12 months.

Had you - had you worked there before?---I had been at the Stanley Street Watchhouse, but that was - - -

For how long?---That was back in 1974 for about 2 to 3 years.

So you had a fair amount of experience at watchhouse work?---Yes.

Now, you also mention that you thought - perhaps this was also why it looked wrong perhaps. You said that: 'Lorrelle Saunders wasn't arrested on a warrant' and that 'she hadn't been suspended when she was arrested'?--Yes.

That you 'would have expected that to have occurred'?--Yes.

Was it your experience that police, in fact, when they were charged with serious offences, were usually charged on a complaint and summons?--No, not for criminal offences, no.

I must say that I had some difficulty understanding Carmody's reasoning. In any event he seemed to suggest that he did not believe that Saunders was one of those police officers "being thrown to the wolves." I should add that I found the whole of his evidence difficult to fathom and somewhat contradictory in places especially in relation to whether he had made up his own mind concerning the question of bail or whether he had acted upon what Webb had told him without exercising his own discretion. He explained that he considered that she should have been arrested by warrant and therefore the question of bail would not have arisen. He expressed the view that things seemed to act precipitately in relation to her charges. Of course he was not in a position to know all the circumstances leading to her being charged.

Murphy acknowledged having received a telephone call from Webb on this day. He stated that Webb assured him that if she got bail that night one of two things would happen: either she would shoot herself or she would shoot Lobegeiger. He stated that in those circumstances he thought it was prudent that bail should be opposed. He could not recall any statement by Webb that she was disturbed or stressed. Murphy stated that he believed Webb was genuine in his concerns that Saunders if released would either shoot Lobegeiger or herself.

Although Webb had not told me that he had a fear that she would kill Lobegeiger if released, in his evidence at Saunders's first committal on 10 August 1982 when asked on what basis he considered that she was an unacceptable risk to be released on an undertaking he told counsel for Saunders that he feared she could kill someone else and herself. He did not give any evidence relevant to this issue at Saunders's trial.

According to Garry Hannigan who was present at the watchhouse at some time that evening he had a fairly aggressive discussion with the watchhouse keeper after he had been advised that Saunders was not to be granted bail. Hannigan stated that he telephoned the Commissioner's office and spoke to Inspector Greg Early and complained bitterly about the fact that Saunders was going to be held in custody overnight. He believed he may have telephoned Murphy that night after Webb and Flanagan told him to take the question of bail up with Murphy. Hannigan stated that in retrospect he did not think the question of bail was left to Webb and Flanagan but he did not consider that this was irregular as one would expect that they would have sought higher authority because of the fact that Saunders was a police officer. Hannigan was unable to recall the reasons advanced for bail having been refused.

There is no doubt in my mind that Murphy was consulted that evening. I am satisfied that he did no more than give approval as a very senior officer to the decision that Webb and Flanagan had already made to oppose bail. I am also satisfied that the decision was made on good grounds. The previous day both Albert Pointing and Flanagan had seen the extraordinary display from Lobegeiger who seemed terrified of Saunders. This no doubt played upon Flanagan's mind. Flanagan also had the information from Lobegeiger that Saunders had threatened suicide. Armed with this information it would have been difficult for Webb and Flanagan to have Saunders released on bail at this time especially when she was in such a state as undoubtedly she was. Although Carmody did not consider that she was suicidal Saunders herself stated that after her arrest and prior to her committal she should have obtained psychiatric assistance because of her "stress," the "emotional state" that she was in and the "paranoid state" in which she found herself. In Flanagan's and Webb's minds Saunders's state would no doubt have been interpreted more seriously because of the information received from Lobegeiger. In these circumstances I can understand why the decision to release her on bail was left for the Magistrate to consider the following morning. I accept that it was not Webb's obligation to obtain the services of a Government Medical Officer to examine her. Carmody, on whom the obligation lay, considered she did not need one.

Further support for my conclusion that Flanagan, Webb and Murphy did not act improperly can be found in comments by Carmody and Pratt, both experienced watchhouse keepers. Carmody stated that if Saunders had been a civilian he would not have granted her bail in the same circumstances because of the seriousness of the offences. Pratt in his evidence stated that from his experience as a watchhouse keeper it would

have been unusual for a person charged with the offences that Saunders had been charged with to have been released on bail. Although he stated that he knew of no other police officer to have been refused bail he would not have released Saunders if the decision had been left to him.

A comment by her partner Carnes also supports my conclusion. In his statutory declaration to the Commission Carnes stated:

When I heard that she was not released on watchhouse bail when she was arrested because she may have been suicidal, I could believe it if she was in a similar state then as what I had seen her in at the house.

I must say that the fact Webb had to telephone Murphy on that evening to seek his advice suggests to me that there had not been a plan to "get" Saunders or to make things difficult for her beforehand. If that had always been the intention of the police officers involved then to my mind there would have been no need to telephone Murphy from the watchhouse. It would have been previously determined that she was to be arrested and left in custody. I am fortified in this view by the fact that in Lobegeiger's initial statement to Flanagan on 28 April 1982 there was no reference to the threats of suicide. This only had relevance to the issue of bail. It appears that Flanagan, not having considered the question of bail when he spoke to Lobegeiger the previous day, did not have Lobegeiger include the threat of suicide in his statement although Lobegeiger had mentioned it. After it had become relevant it was included in Lobegeiger's statement of 7 May 1982.

10.12 Saunders appears before the Magistrates Court on 30 April 1982

On the morning of 30 April 1982 Saunders was taken before the Magistrate at the Brisbane Magistrates Court on the three charges which had been laid against her by Webb the previous day. According to Saunders there was a mass of people there and it was a huge media event. To my mind it was not surprising that the media had turned up in force; after all it was not an every day occurrence that a police officer was charged with attempting to procure the murder of a senior police officer.

The court records suggest that although bail was not opposed before the Magistrate conditions of bail were sought. At Saunders's committal hearing in August 1982 Webb agreed with counsel for Saunders that bail had not been opposed. He gave evidence there that there had been a

different state of affairs in the morning as Saunders would have been "at her lowest ebb and likely to do anything" the previous night. In any event Saunders was released on bail after signing three undertakings as to bail, one in respect of each charge. In relation to the theft of the firearms charge her bail was conditioned that:

she refrain from making contact with the person Roy Alfred Coomer.

In relation to the Tucker Furniture charge her bail was conditioned that:

she refrain from making contact with the person Douglas Mervyn Dodd.

In relation to the charge concerning Lobegeiger her bail was conditioned that:

she refrain from making contact with the person Allan Lobegeiger.

In each case the matter was adjourned for mention until 14 May 1982. On that date she was further remanded to 9 August 1982 for her committal. Her undertakings as to bail were enlarged.

CHAPTER 11

THE FABRICATED TAPE

11.1 The tape recording furnished by Dodd found to be fabricated

Although Dodd did not admit the tape was a fabrication until he gave his testimony before me there had been a substantial amount of evidence beforehand which suggested it was. The first surfaced on the morning of 5 August 1983. Saunders's second trial concerning the charges involving Lobegeiger had commenced on 2 August 1983 and two days of legal argument had taken place. On 4 August 1983 a voir dire, or a trial within a trial, commenced to determine the admissibility of the tape recording prior to it being placed before the jury. The Trial Judge had to be satisfied that there was evidence upon which the jury could rely concerning the originality and history of the tape as well as the identification of the voices on it. That is not to say that the Trial Judge had to be satisfied that it was a genuine tape but rather that there was evidence upon which a jury could be satisfied that it was a genuine tape. Dodd commenced to give evidence shortly after midday on 4 August 1983 and was still giving evidence when court was adjourned at 4.30 p.m.. The following morning before court commenced at the request of defence counsel both sides of the tape recording were played in their entirety on the court's equipment. Those in the court room confirmed that the only conversation on the tape recording was that which purported to be the conversation between Saunders and Dodd. This took a few minutes at the beginning of the first side. For the duration of the first side and all of the second a number of songs had been recorded seemingly from the radio. In between a number of the songs there were references to Radio 10 in the form of a jingle. The instructing solicitor for Saunders heard the reference to Radio 10 and recognised that that particular call sign did not come into operation until some time after 19 March 1982, the date which Dodd had claimed that the recording had been made. The solicitor sought confirmation of this from Radio 10 and was told that it had first been broadcast on 27 March 1982 at 1 p.m.. As Dodd was in custody on this date and as there had been no suggestion that Saunders had met with Dodd after their confrontation at the Cleveland Criminal Investigation Branch on the evening of 26 March 1982 it was concluded that the tape recording could not have been made until after his release on bail on 15 April 1982. In these circumstances the Crown Prosecutor quite properly submitted before the Trial Judge that:

the only explanation is that the tape was certainly not

made at the time and in the fashion deposed to by Dodd and appears to be quite clearly a fabrication.

Dodd returned to the witness box and further questioning about the tape recording commenced. He gave evidence that the tabs on the tape which precluded further recording on it were removed by the police on the day that the tape was given to them. It was pointed out to him that in evidence the previous day he had stated that he had taken them off on 19 March 1982 after recording the conversation with Saunders. The Judge then indicated to Dodd that he was not obliged to answer any further questions because the answers might tend to incriminate him. On this basis Dodd refused to answer any further questions. As the evidence on this charge rested solely on the credit of Dodd and the tape recording the Trial Judge directed a verdict of not guilty in relation to the charge. The Crown had sought to enter a nolle prosequi on the charge but the Trial Judge did not agree to that course of action.

11.2 The making of the fabricated tape

Menary and Pointing as part of their investigation in early 1984 to establish who had been responsible for the fabricated tape interviewed Spires. In her record of interview of 15 March 1984 with Menary she denied that it had been her voice on the fabricated tape. Spires supplied to Menary a specimen of her voice for comparison purposes. She offered no other assistance to police at this time. In a further record of interview taken a short time later on 9 April 1984 she was of far more assistance to the police. She claimed to have had no part in its preparation but she revealed that the name of the female person on the tape was Blanche. Although she was unable to give Blanche's second name she managed to give a sufficient description of her and the house at which she stated that the tape recording had been made for police to identify the person and the premises. She explained that she had gone to a residence in Lovell Street, Woodridge with Dodd one evening. She explained that Dodd had prepared a written script for Blanche to read on to the tape. She stated that Blanche and Dodd went into a bedroom near the lounge room and made the tape. She claimed that although she had been in the room beforehand she had not been present when the tape was actually made. She stated that Blanche had known what the tape was for as Dodd had told her he was going to use it in court. She stated that after the recording had been done they returned home and arrangements were made for Max Glanville, at whose home they were residing at the time, to take the tape to Stanthorpe.

In evidence before me Spires gave a similar account to that which she had given to Menary in 1984 and subsequently at Dodd's committal hearing and trial. She confirmed that the tape recording had been made at Lovell Street in a bedroom. As there had been a background noise on the tape recording she was asked by Counsel Assisting concerning the possible source of this noise. She stated that there may have been an electric fan in the vicinity. She added that on the other side of the bedroom wall there had been a fish tank with an electrically driven pump or filter running.

She testified that Dodd had placed the music on the tape recording after the conversation had been recorded. In her statutory declaration to the Commission she had stated that the music may have been taped in their bedroom at Glanville's residence. In this declaration she conceded that she was probably present when the music was recorded on to the tape. In evidence before me she was less sure. Although she could not precisely date when the conversation had been recorded she was sure it had been made between the two trips to Stanthorpe. Spires stated that she had no knowledge of any police involvement in the making of the tape. As far as she was aware it had been Dodd's idea alone.

Armed with information from Spires, Pointing and Menary carried out further investigations which led them to interview Blanche Thompson. Thompson was interviewed in the presence of her solicitor on 4 May 1984. She denied any involvement in the making of the tape. At the interview she provided a sample of her voice on a tape recording to enable comparison tests to be made between her voice and the female voice on the tape produced by Dodd. She was not called in any subsequent proceedings until she was summoned to appear before me.

In evidence before me Thompson confessed that she had played a part in the making of the tape recording. In relation to her evidence Thompson was directed to answer the questions by me and therefore the provisions of section 3.24 (now section 96(1)) of the *Criminal Justice Act* were invoked. This meant that any admissions that she made could not be used against her in any subsequent criminal trial with the exception of a charge of perjury.

Thompson admitted that hers had been the female voice on the fabricated tape. She stated that she met Dodd and Spires for the first time at the Balmoral Hotel some time in 1982. During that meeting Spires remarked that she sounded very much like Saunders. She stated that she was asked to make a tape because her voice resembled another woman's voice. This request had originally come from Spires when the two of them were at a

table by themselves. Some time after, Dodd spoke to her about making a tape recording with him. She stated that she told Dodd that she required something from him in order for her to provide her assistance. She indicated to Dodd that she had been recently raped by two men and hospitalised and she wanted them bashed. Dodd agreed to do so although as it turned out he did not carry out his end of the bargain.

Thompson explained that she, Dodd and Spires went to a bedroom in the house at Lovell Street. There they all remained for the duration of the recording process. Dodd had a tape recorder and Spires had a handwritten transcript. She stated that Dodd had told her that the handwritten transcript had come from a genuine tape recording which he had secretly made of his conversation with Saunders at a park. As far as she could recall she asked Dodd why he did not use the original tape and he responded that it was hidden in Stanthorpe and he could not get to it. Dodd also told her that he could not use the original tape because it contained incriminating evidence against him in another matter. She stated that the tape recorder was turned on and she and Dodd read their parts on to the tape. She explained that the first couple of efforts were not successful so they rewound the tape and tried a further two or three times before they were satisfied. According to Thompson Spires acted in effect as director. She stated that there had not been an electric motor in the room although there had been a ceiling fan in the adjoining lounge room. From her recollection that had not been switched on. When asked whether there had been a fish tank near the room she replied that there had been a fish tank in the house at times but she was not sure whether there was one on that occasion.

Thompson stated that apart from Dodd's and Spires's approach to her there had been no-one who had influenced her to make the tape or to keep quiet about the tape after it had been made.

Counsel Assisting played the original fabricated tape to Thompson. She stated that from her recollection the tape recording did not sound the same as the one that she had originally made. She stated that she could not recall there having been any interference noise on the tape. I would not have expected that after so many years Thompson would recall whether or not there had been background noise and if so the nature of it. There is little doubt that the most pressing thing on her mind was the fact that she had played a part in the fabricated tape. The background noise would not have been a relevant issue to her. She was definite that there had been no music on the tape. She was unable to say whether or not the voice on the tape played by Counsel Assisting was her voice. I do not find this particularly surprising as I understand most people are unfamiliar with the

sound of their own voice when it is played back to them.

I was impressed by Thompson as a witness. I am confident that she was doing her best to recall the events in order to tell the truth.

When Dodd gave evidence before me he substantially confirmed Thompson's account including that concerning the bargain that was struck for her services. He departed in one significant respect from the account given by Thompson in that he claimed that Spire's had only been in the room for a short time.

On Dodd's account before me he left the home at Lovell Street with the tape and the tape recorder and returned to Glanville's place. According to Dodd the tape recorder was one of Alan Glanville's machines. Alan was the son of Max Glanville. After he had returned to Glanville's house he recorded some radio music on to the balance of both sides of the tape recording to give the impression that it had been an old tape. He stated that he added the music on 23 April 1982.

At this stage I should refer to a submission made by Carew and Company concerning a paragraph of Dodd's statutory declaration to the Commission. That paragraph stated:

I deny that I have ever told anyone that the tape was a fabrication but that a conversation had been originally recorded between me and Saunders, the recording of which was so poor that a new one had to be made. I further deny that I ever told anybody that I had to make a number of tapes with different women's voices on them so that I could select the best one for the purpose of giving it to the police. Neither this conversation, nor the facts alleged in this conversation, occurred.

In relation to this paragraph Carew and Company submitted the following:

Paragraph 12.4 contains an interesting denial. Where did this allegation come from; again we were refused a copy of the tape recorded interview so we are unable to explore this matter further.

It is implicit in this submission that there was some mystery in relation to the denials in the statutory declaration and the refusal by the Commission to allow access to the tape recorded interview. I have already discussed

the Commission's attitude to the release of tape recorded interviews. Carew and Company's submission simply misstates the true situation. Access would have been available at the Commission's premises if it had been sought. Any failure to explore the matter further had nothing to do with the Commission. In any event the matter could have been pursued with Dodd in the witness box. The contents of his statutory declaration had been made known to Carew and Company prior to Dodd giving evidence.

In relation to the question of where the allegation came from, a perusal of the statutory declaration dated 3 March 1992 of Helena Dodd tendered before me would have established the basis for the allegation that had been put to Dodd. A copy of this had been furnished with all other statutory declarations to Carew and Company. Helena Dodd's statutory declaration included the following paragraph:

After Doug had been charged with the perjury charge in relation to the taped conversation with Saunders I had further conversations with Doug about the tape. He informed me that he did tape the conversation with Saunders on that Friday night at Broadwater Park. He stated that he subsequently found that the conversation on the tape was rendered inaudible by the sound of Saunders vehicle that she had kept running whilst this conversation took place and also because he had hidden the tape recorder behind a log as he did not want Saunders to see it.

He then manufactured copies of that conversation using the same conditions as when he had originally recorded with Saunders however he positioned the tape recorder so that the noise of the vehicle did not interfere with the recording of the conversation. He stated that there were a number of practice tapes made involving Joselyn Spires and a number of other girls. I do not know the identity of these persons however I recall that one of them was named Thompson. He also stated that he made a number of tapes of the conversation at the park with different females and then listened to them to choose which was the best recording. As he had listened to a number of the tapes he was unable to recall which of the tapes he eventually choose to hand to police.

11.3 Glanville delivers the tape to Dodd in Stanthorpe

Dodd stated that he had made arrangements with Glanville to deliver the tape to Stanthorpe on 23 April 1982. He stated the arrangements were made the previous day. On the morning of 23 April 1982 he gave the envelope containing the letter and the tape recording to Glanville and he and Spires left the house. Some time later Dodd met Glanville at Stanthorpe, picked the envelope up from him and delivered it to Webb.

Maxwell David Graham Glanville first gave a statement to police on 9 March 1983. This was after Saunders's second committal hearing and before her first trial. Inquiries had previously been made by Webb into the person "John Barton" who Dodd had claimed at the committal hearing had been given possession of the tape recording after Dodd had recorded the conversation with Saunders on it. It will be recalled that Webb had pursued inquiries with Dodd on 21 December 1982 and 24 February 1983 whilst Dodd was in Boggo Road. The Prisoner Interview Book revealed that these inquiries centred around Barton and his supposed residence in Stanthorpe. It would seem that the inquiries had established that Barton did not exist and Glanville's name had been offered by Dodd as the person who in fact had been in possession of the tape recording. In the statement of 9 March 1983 which had been witnessed by Webb, Glanville stated that he had to the best of his recollection been handed by Dodd about two or three weeks before Easter 1982 a white envelope which was fairly thick containing something hard. He placed that envelope in the drawer of his bedroom. He claimed that about a month later Dodd asked him to drive to Stanthorpe with it. The trip to Stanthorpe could be fixed as having occurred on 23 April 1982 because of a traffic offence notice issued to him on this date. He drove there with Valma Knight who was a friend of his. He drove to a spot which had been marked on a map by Dodd and waited there. Dodd arrived and Glanville handed Dodd the envelope. Dodd then departed. He and Knight then returned to Brisbane. He claimed that at no stage did he look inside the envelope which had been sealed. Glanville gave similar evidence at Saunders's trial on 6 May 1983 and explained that when he drove to Stanthorpe he expected a solicitor to pick up the envelope.

As part of the investigation into the fabricated tape Glanville was again interviewed and he gave a statement dated 30 December 1983 in which he stated:

I now consider that Dodd may have given me the envelope about two or three days prior to the 23rd of April 1982.

He maintained the rest of his previous account. When Glanville gave evidence at Dodd's committal hearing on 13 August 1984 he reverted to the original account which he had given to Webb and at Saunders's trial. At the committal hearing it was pointed out to him that he had furnished a statement in which he had stated that the envelope had been given to him two or three days prior to his trip to Stanthorpe. He responded by saying that it could have been two or three days but he still felt that it had been several weeks before. He maintained this evidence at Dodd's trial. In his statutory declaration to the Commission Glanville declared that he now considered that it was possible that he received the envelope from Dodd two or three days prior to 23 April 1982. He explained his earlier inaccurate estimates had been caused by his confused state of mind at the time. He also claimed to have had memory problems due in part to his long term drinking habits.

Glanville was questioned by Counsel Assisting concerning this aspect of his evidence:

He gave you the tape, I suggest to you, just before you went to Stanthorpe on 23 April?---That's - that's what has got me a bit bothered. He - he - because - I'd have to say yes to that. Yes.

Okay. You do not have to do anything, except tell the truth?---No. Well, that is the truth. I was say yes to that because I'm pretty sure that is the truth.

Okay. And this business about 19 March, or some earlier date when you got the tape: that comes from the fact, I suggest, that Dodd said he wanted to make it look as though the tape had been made before he had been arrested and gone to the Cleveland Police Station?---Yes, I think that's correct.

Right. Okay. So therefore you had it in your mind that the tape was supposed to be made back in March even though he did not give it to you until April, because it was supposed to have been in existence before he was ever arrested?---That is - that is highly probable. That's where I've got that impression from, yes.

In examination by Fleming QC Glanville once again expressed doubts about his recollection of the timing of events.

I consider that Dodd handed Glanville the tape recording on 23 April 1982 after he had recorded the music on to the tape. This is confirmed by the evidence concerning the Radio 10 jingle to which I shall shortly turn. Glanville's previous accounts may well have been influenced by a poor recollection due to his consumption of alcohol but I consider a more realistic reason was the fact that he knew far more about the tape recording than he wished to admit. After all Valma Knight had been requested by Dodd prior to Glanville's Stanthorpe trip to feign Saunders's voice on a tape recording. According to Valma Knight this was done in Glanville's presence. He would have been well aware of Dodd's intention concerning the tape recording and the necessity to keep the truth from the police. I do not believe that he would have driven to Stanthorpe and waited for the arrival of an unnamed solicitor to whom to deliver the tape recording unless he had a full understanding of what he was doing and why he was doing it. His answers to Counsel Assisting regarding why he travelled to Stanthorpe for Dodd were most unconvincing. My conclusion concerning Glanville's state of mind is confirmed by evidence given before me by Spire's current husband, Grant Errol Stevens, who stated that he had been previously told by Glanville that Dodd had not made the fabricated tape before Dodd was released from prison but after. Stevens stated that Glanville had given him an account of events contrary to the evidence he had given in court in the early eighties. Stevens had also described meetings prior to earlier legal proceedings in which Glanville, Knight, Spire and he discussed events "to get their stories straight."

In evidence before me Glanville stated that the envelope which had been given to him by Dodd had no writing on the outside of the envelope as far as he could recall. At Dodd's trial he had given similar evidence. However when he first gave evidence in relation to the matter at Saunders's first trial he did not raise objection to the envelope when it was shown to him. There was of course writing on the outside. He next gave evidence at Dodd's committal hearing where he was again shown the same envelope. On this occasion he testified that he could not recall seeing it before.

Valma Knight was questioned by Fleming QC concerning the description of the envelope. She admitted having been present at the time that Glanville had handed it to Dodd at Stanthorpe. She was referred to evidence she had given at Dodd's trial in which she had stated that from her recollection there had been no writing on the envelope. She there accepted that she had only seen it fleetingly. Before me she maintained that was still her recollection. Prior to having given her evidence at Dodd's trial she had given evidence at his committal hearing. There she was shown the envelope which Dodd had claimed had been the one he had

received from Glanville. It had Dodd's writing on the outside of it. When asked whether that had been the envelope she had seen she stated that it could have been the one.

There is no doubt in my mind that the envelope which had been given to Glanville to deliver to Dodd in Stanthorpe was the same one which had been handed to Webb on 23 April 1982, taken back to the Bureau of Criminal Intelligence, photographed and subsequently tendered in all the legal proceedings which followed. Knight's current recollection has no doubt been affected by the effluxion of time and in any event she had only seen the envelope fleetingly. In relation to Glanville's evidence concerning the writing on the envelope I reject his current recollection which I accept is genuinely poor and rely upon his not having objected to the envelope when it had been shown to him at Saunders's trial in May 1983.

There was no suggestion from Glanville or Knight that there had been any police involvement in the creation of the fabricated tape. Also there was no suggestion that police had any involvement in arranging for the tape to be transported by Glanville to Stanthorpe. Both stated that they had been under no pressure from police to write any of their statements.

11.4 The evidence concerning the Radio 10 jingle

On 24 February 1984 a statement was obtained from the programme director for Radio 10, Huw Patrick Drury. This was for the purpose of Dodd's committal on charges of perjury arising out of the evidence he had given against Saunders at her committal hearing and trials. In the statement Drury confirmed that the Radio 10 jingle first went to air on 27 March 1982 the day on which the radio station changed its call sign from 4IP to Radio 10. He explained that he was responsible for all programmes broadcast by Radio 10 including the selection of all music played by individual announcers. He also compiled work rosters for the announcers. As part of his duties he was responsible for making a list of records played by Radio 10 to be furnished to the Australian Broadcasting Tribunal for the purposes of assessment of Australian music content. These sheets or returns were compiled daily. These showed the songs which were played in any particular day. A copy of the sheet was also forwarded to the Australian Performing Rights Association. Another of his duties was to prepare a play list of records from which announcers would select tracks to play during their broadcasting session. He explained that this play list included most of the songs on the "Top 40" as well as a number of "oldies." All the songs were broken down into a number of categories.

The announcer was then required to play a certain number of songs from each category during the particular broadcast session. The specific selection within the category was left to the announcer as long as each record in the category had been played before any one of them was replayed. Drury explained that no records were kept of the particular time at which each song had been played.

Drury had been played a copy of the tape recording furnished by Dodd. He compiled a list of songs appearing on the tape. He also noted where some of the studio identifications or other speech from the announcer had been apparent. This list was tendered at Dodd's trial. It is set out below:

I Just Want To Spend The Night With You - Cheetah

Station ID - Music Jam - Voiced

I have Rock n Roll - Joan Jett

I'll Find My Way Home - Jon & Vangelis

I Never Knew Love Like This Before -

Hang Fire - Rolling Stones - afternoon of 20th first played (IDs as Frank Moore).

The Stroke - Billy Squire

We Got The Beat - The Go Gos

Side 2

We Got The Beat - The Go Gos

Station Jingle - Rock n Roll Radio 10 - Accapella

I Am Pegasus - Ross Ryan

Forever Now - Cold Chisel

break

That Girl - Stevie Wonder

break

Strangers On A Train - Sports

Make A Move On Me - Olivia Newton-John

Endless Love - Lionel Ritchie/Diana Ross

One Day In Your Life - Michael Jackson

Drury stated that he was able to establish by reference to the play list for the week ending 27 April 1982 that the song "Hang Fire" first went to air on Radio 10 sometime in the afternoon of Tuesday, 20 April 1982. By reference to his rosters he could establish that the announcer, Frank Moore, who identified himself on the tape immediately prior to the song "Hang Fire" was first available to broadcast that song when working from midnight on 22 April 1982 to 5 a.m. on 23 April 1982. He therefore concluded that the music on the tape recording had been broadcast between

midnight on 22 April 1982 and 5 a.m. on Friday, 23 April 1982.

In support of his conclusion that the music on the tape was not recorded prior to 23 April 1982 he referred to his Australian Performing Rights Association return which showed that three of the songs recorded on the tape, "I Just Want To Spend The Night With You," "I am Pegasus" and "Strangers on a Train" were "oldies" which had been played by Radio 10 on 23 April 1982. He stated that it would have been highly unlikely that three "oldies" like these would have been broadcast in such proximity to each other on more than the one occasion.

Frank Andrew Moore in his statement dated 5 March 1984 confirmed that the rosters upon which Drury had relied had been accurate as he had not been working with the radio station for very long at that time and had not changed shifts with other announcers because of illness or for any other reason. He echoed Drury's conclusions in relation to the broadcasting of the music which appeared on the tape. He gave similar evidence at Dodd's committal hearing and trial.

At Dodd's committal hearing and trial Drury gave a fuller explanation of the contents of the tape recording. He stated that the first song on the list "I Just Want To Spend The Night With You" was not complete. It commenced part way through the song immediately after the conversation which purported to be between Dodd and Saunders.

In relation to the "Station ID - Music Jam - Voiced" referred to before the song "I Love Rock n Roll" Drury explained that this was an expression used to indicate thirty minutes of continuous music with voiced identification in between two of the records. At this particular part of the tape the following voiced ID appeared:

Radio 10 rolling with another thirty minute music jam.

It was this identification which Drury maintained was first broadcast on 27 March 1982. Drury commented that the song "We Got The Beat" at the end of the first side and at the beginning of the second side appeared to be a tape recording of a single broadcast of that song. He formed the opinion that the tape had been turned over whilst the song was being broadcast. Drury explained that as well as appearing once on the first side Moore's voice could be heard on a number of occasions between songs on the second side. He also explained that after the song "Forever Now" there seemed to be a stop in the continuity of the broadcast. Drury suspected that there had been a commercial break at this particular point. He

explained that the song "That Girl" was incomplete as another break in the broadcast seemingly occurred. Part of the song is missing from the beginning and end.

The Commission furnished the original tape recording for analysis to two audio tape recording experts. One was Ian Cunningham McWhirter from a private firm named Tape Products Research in New South Wales. The other was Senior Constable Troy Shan O'Malley of the Queensland Police Service. There was no doubt that, other than wear and tear expected with the effluxion of time, the tape recording was the same as that which had been signed by Dodd and Webb on 23 April 1982 and tendered at Saunders's and Dodd's committal hearings and trials. This could be established from the signatures of Webb and Dodd on the cassette. Furthermore the two experts who had originally made tests in relation to the tape recording in 1982, 1983 and 1984 and who were asked by the Commission to comment upon the reports of McWhirter and O'Malley did not raise the possibility that what had been recently examined differed in any way from what they had originally heard when they carried out their tests in the early eighties. McWhirter and O'Malley formed the view that the music on the first side was continuous from the conversation to the end of that side of the tape. This was also the evidence of Miles Moody who had given evidence at Dodd's trial after having made tests in relation to the fabricated tape in 1982 and 1984. Moody is now the Professor in Electrical Engineering and Head of School of the Electrical and Electronic Systems Engineering Department at the Queensland University of Technology. In relation to the second side O'Malley did not address the question of whether the music was continuous but McWhirter stated that after 8 minutes 14 seconds another section of music had been recorded over the original music track. This section continued for 59 seconds and then stopped. He stated that after a 600 millisecond break the original recording continued to the end of the tape. He formed the view that the 59 second over-recording may have been to erase a section of the original recording as it went from the end of one song to the start of the next suggesting a commercial break had occurred during which time some time or date information may have been given. Moody departed from McWhirter's conclusion in one respect. He concluded that the last segment of music on the second side had been recorded prior to any other music on either side of the tape recording. This view was inconsistent with the direct evidence of Spires, Dodd and to a lesser extent Thompson.

Although Drury had been unable to dismiss the possibility that the music immediately after the conversation had been recorded on to the tape recording after 23 April 1982 he was in no doubt that it could not have

been recorded before that date. I had access to the original Australian Performing Rights Association return which had been exhibited before the Trial Judge at Dodd's prosecution. According to the return each of the songs appearing on the tape recording was broadcast on Radio 10 on 23 April 1982. Moody stated he believed that the songs on the last segment of the second side were not on the return but he did not have available to him a copy of the return when he furnished his report to the Commission on 15 May 1993. More importantly though according to the return for the week 21 April 1982 to 28 April 1982 three of the songs which appeared on the tape recording, "I Just Want To Spend The Night With You," "I Am Pegasus" and "I Never Knew Love Like This Before" had been played only once during that week. This was on 23 April 1982. As these songs had been played before 5 a.m. on 23 April 1982 this meant that from the time the tape recording came into the hands of the police on the afternoon of that day until 28 April 1982 those songs were not broadcast by Radio 10. It will be remembered that on 27 April 1982 the tape was played before a representative of the Crown Law Office, Larry Ryan. It followed that there could not have been any police involvement in the taping of the music after it had come into police possession on 23 April 1982. This confirmed the evidence of Spires and Dodd in relation to when the music had been recorded on the tape.

11.5 The scientific evidence concerning the conversation on the fabricated tape

The four experts were asked to comment upon whether or not the tape recording of the conversation pre-dated the music immediately following. Three of the four experts formed the view that the music had to have been recorded subsequently and had in fact truncated some of the recording session at which the conversation had been recorded. The three concurring views came from McWhirter, O'Malley and Moody. The fourth, Professor John Sydney Mainstone who was the head of the Department of Physics at the University of Queensland with the title of Associate Professor in Physics, stated that it was inconceivable that the music was recorded at some time subsequent to the conversation although he considered it was possible though highly improbable that the music was recorded directly after the conversation was terminated, that is at the same recording session.

I do not intend to descend into analysis of the different reports and evidence given by these experts. Each was persuasive. Suffice it is to say that the conclusion which had been reached by O'Malley, McWhirter and Moody concerning this point confirmed the non-scientific evidence that the

conversation was recorded some time prior to the morning of 23 April 1982 and therefore before the tape came into police hands. Spires and Dodd gave direct evidence of the music having been recorded from the end of the conversation to the end of the first side and throughout the second side. Thompson stated that when she recorded the female voice on the tape there had definitely not been any music on the tape recording. Furthermore the music on the tape recording had been broadcast in the early morning hours of the 23rd and the tape was in police hands by early afternoon on that date. Thompson had given evidence that she had provided her services in the "late afternoon early evening." As I have already said I was impressed by her as a witness and there is no reason to reject her evidence on this point. Therefore the conversation could not have been recorded after the music was broadcast.

It was suggested by Saunders that it was a possibility that some technical assistance had been given to Dodd to produce the tape recording. She observed that the sound of the female voice was much weaker than that of the male voice making identification of the female voice more difficult. An inference from this suggestion was that the tape recording was made on sophisticated equipment rather than on a cheap tape recorder as Dodd had claimed. It was not in dispute that Alan Glanville with whom Dodd had been residing at the time of his release on 15 April 1982 had a number of tape recorders. He gave evidence that one of them had been borrowed by Dodd for some substantial period of time over the relevant period. Dodd stated that he believed the tape recorder he had used was Alan Glanville's. He described this as a small portable one with an internal microphone. Thompson had given evidence that the tape recorder used by her had been a small one with an internal microphone. McWhirter was asked to comment upon the recording equipment used to produce the tape recording. He stated that it had been recorded on a small unsophisticated tape recorder in the lower price level. He formed the view that it had an internal microphone. O'Malley and Mainstone formed precisely the same view. Moody formed the view that the tape recording had been made on a small unsophisticated tape recorder but he considered there was insufficient evidence to determine whether the microphone was internal or external.

Suggestion had been made that the background noise on the tape was that of the air-conditioner in the basement of Police Headquarters. Dodd had originally claimed that it was noise generated by Saunders's vehicle at the park at which the recording was allegedly made. I have already referred in the report to the evidence concerning this suggestion. The scientific evidence from Mainstone was that the noise was consistent with the motor of a fan or an electric motor. McWhirter formed the view that an air-

conditioner or similar electrically powered equipment could have produced the background noise. O'Malley was not prepared to offer an opinion as to its origin other than to say that the noise was inconsistent with a combustion engine such as a motor vehicle's engine. Moody had maintained at Dodd's trial that the noise was not inconsistent with a car engine. At Saunders's and Dodd's trials Mainstone had stated that the noise was inconsistent with a car engine. Moody had had the benefit of doing tests on Saunders's vehicle at the park in question and had found the results of his tests to be consistent with what appeared on the fabricated tape. He stated that he had been asked to do this by Saunders's barrister, Breen, around the time of the committal hearing but as his findings were not helpful to Saunders he was not called to give evidence or asked to comment upon the matter. He subsequently gave evidence for Dodd at his trial. He stated however that it could not be asserted that the sound was not from an electrical source such as an electric motor turning at 1500 rpm which was a common speed for electric motors found in equipment such as air-conditioners and fans.

Spires had said that there may have been a fan in the room and she also was of the opinion that there had been a fish tank with a filter or pump on the other side of the wall. Thompson had stated that there had been an electric ceiling fan in the lounge room adjoining the bedroom but she believed that it had not been on. Although after all this time it is not possible to identify with exactitude the equipment which caused the noise it is more likely to have been caused by a fan, pump or filter in the vicinity of the room rather than the highly speculative suggestion that it had been produced by the air-conditioner in the basement of the Police Headquarters. Certainly Mainstone who had given evidence for Saunders at her first trial had never been taken to the basement of the Police Headquarters building to conduct tests on the airconditioning unit as a possible source of the background noise. Furthermore he could not recall ever having offered such an opinion.

11.6 Dodd appears on the 60 Minutes programme

In October 1989 the 60 Minutes programme made allegations against Williams. One of the persons the producers of the show relied upon to make the allegations against him was Dodd. The following is an extract from that programme:

Reporter: Dodd's evidence was that he met Lorrelle Saunders in a park, he secretly taped their

conversation which together they plotted a number of crimes. That tape wasn't accepted in court and Dodd now admits it was tampered with by the police.

Dodd: They just kept playing it over and over and erasing things off it.

Reporter: Is it possible that they put something on it too?

Dodd: Well anything could happen after they got their hands on it.

Reporter: Dodd claims that Inspector Graham Williams was present when that tape was doctored. This is a very serious allegation. Why should we believe you now?

Dodd: Well that's up to you whether you want to believe me or not, but I've got no reason to lie, I've done my time.

On the programme Dodd also claimed that Williams had hit him with a hammer after he had been arrested (on 25 March 1982).

Before me Dodd denied that any of what he had said on the 60 Minutes programme was true. He stated that he said those things because he was "dirty" as he "had done time in relation to Saunders." He stated that he had no reason to be "dirty" on Williams as it had nothing to do with him.

The four audio tape experts confirmed that there had been no editing to the conversation recorded on the tape recording. There is no doubt that Dodd's allegations on the 60 Minute programme were false.

11.7 Dodd's letter of 14 July 1982

Reference has previously been made to this letter in discussing the route taken by Saunders and Coomer from the rifle club to the restaurant. I had concluded that the route which Dodd had described in the letter as having been taken by Coomer and Saunders was not the one taken by them.

I will now set out the letter in full:

Statement of Douglas DODD in my own handwriting.

This is the real events that took place between Policewoman Lorri SAUNDERS and myself Douglas Mervyn DODD. I am making this statement of my own free will with no influence from any police officer.

I Douglas Mervyn DODD made a deal with Det Graham WILLIAMS of Cleveland and Det Inspector Brian WEBB that I would not be prosecuted if I told them anything I could about Lorri SAUNDERS. Yes I admit I have had dealings with Lorri SAUNDERS but Lorri SAUNDERS was no way involved with the stealing of the guns. This is what took place. I met COOMA and I knew that he always went to the Belmont Gun range. This I got from him. The day the guns were stolen the 7th of March I knew COOMA and Lorrie SAUNDERS would be at the gun club so my mate Joey WILLS and myself set off from the gun club and saw COOMA and SAUNDERS arrive. They did not arrive in COOMA's four-wheel drive as I expected them to but in a Torana. How I knew it was them was because I recognised Lorri SAUNDERS so I took down the rego number. We seen COOMA shoot and he and SAUNDERS went upstairs. Later COOMA came out got his guns and done more shooting. Joe and I seen him put his guns into his car the Torana and go upstairs again. I kept watch and we waited for them to leave. When they did Joe and I followed them. They left the gun club and went along Old Cleveland road towards Capalaba. They went through Capalaba towards Cleveland, they pulled up at the R.S.L. Club for awhile then they went to the park near the water's edge. At no stage did I have a chance to get at the guns. When they left Cleveland they headed towards Brisbane but vied off onto Mt Gravatt Capalaba Road and headed towards Mt Gravatt. I thought that COOMA was taken Lorri SAUNDERS home and I nearly gave up following them but I kept on just to make sure then they turned into Broadwater Rd. I knew then he was not taking her straight home. They then vied into Logan Road headed towards the city. I then saw them pull off the road and go behind a Italian restaurant. I parked up the road a little way and

then I saw them come out of the car park and enter the restaurant. That was when I told Joey to go and steal the car and if he could not get the car to get the guns. If he didn't do as I told him I threatened to kill him.

All the charges that I have brought against Lorrie SAUNDERS are thing that the police said that they knew so after I found out what they were I made a story to go along with what they wanted to know. All the charges that Joey WILLS is on were done on my say so because he was under threat from me that if he ever crossed me or did not do as I told him I would get his mother killed as well as him. Where as Joslyn SPIRES is involved I have held a threat over her that if she ever tried to get away from me or did not do as I ever asked her I would have her kids kidnapped and she would be given heroin and put on the streets as a hooker and she would never see her kids again except a photo of them once every six months.

The tape that was made by me of the last talk between Lorrie SAUNDERS and myself never took place the tape is a forgery that I got and paid people to preform to give my stories that I had made up of Lorri SAUNDERS more truth which it had done. All the people such as Joslyn SPIRES, Joey WILLS who has been ever charged done everything under threat of their lives on the life of their family. Lorri SAUNDERS was a way I saw of getting off the charges I was on but she is not guilty of any of the charges arising from any of my statements about her as WEBB and WILLIAMS told me what they could have her on and the deal was made that if I sunk her I would get off on a good behaviour bond.

11.45 A.M.

14.7.82

D M DODD

Douglas Mervyn DODD.

A copy of this letter was handed to Saunders's defence counsel on the eve of her first trial. Dodd's first explanation for the letter appeared in a statement dated 4 May 1983. This was one day after Saunders's first trial had commenced. In that statement he claimed that the letter had been written because he had previously received an anonymous telephone call

from a man describing himself as a policeman but whom he was unable to otherwise identify. This policeman informed him that if Saunders "was sunk Joslyn would be set up on a drug charge and her children would be taken from her." The statement recorded that he had handed the letter to Spires to keep and it claimed the contents of the letter had been untrue.

Dodd was cross-examined on this statement of 4 May 1983 by counsel for Saunders at Saunders's first trial. He explained that he had given this letter to Spires so that she could give it to the police officer who arrested her if she was charged with possession of drugs. This would "help her get her off." He was cross-examined extensively by counsel for Saunders and his answers then given were devoid of logic.

In his statutory declaration to the Commission Dodd maintained that the letter had been written for Spires's protection. He stated that she had kept on telling him that she was getting threats to the effect that if Dodd did not drop off the Saunders case something would happen to her and the kids. He claimed that when he wrote the letter Spires was present and he personally gave it to her. He claimed never to have given her any instructions in relation to the letter. He could not explain why on the envelope in which the letter had been found he had written the name of his mother, a journalist Rick Allen and the name of a solicitor with whom he had had previous dealings. He explained that the letter was written in the belief that the threats to Spires would continue and when they did Spires would be able to pass the letter over to the people making the threats and they would give it to the police who would then have the charges against Saunders dropped. They would then leave Spires alone.

In Dodd's statutory declaration to the Commission the following paragraph appeared:

Spires was arrested with me on 4 July 1982 in relation to an unlawful use of a motor vehicle. There was never any connection between that arrest and the writing of the letter. I certainly did not produce the letter to give to Williams and Webb and say to them unless they released her, I would produce the letter, causing the case against Saunders to go "down the gurgler." It was never threatened to either Williams or Webb or anyone else that the letter would be produced if Spires did not get probation in relation to the unlawful use of the motor vehicle.

Carew and Company submitted that Dodd appeared to be responding to

questions put to him during his interview. They submitted that because they had been denied a copy of the tape recording of the interview they could not pursue the matter any further. They questioned where the expression 'down the gurgler' came from. I can only repeat that access to these tape recordings was never denied Carew and Company. Of course, they could have pursued the matter with Dodd whilst he was in the witness box. It is clear to me that as Saunders had questioned in her statement to the Commission Dodd's motive for writing the letter, Commission officers had been merely pursuing with Dodd possible reasons for having written the letter. No doubt 'down the gurgler' was put in inverted commas not because it was a quote from some allegation but rather because it was in the vernacular.

Before me Dodd again maintained that the document had been written for the protection of Spires. He maintained this account despite extensive examination by Fleming QC. He claimed that Spires had received threats whilst he was in custody between 27 March 1982 and 15 April 1982. Upon his release these threats continued and according to him on two occasions he answered the telephone and had been told directly that he should drop off Saunders's charges. I found Dodd's reasons for writing the letter difficult to fathom and his answers most unconvincing in this regard. As a matter of completeness I should record that he had previously made claims during the voir dire at Saunders's second trial that he and Spires had received such threatening telephone calls.

Dodd denied making any threats to Spires to the effect that he would have her children kidnapped, have her injected with heroin or have her put on the streets as a "hooker."

He stated that there had been no truth in the allegation that he and the police had made a deal and he also denied that Saunders was innocent of all charges. He maintained this position notwithstanding detailed examination by Fleming QC.

Spires's account of how the letter came into her possession is completely different from that of Dodd. At Saunders's trial she stated that she had found the letter in April 1983 when she was living at Landsborough. At this time Dodd was in prison. She denied that he had handed it to her and added that the letter was found in a book. From her answers I gained the impression that she had been intending to say that some other person had found it in a book rather than herself although she did not specifically say so. In her record of interview with Menary on 15 March 1984 Spires was asked more specific questions concerning the letter. She explained that she

had given her brother's girlfriend some books to read and they had come over to her van one day and told her that they had found the letter in a book. They had opened it before having given it to her. She told Menary that she had telephoned Inspector Webb and told him about it and he had advised her to hand it in to the Landsborough Police Station and officers there would give it to him.

Spires gave the same account at Dodd's committal hearing and trial as she had given to Menary. At Dodd's trial she testified that prior to ringing Webb to advise him that she had found the letter she was going to throw it away because she thought it was "a whole lot of rubbish."

The following exchange took place between her and counsel for Dodd at Dodd's trial:

I suggest to you that whatever the precise conversation was - I can't put it to you but I suggest to you that he made it quite plain to you that he was going to make this document since any assistance he was going to get from the tape was no longer available to him because in fact the charges weren't dropped, that he was still proceeded against on the charges that he thought he might be able to get off?---
Yeah.

Do you follow me?---Yeah.

I suggest to you he made it quite plain to you that that's why he wrote this document saying that the tape was a forgery?---It's the first time that I've ever seen that that was when it was handed to me up there.

It would seem that Dodd's instructions had been that he had written the letter because he had been upset that he was going to face charges which he had hoped he might have been able to have dropped.

In evidence before me Spires gave a similar account to the evidence she had given at Dodd's committal hearing and trial. She again explained that at the time she considered that the letter was "a lot of rubbish" and she was going to throw it away. In questioning by Fleming QC the following exchange took place:

Had he ever said anything like that to you?---No. But I'd say his reason for writing the letter, he realised he was

in trouble, probably never ever expected this letter to turn up, and then he probably trying to clear someone and get someone else in trouble.

Well, if we can just work through that theory. Who was he trying to clear?--Oh, well, by this he is trying to clear Lorrie and then he's going for Graham - who was it - Webb and Williams.

Spires's brother Gregory Brian Hyde confirmed that either he or his girlfriend Julie Gregg had located the letter when going through some property that had been removed from Dodd's mother's premises at the time that Spires had parted with Dodd.

Although it is difficult to conclude with any certainty why the letter was written I am confident that it was written by Dodd to use for his own advantage if necessary. From his instructions during his trial it appeared as if he had been aggrieved that the charges outstanding against him had not been dropped. Certainly if the letter had been written on 14 July 1982 it was only a few days after he had been committed to the District Court on the receiving and stealing charges. Spires suggested that he wished to get back at Webb and Williams. They were of course responsible for his charges not having been dropped. I would have thought that if the letter had been for Spires's protection there would have been no need "to exonerate" Wills as well. It is interesting to observe that Dodd may have tried to reduce Spires's involvement in criminal acts on at least two other occasions. I refer above to his evidence that she remained only briefly in the room during the tape recording session although Thompson was clear she remained the whole time and directed the session. Wills was adamant that Spires had accompanied Dodd and him when the stolen car with the stolen guns had been abandoned on the Pacific Highway; then he says it was Spires who had telephoned the police. Dodd denied this.

In complete contrast to most of the other evidence and statements attributed to Dodd, Fleming QC and Carew and Company wish to rely upon this letter by Dodd as being the truth. It is clear that the reference in the letter to the tape recording as a forgery was correct. It also seems that Dodd had made threats to Spires but Spires had dismissed them as unlikely to have been carried out. It was however impossible to conclude that because these aspects of the statement had been shown to have been accurate that it followed that the rest of the letter was also accurate. In particular one could not conclude from this letter alone that there had been a deal struck between Dodd and Williams and Webb. To my mind on all the evidence

the opposite was the case. Similarly one could not conclude from this letter alone that Dodd's statement that Saunders was innocent of all charges was true. Dodd had always maintained in evidence that Saunders was not innocent of the charges and it certainly could not be said that all the evidence pointed to her having been innocent. There was indeed clear evidence that the letter contained many falsehoods such as the route from the rifle range to the restaurant; the claim that payment had been made to persons who performed on the fabricated tape; and the claim that Wills became involved in offences because of threats to himself and his mother from Dodd.

What is of great significance concerning the letter is the way in which it was dealt with once it had been brought to the attention of Webb. If Webb had been involved in a deal to set Saunders up then there is no doubt in my mind that once Webb had been advised of its existence he would have done what he could to have it destroyed. He could have easily had her destroy it as Spires had originally intended to do after having dismissed its contents as being Dodd's "rot." In stark contrast he had Spires give it to the Landsborough Police and arranged for Traffic Branch officers to deliver it to him in Brisbane. Webb obtained the letter and handed it to the Crown Prosecutor who properly furnished it to the defence. Nothing more could have been asked of Webb concerning the letter. It was submitted by Carew and Company that greater efforts should have been taken to interview Spires at this time as she had shown a desire to reveal the truth by producing the letter. This ignores the fact that she had described the letter as "rubbish" and also ignores that when first questioned by Pointing and Menary on 15 March 1984 she was anything but helpful and forthcoming.

I should add that although upon analysis of the letter it cannot be accepted that its claims were all true, once it had been produced at Saunders's first trial one would have expected it to have had a great effect on the jurors' deliberations. It was a most telling factor against acceptance of Dodd as a witness of credit.

At this stage I should refer to a submission made by Carew and Company. When Williams was interviewed in 1985 by Menary and Pointing as part of the investigation into the fabricated tape Williams was asked whether he had seen previously the letter dated 14 July 1982. He answered that he was not aware of the existence of the letter. It was submitted that it was "difficult to accept" Williams's account that at no stage had it been brought to his attention. I am at a loss to see why Williams would wish to lie about this to the investigators. One possibility for Williams not having

found out about the letter was the fact that Dodd denied that it was true when it was put to him by the Crown Prosecutor in May 1982 and the matter was taken no further. To draw an adverse conclusion against Williams concerning this answer would involve unjust speculation.

CHAPTER 12

CONSIDERATION OF SOME ASPECTS OF THE INVESTIGATION CONDUCTED BY WEBB AND FLANAGAN

12.1 Saunders's claim that the investigation conducted by Webb and Flanagan was poor

In her statement to the Commission and in evidence before me Saunders maintained that the investigation carried out by Webb and Flanagan was deficient. She claimed that even the most basic investigation would have ascertained that the tape recording furnished by Dodd had been a fabrication. She referred to a number of facets of the investigation which she claimed indicated either that a poor investigation had been conducted or that there had been a deliberate attempt to make sure the investigation was not successful. The majority of these revolved around the failure to carry out certain inquiries after Dodd had produced the fabricated tape. It must be remembered of course that Webb had undertaken considerable investigation concerning the theft of the firearms prior to the production of the tape. There seems to be less criticism of that part of the investigation.

Saunders also furnished to the Commission statutory declarations from Pfuhl and Krosch in which they complained about the conduct of Webb and Flanagan.

Menary held the view that the investigation "could have been of greater depth." Lawrence Pointing formed the view that the investigation was "poor." They of course had the great advantage over Webb and Flanagan of hindsight. Dodd had been subjected to many days cross-examination which revealed serious deficiencies in his account. Menary and Pointing relied on this evidence to conduct their inquiries. Webb and Flanagan did not have the benefit of this. It should also be remembered that this was the only investigation that Menary and Pointing were then conducting. Webb had to deal with the Saunders matter as well as others. I have no doubt that there were deficiencies in the investigation but I too was blessed with hindsight and considerable time to investigate the matter. It should also be borne in mind that Flanagan went on sick leave on 21 June 1982. He returned to work on 1 September 1982. During this time Webb investigated the matter without his assistance. Webb stated he could not get any other assistance. This was not disputed. Pointing testified before me that Webb's resources were "practically non-existent." Any assessment of the conduct of Webb and Flanagan in pursuing the investigation needs

to be done with these things in mind. I will now turn to the specific criticisms raised by Saunders to which reference has not already been made.

12.2 Webb's evidence of identification of the female voice on the fabricated tape

In her statement to the Commission Saunders stated that she found it "extraordinary" that Webb had given evidence that it was her voice on the fabricated tape. It was not in dispute that Webb had only limited exposure to Saunders prior to 7 March 1982 and he had not spoken face to face with her between 1977 and 7 March 1982. In his evidence at Saunders's first trial he testified that he had also heard her speaking over the police radio but could not recall when and where.

Notwithstanding this paucity of previous contact it was clear that Webb had had a number of conversations with Saunders between the time of being called to the scene of the theft of the guns on 7 March 1982 and the date upon which she was charged on 29 April 1982. He had spoken to her twice on 7 March 1982, once on 9 March 1982, at least once over the telephone shortly after 9 March 1982 and he had then conducted an extensive record of interview with her on 26 March 1982.

Counsel Assisting questioned Webb concerning his having given evidence that it had been Saunders's voice:

All right. Go over to page - to paragraph 25.6 on page 68 [of Saunders's statement to the Commission]:

I find it extraordinary that Webb gave evidence it was my voice on the tape. I only met him a couple of times. There were other people who could have given evidence of the voice. Lobegeiger was never approached to pass an opinion -

and so forth. Do you see that?--Yes. I did give that evidence and I was satisfied that it was her, but I was very wrong.

Well, there is another point that emerges from it though, Mr Webb, and that is why did not you - in spite of your

confidence, why did not you get some sort of expert tests on it or get people who knew her a lot better than you did to listen to the tape?---Probably the person who knew her the best was Lobegeiger and he didn't want this inquiry at any stage. I think if we had played him the tape he would have said, no, it wasn't her. If we had played it to the members of the Task Force, they would have - as a man they would have said, no, that's not her. If I had played that to a dozen policewomen I would have got a dozen policewomen to say, yes, that is her.

Yes?---Now, who were you going to trust and who were you not going to trust, you know.

Yes?---There were four or five of us there the first day. That was sufficient for me. If you went canvassing people's thoughts on the matter, you're going to finish up in a terrible mess.

I am satisfied that Webb honestly considered that he had sufficient exposure to Saunders prior to 23 April 1982 to identify her voice. Although it is difficult after all this time to judge whether this was a reasonable position for him to take it must be remembered that it was merely an opinion that he was offering. It was ultimately a question for the judge and jury to decide whether it was her voice on the tape.

I can understand Webb's reasons for not having obtained an opinion from Saunders's work mates. I am confident that he had genuine concerns that those persons would not have wished to implicate Saunders. It would have been unrealistic to ask Lobegeiger for his opinion as he had acted in that extraordinary manner when interviewed by Flanagan. In any event in view of Lobegeiger's stated desire for the whole matter to go away one could hardly have relied upon his view on whether the voice on the tape had been Saunders.

In relation to the question of how Webb said he identified the voice on tape the following extract from Saunders's first trial is apposite:

Well listening to her I thought it was the voice of the accused, and, in particular, there was one section of the tape where she, to me - it was really her where she said, 'Do you know - do you know what he has done?' It wasn't so much what was said but it was the way in which she

said it. I was satisfied that it was her.

By His Honour: It was the words 'Do you know - do you know what he has done?'--Yes Your Honour, it was the way in which she said those words on the tape that satisfied me that it was her voice more than anything else.

By Mr Glynn: What about the sound of the voice if I can put it in that - was that familiar to you?--I thought it was her voice but those few words - it was the manner in which she said them that satisfied me that it was her voice.

There he also described her voice as "rather distinctive."

In cross-examination of him by counsel for Saunders at that trial the following exchange took place:

Would it be fair to say without those words you have spoken about in your evidence in chief you would not be confident of an opinion about the voice?--I would still be - to me that was her voice.

What was?--That was her voice on that tape, but to me it was sort of beyond doubt with that passage - the way that passage was said.

Without that passage it would not be beyond doubt to you?--I was still sure it was her voice, but that convinced me.

I was taking up your answer. It was that passage which put it beyond doubt?--Yes.

Was it within the area of doubt without that passage?--No. When I heard that I was sure that was her voice, but it was that particular passage that really sealed it for me.

I suggest in reply to a question by me that you would not be confident of an opinion about the voice without those words, you said, "It was terribly difficult, yes."?--Yes, the quality of the tape was so difficult.

Whether you are talking about the quality of the tape or

not, was it terribly difficult without those words?---It was difficult. The entire tape was difficult - very difficult.

Was it the manner in which those words were spoken that convinced you that was her speaking?---I had the opinion it was her, but it was that passage that really sealed it as far as I was concerned, yes.

Without those words it wouldn't be sealed?---I suppose so.

You aren't suggesting in any way that voice is disguised on the tape?---I don't think so, no.

You listened to it no doubt listening for her voice?---Yes.

Listening to see if it was her voice?---Yes, of course I was.

Did you ever listen to it to see whether it wasn't her voice?---It was the same thing as far as I was concerned.

At Dodd's trial counsel for the prosecution asked Webb the following question:

Just relying on the sound of the tape alone leaving aside anything you might have discovered from other sources since, has your view varied at all in relation to the identification of the voices on that tape?

Webb's answer was:

No. It still appeared to me to be Saunders' voice.

Before me Webb maintained the same evidence as he had given at Saunders's first trial. In questioning by Fleming QC the following exchange took place:

You were looking for it to be Lorrelle Saunders' voice on the tape, weren't you?---I suppose I was, yes.

Before me Webb explained that he did not take much notice of Flanagan's

opinion that it was not Saunders's voice because of Flanagan's state of health. Flanagan had been very ill and on 20 June 1982 he was admitted to hospital with a heart condition. There is no suggestion that anyone else agreed with Flanagan's opinion that it had not been Saunders's voice when he first proffered it on 23 April 1982 at the Bureau of Criminal Intelligence or at any other time. Flanagan testified before me that he always considered that Webb genuinely believed that it had been Saunders's voice on the tape recording. He explained that on the one other occasion he raised his doubts with Webb, Webb told him that:

she was just bunging it on it sounds different with the engine going and the recorder in the grass behind the car.

I have little doubt that Webb had already formed the view that Saunders was "right for it" prior to the production of the tape recording by Dodd. When the tape recording was played for the assembled group I am convinced that he was expecting to hear Saunders's voice. I think it is fair to say that on hearing the original tape one could not conclude with certainty that it was not Saunders's voice. That is I do not think it was an unreasonable opinion that was formed by Webb. If the voice on the tape recording had borne no resemblance to that of Saunders's voice then Webb faced the possibility of the embarrassment of Saunders having given evidence in the Magistrates Court or the District Court and the Magistrate or Trial Judge summarily ruling that it was not her voice on the tape.

Support for Webb's assessment that the conversation on the tape had been a genuine one can be found in the evidence given by Dr John Ingram of the English Department of the University of Queensland. He is a professional phonetician. Ingram was asked to give an expert opinion on the voices on the tape recording. In his report of 19 April 1993 he stated:

I am able to say that there is a strong indication that the recording was made of a genuine conversation and that it was unlikely that the recording had been pre-scripted.

There is no doubt that this opinion, which was an expert one, was an honest but incorrect one. Moody had also opined that the conversation was a spontaneous one. On the other hand Mainstone had given evidence at Saunders's trial that in his opinion it had not been Saunders's voice on the tape recording.

Another matter which to my mind has some relevance is the evidence that Saunders gave concerning her own legal advisers' opinion of the tape. The

following exchange took place between herself and Counsel Assisting concerning this matter:

No. One of the problems, one of the difficulties that you had with Shane Herbert and Warren Howell was that they thought it was your voice on the tape, was not it?---That's what I thought.

Yes, that is the impression you had that - - -?---That they believed.

- - - they said, 'Look, that's you.' They had heard the tape and they reckoned it was you?---Well, I don't know if they'd heard the tape.

What is that?---My impression was that if - Mr Howell said to me, 'If there's a tape - it the police have got a tape' - and he just told me that he'd just done a case up in Townsville where there was a police tape - and he said, 'If they've got a tape, they've got a tape.'

Yes?---'And if they're saying that it's you, then - well that's it, you know.'

I must say that in my mind it is absurd to suggest that experienced criminal lawyers such as these two would not have listened to the tape recording of the alleged conversation between Saunders and Dodd. It would seem that on Saunders's own evidence her first legal advisers were not prepared to dismiss the possibility that it had been her voice on the tape recording. It is clear that a copy of the fabricated tape had been in the possession of Saunders's legal advisers well before her committal hearing. In June 1982 her then solicitors, Alex Mackay and Company, had forwarded the copy to tape analysts, Vipac and Partners, who prepared a report in relation to it. Unfortunately it is no longer available. In any event the report was never produced in Saunders's defence. One may assume that like the report that Moody subsequently furnished to her legal advisers it was not favourable to her defence.

Support for the proposition that Saunders believed that her initial lawyers were not prepared to dismiss the possibility that it had been her voice on the tape can be found in the statutory declaration of Dick, one of her subsequent defence counsel. Dick declared that it was implicit in Saunders's instructions that one of her previous barristers did not accept her

instructions that it was not her voice on the tape.

A further matter which confirms in my mind that Webb honestly believed it had been Saunders's voice on the fabricated tape is the fact that he retained the VKR tape for 7 March 1982 on which Saunders's voice indisputably appeared. If he believed that it was not Saunders's voice on the fabricated tape I imagine he would have ensured that all other known recordings of her voice had been destroyed or went 'astray.' This would have guaranteed that a comparison could not have been conducted. If he had not been prepared to do this he would have at least made no further reference to it. Not only did he retain the VKR tape but he included in the police brief reference to it for the benefit of the Crown Prosecutors. An even more telling factor is that he supplied it to Mainstone, albeit after the committal hearing, for the specific purpose of conducting comparison tests between it and the fabricated tape. As it turned out Mainstone did form the view that it was not Saunders's voice on the tape recording. A copy of his report was provided to Saunders's defence lawyers. In his statutory declaration to the Commission Mainstone recorded that at no stage was pressure placed on him by any police officer or any other person to express a specific view in relation to the tape.

In conclusion I am satisfied that Webb acted honestly and not unreasonably in proffering the opinion and giving evidence that the voice was Saunders, and I do not accept that he gave such evidence knowing that it had not been Saunders's voice.

12.3 Investigations in relation to Tucker Furniture

On the fabricated tape appeared the description of how the payroll from Tucker Furniture could be stolen. It recorded how the thief could run into a crowd after disposing of the stolen money by throwing it into a car. Tucker Furniture banked at the Coorparoo Shopping Centre. Saunders was of the view that this was not a crowded shopping centre and this should have caused Webb to think that there was something wrong with the conversation. Webb stated in evidence that he thought it was a crowded centre. He however conceded that he had spent a lot of time in the country. Whether or not a shopping centre is a 'crowded shopping centre' is clearly a matter of opinion. What may appear 'crowded' to one person would not necessarily be regarded as such by someone else. I cannot see that any investigations could have been carried out concerning this matter or any doubts raised. In my opinion nothing turns on it.

After the allegations had been made on the fabricated tape concerning Tucker Furniture a statement was obtained from Cheryl Tucker as to her association with Saunders. Saunders claimed that the original statement drafted for her by Webb was disputed by Tucker and she had to give a second statement. The implication was that Webb had acted improperly in interviewing Tucker. Webb stated that he did not recall Tucker making a second statement. Tucker testified that Webb's conduct towards her in preparation of the statement was proper and professional. She denied that she had disputed any statement taken by him.

Saunders stated that Webb was unable to locate the bank when the court went there for a view during her first trial. He had to go and ask someone at Tucker Furniture to ascertain where their banking was done. Saunders stated that this demonstrated a lack of basic investigation into Dodd's allegations. Webb testified before me that he had in fact forgotten the bank at which Tucker Furniture had banked. He stated that although he had known at one stage as this was not the only investigation he was conducting at the time it had slipped his mind. I have no doubt that Webb was telling the truth. The statement of Leonard Gordon Tucker dated 24 May 1982 nominated the bank at which Tucker Furniture carried on its banking business as the National Bank at Coorparoo. This was taken only weeks after Dodd had furnished the tape recording to the police. It was many months prior to Saunders's trial.

In the fabricated tape there was reference to a payroll at Tucker Furniture in the amount of \$20,000 to \$40,000. A statement obtained from Leonard Tucker indicated that the average payroll was \$4,500 to \$5,000. Webb was asked by Fleming QC whether he had verified the amount of the payroll and he replied that from his memory it was about \$4,500. Webb was asked whether this raised a query in his mind. Webb answered:

No. You get criminals doing jobs. Some of them put a great value on a payroll and its a lot less when they do the job, and some will think its a small amount of money and sometimes its a large amount.

It should be remembered that when Leonard Tucker gave evidence he stated that around Christmas time the payroll was approximately \$25,000. It is a possibility that Webb did in fact ascertain this from Leonard Tucker at an early stage. If he had the figure would not have been inconsistent with the amount referred to on the fabricated tape.

12.4 Reference in the fabricated tape to only the .357 having been found

Saunders in her statement to the Commission made the point that in the fabricated tape the female voice stated that:

*The Beenleigh Police say that only the .357 was found.
What happened to the rest of the guns?*

Saunders correctly pointed out that by 19 March 1982 when the tape was ostensibly made the only firearm missing was the .22. She asserted that even elementary investigations should have made this point. When questioned before me Webb agreed that this was a valid point. When Webb was questioned about the same matter at Saunders's committal hearing he responded that it had not been common knowledge that all the rest of the guns barring the .22 had been located on the 10th. This may well have been true for the period prior to 16 March 1982 but on that date the recovery of all the firearms other than the .22 had been published in an All Points Bulletin throughout the Police Force. This could have been ascertained by him in April 1982. It was not. It would not have been conclusive of course as Dodd may have argued that it did not come to Saunders's attention between 16 March 1982 and the date the tape was ostensibly recorded, 19 March 1982.

On the other hand it may be that the fact that the female voice disclosed knowledge of only the .357 having been located would have confirmed in Webb's mind that it had been Saunders who was the female voice. He was entitled to think that Dodd would not have become aware that only the .357 had been located. It should have been known only to the police.

Saunders also makes the point that the fabricated tape gives the impression that the alleged conversation between Saunders and Dodd had been the first one after the theft of the guns. This was inconsistent with evidence that Webb and Flanagan already had in their possession. They were aware that Saunders and Dodd had spent an extensive period of time together outside the hearing of Krosch on 9 March 1982. Webb accepted this criticism. He agreed that it was a matter that he "just overlooked." As a matter of fairness to Webb it must be recognised that there had been no direct reference in the conversation to it having been the first meeting.

12.5 The impression that the voices on the fabricated tape were reading from a script

Saunders stated that it appeared to her that the conversation on the fabricated tape had been read rather than spontaneously spoken. Specific reference was made to the following sentence:

Just stick to the story that you were down in Stanthorpe and did not get back until after 6.30 that night and were were in the clear.

Saunders asserted that repetition of the word "were" and the manner in which it had been mispronounced on one of the occasions it had been spoken should have made it obvious to the investigators that it had been read. Neither Webb nor Flanagan agreed that it sounded as if the conversation had been read. As I have said Ingram who is a professional phonetician was also of the opinion that it had not been read. It sounded to him like a normal conversation. Moody was of the same view. I certainly could not conclude it sounded like a script having been read.

12.6 The failure to check the music on the tape recording

Saunders criticised the investigators for not having made checks in relation to the music on the tape recording. It should be remembered that it was not until Saunders's second trial that her own legal advisers fortuitously recognised that the Radio 10 jingle could not have been broadcast at the time that Dodd claimed that he had recorded the conversation. In the meantime members of the judiciary, the Crown Prosecutors and several legal advisers for Saunders had not considered the question of whether there was something on the tape recording beyond the conversation which assisted in dating the time of which the recording was made. Although Saunders testified that she was not aware whether her legal advisers had been given a copy of the music on the tape recording Jerrard QC who had led her defence in 1983 explained in his statutory declaration to the Commission that her defence lawyers did not play the tape recording in full and did not make inquiries about the radio broadcast until August 1983.

12.7 The failure to interview Wills and Spires concerning the tape recording

Carew and Company submitted that Webb was "grossly negligent" in not

making basic inquiries with Dodd's associates such as Spires and Wills concerning the tape recording which he had produced. Webb's failure to do so cannot be criticised. After all Saunders's counsel during her trial did not raise with either Spires or Wills the possibility that they had been involved in the fabrication of the tape. They were not even questioned concerning their knowledge of the tape recording. I should not be taken as being critical of Saunders's legal defence when making these observations. No doubt they like Webb did not consider such inquiries would be fruitful.

12.8 Failure to check on stereo equipment which Saunders then had

In one of Dodd's statements of 28 April 1982 he told Webb that he had been informed by Saunders that there had been premises at Chermside from which Dodd could steal a beautiful stereo system that she would like for herself. Saunders stated that if the police had made any checks on her house they would have found that she had a very good stereo system and had no need for another one. When this was put to Webb for his comment by Counsel Assisting Webb responded:

Well, people steal cars and they've already got cars.

I must admit I find it difficult to see how any inquiries at Saunders's home concerning her stereo system would have established that this statement by Dodd was false. As a matter of logic it does not follow that because a person has a stereo system they do not want another one or a better one or a different one. In my mind it did not warrant further investigation.

12.9 Failure to check on Traffic Offence Notices issued by Saunders

In the same statement of 28 April 1982 Dodd had attributed to Saunders:

If jobs are pulled there is a foolproof way of never getting caught. All I have to do is write out a speeding ticket for a different area that the job was done in on the same time. I've done it a few times before and there's been no come back on it.

Saunders stated that this could easily have been checked out by the police to see whether in fact traffic offence notices that had been issued by her had previously been paid. Webb explained that very early on he had checked the names of people who had been issued tickets by Saunders. If

any person had a criminal history further inquiries concerning the ticket were conducted. If the person had no criminal history he did not further consider them. It would seem that his inquiries did not reveal any discrepancies. Officers of the Commission checked to see whether Dodd had been previously charged by Saunders for a traffic offence during the relevant period. He had not been. If the tests had proved positive then clearly they would have supported Dodd's allegations. However it did not follow that if they did not prove positive that Dodd had been lying. The possibility remained that Dodd had been misled by the claim made with a view to inducing him to commit offences which he would otherwise not commit.

12.10 Hooper not questioned about information allegedly provided to Dodd by Saunders

Dodd had furnished to Webb a number of documents which he claimed he had received from Saunders with the request to pass them on to Hooper. Saunders suggested that the police should have interviewed Hooper to ascertain whether any information had been passed to him. She stated as far as she was aware they never obtained a statement from Hooper. I am at a loss to understand the basis for this suggestion. It had never been claimed by Dodd that he had given this material to Hooper.

12.11 Failure to check whether Saunders had an alibi for 19 March 1982

In one of the statements of 28 April 1982 Dodd claimed that the conversation recorded on the fabricated tape was recorded shortly after 8.55 p.m. at Broadwater Park. Saunders was rostered on duty that evening with Carnes. Saunders completed a log of duty for the shift. It recorded that Saunders and Carnes worked from 1800 hours on 19 March 1982 to 0200 hours on 20 March 1982. The log is set out in full below:

<u>Time</u>	<u>Type of Occurrence</u>	<u>Time of Occurrence and Particulars</u>
1830		On air depot Patrol City/Valley
2035	TON-Speed	Issued to Glen John Brown Beach St. Cleveland - Grey St

*S/Bne
Patrol S'side*

2130 *Assist-Arrest
Obscene Resist Assault*

*Balmoral Football Club
attended with Mobiles*

2318

*To Greek Hall, Boundary St, West
End re disturbance. Arrest on
arrival.*

2400 *Assist CIB
Arrest Wilful Damage*

*Directed by VKR to return above
re further disturbance.*

0045

Back as above.

Patrol City/Valley

0150

Off Depot.

Saunders stated that she thought it was extraordinary that the information in the logs was not thoroughly checked for the days on which Dodd had claimed to have met her. In particular she believed that a statement should have been initially obtained from Glen John Brown who according to the log had been issued with a traffic offence notice at 8.35 p.m., 50 minutes before she was supposed to have been with Dodd at Broadwater Park. She also believed that inquiries should initially have been made concerning the Balmoral Football Club incident.

Counsel Assisting asked Webb to comment upon this criticism of the investigation. He responded in the following fashion:

I checked those logs. There was a lot of problem with the Task Force. It was common knowledge that those people used to commence duty at 4 o'clock in the afternoon, or 6, depending on the day of the week. They'd drive out of the gate together, they'd split up, and it was an incredible situation where they'd start, say, at 4 o'clock in the afternoon and the first job they did would be round about 10 o'clock at the night when the pubs were closing. It was common knowledge that they split up; they went to different other places and one would pick the other up again later on. They were regarded as a bunch of cowboys. Their logs were a joke. Saunders, in her

evidence, and other people, Knight, they've openly admitted here in the witness-box they were at different places but went drinking beer for a couple-of hours or having a cup of tea. Nothing on the logs to that effect. And Saunders, I think, even said she had intercourse with Lobegeiger while she was working and that didn't go on her logs. The logs were a complete and utter joke, but I checked them out and I checked her speeding tickets out and so forth very early in the piece.

So you say you did look through it, but what, that it was impossible to draw a conclusion either way because of the paucity of information, is that what you are saying?---Well, it was - there was just nothing in the logs.

Yes?---Until they got a job later on in the night.

Further in relation to this Webb stated in examination by Fleming QC:

It was a view - I had just started at the city, and it was - the matters that I had got from other inspectors, that told me to watch this bunch of cowboys at the task force, and they had a habit of splitting up, and it's been given here in the court they - where they split up, and it was never shown on their logs that they split up.

Support for the proposition that the logs could not always be relied upon as reflecting the correct events of the day can be found in the evidence of Saunders's one time partner Knight. He testified before me that he and Saunders had "dropped in" for a cup of tea at Cheryl Tucker's home on a couple of occasions. He agreed that such visits would not have been recorded in the log although they occurred during work time. These visits would have lasted something less than half to three quarters of an hour according to Knight. A similar visit to Dodd's home also had not been recorded in the log according to Knight. Menary also testified that the logs could not always be relied upon.

There is no doubt that at an early time Webb had in his possession the relevant logs. In the statement dated 24 June 1982 of the handwriting expert, Barry Thomas Short, he recorded that Webb had provided him with the logs on 14 May 1982. Flanagan's diary for 21 May 1982 recorded:

TUW Det Insp Webb at CIB and - Duty Sheets for Task Force re Saunders inquiry.

It was not in dispute that Brown was not interviewed or spoken to until 25 March 1983. It was also not disputed that he was issued with a ticket on the Grey Street Bridge at about 8.30 p.m. on 19 May 1982. In relation to the Balmoral Football Club incident there was no dispute that two of the police officers who were present at that incident were not interviewed until at the earliest the day before they gave evidence at Saunders's trial. Webb suggested that he had spoken to other police officers who were at that incident shortly after he obtained possession of the logs but because their answers were inconclusive he did not obtain a statement from them. Webb stated that it would have been preferable if he had the time and resources to interview all those present at the Balmoral Football Club incident. One of the officers that he claimed to have spoken to later gave evidence at Dodd's trial. There Barry John Flanagan testified to having seen Carnes and Saunders at the Football Club at about 9.30 p.m.. Flanagan was in the Task Force.

I have some difficulty in accepting that Webb did conduct inquiries at an early stage with some of the police present at the Balmoral Football Club incident. It would indeed have been strange if he had carried these out and not interviewed Brown. Webb had given evidence that he was not prepared to rely upon members of the Task Force giving a truthful account of Saunders's activities. He stated that he would have relied upon the account of most other police officers. The two officers in relation to whom there had not been any dispute that they had not been approached by Webb prior to Saunders's trial were Darryl John Ballin and Steven John Steenstrup. They were not in the Task Force but were at Mobile Patrols. If Webb had made a genuine attempt to ascertain the movements of Saunders on that evening he would have approached these two officers before any one from the Task Force. After all he was not prepared to rely upon the account of persons from the Task Force but would trust other police.

I am inclined to believe that initially he made no real attempt to obtain information from officers who had been at the Balmoral Football Club because as he said he "didn't place any credence in the logs," "they were a meaningless thing" and "you couldn't rely upon them."

My conclusion that Webb did not carry out any significant initial inquiries concerning the Balmoral Football Incident is supported by the evidence he gave in the following exchange with Fleming QC:

Well, now, just pausing there for a moment, what if - just what if what was contained in those logs happened to be true that night?---It made no bearing on the time that Dodd said that he made the tape.

Not only would Webb not rely upon the logs but in his mind the relevant log left it open for Dodd to have seen Saunders at the time claimed in any event.

There is no doubt that in a full and complete investigation statements should have been obtained from those present at the Balmoral Football Club as well as from Brown at the earliest possible time. I gain no satisfaction from the fact that these inquiries were not carried out. However it should be borne in mind that the matter was placed in the hands of the Crown Law Office at a relatively early stage as Crown Law officers conducted the committal hearing in August 1982. It would seem that they did not consider it necessary to pursue these inquiries at this stage. As it turned out if these statements had been obtained they would not have proved conclusive as the time given for the arrival of Saunders varied considerably. Furthermore Ballin and Steenstrup were of the view that Carnes was not even there. This would have left open the possibility that Saunders was apart from Carnes prior to her arrival at the Football Club and had an opportunity to see Dodd prior to attending the scene of the disturbance at the club.

Webb admitted having asked Carnes at an early stage whether he had been present with Saunders for the whole of the evening of 19 March 1982. Carnes had indicated to him that he had. Carnes thereafter maintained this. Webb discounted this information. He stated that because Carnes was a member of the Task Force and a friend of Coomer and Saunders he could not be believed. This was the reason Webb gave for not having recorded in Carnes's statement of 14 July 1982 any reference to the incident at the Balmoral Football Club. The primary purpose of that statement had been to have Carnes identify Saunders's handwriting in the logs. Interestingly enough neither the Crown nor the defence at Saunders's committal hearing raised the question of Carnes's presence with Saunders on the evening of 19 March 1982 although the logs had been tendered.

I am satisfied that Webb believed that Carnes, Saunders's work partner, had been lying to him. I am also satisfied that this was the reason he did not have Carnes refer to the Balmoral Football Club incident in his statement. It seems to me that although he did not include it in Carnes's statement he did tell the Prosecutor what Carnes would say and that he was not to be

believed. Otherwise the Prosecutor would have asked him at the committal hearing whether he had been with Saunders for all the evening of 19 March 1982. Support for this view can be found in the fact that it was put to Carnes by the Crown Prosecutor at Saunders's first trial that he had not been with Saunders for the entire evening.

12.12 Failure to retain the VKR tapes for 19 March 1982

Saunders stated that it was extraordinary that Webb did not obtain or retain the VKR tapes for 19 March 1982. Saunders also stated that the VKR tapes for the previous nights on which Dodd had also claimed to have met her would have been of assistance but these were not retained. She stated that they would have shown radio contact between her and Police Headquarters and also documented times at which she had been at different locations. It was not disputed that the VKR tapes were retained by the Police Department for three months after their use. There is little doubt that the tapes would have been available when Dodd made his allegations on 23 April 1982. If a special request for the retention of a tape had been made it would have been secured. Webb was questioned by Counsel Assisting on these matters:

... they can get on the radio and say that they're in Marshall Road, Holland Park, and they're in Hamblin Road, Chermshire. It was a meaningless thing.

Yes?--Unless you had spot on checks, it - the whole recording system for the Task Force was a complete and utter joke.

What you are saying, I think, or this is the inference I am drawing; that if I were a member of the Task Force and I were minded to give myself an alibi for 19 March 1982, say, because I was going, let us say, to meet a criminal or spend a half an hour in a way that I should not, I could easily give myself a - supposing I was going to do this, for argument's sake, in Mt Gravatt, I could give myself a position on the radio - - -?--Yes.

- - - half an hour before, being at Ipswich or something of that kind - - -?--That's right.

- - - even though I am only five minutes from where I

am going to do the act at Mt Gravatt. That is the sort of thing?---Yes, that's right.

Initially in examination by Fleming QC Webb maintained the same explanation for not having obtained the VKR tapes for 19 March 1982 but finally conceded that he probably did not even think of them. When asked to explain why he had obtained the VKR tape for 7 March 1982 he replied:

Just in case there were repercussions of the dispute that had occurred between Saunders and Symes.

Saunders stated that if she had been advised prior to her committal hearing that the relevant date in question was 19 March 1982 she would have arranged for the VKR tapes to have been subpoenaed so that they would not have been destroyed. There is little doubt that Saunders and her legal advisers had been advised prior to the commencement of the committal hearing of the date on which the fabricated tape had allegedly been made. As I have previously indicated they had a copy of the tape well before the committal hearing. It is improbable that they would not have been advised of the date upon which it had allegedly been made.

The VKR tapes for 19 March 1982 and the days surrounding should have been retained. I am inclined to believe that Webb did not even think of them. In any event if he had obtained them, for the reasons Webb expressed they would not have afforded conclusive evidence.

12.13 Failure to investigate Dodd's account of events at Broadwater Park

Saunders stated that if Webb had taken Dodd to Broadwater Park as had been done during her committal hearing it would have become obvious that Dodd was lying in relation to the incident. Webb stated that he had gone to the park with Dodd. He stated that it may have been with Flanagan although he raised the possibility that it could have been Williams. Although there was no reference to such a trip in Flanagan's diary or notebook there is no reason to doubt Webb. Photographs had been taken at the park and they were used at Saunders's committal hearings and subsequently at her trials and at Dodd's. It is difficult to believe that they were taken without Dodd having been present as they were tendered through Dodd at the committal hearing and at Saunders's trials. Saunders claimed that these police photographs were taken at an angle which did not produce true pictures of the area. Having seen three of the four

photographs tendered by the Crown at the committal hearing and the photographs of the park taken by Saunders's solicitors and tendered at her second trial I am unable to agree with this assessment. The fourth photograph was unable to be located to be placed in evidence before me. Interestingly enough these photographs were tendered at the committal hearing without objection and the photographer was not called as would be expected if there had been a dispute over what was depicted in them. Furthermore the same photographs were tendered at Saunders's first trial without objection and one of them was tendered by counsel for Saunders at her second trial.

In any event the Magistrate committed Saunders after he had viewed the scene at Broadwater Park and after he had heard Dodd give evidence and be cross-examined. I do not see how Webb would have been better placed than the Magistrate who had the benefit of hearing Dodd cross-examined at length.

Saunders also stated that her lawyers had made tape recordings at the park and those tapes contained sounds of feet crunching on the gravel and sounds of vehicles on the main road near the park. The fabricated tape had no such noises. Although Saunders's lawyers may have had tapes containing sounds of feet crunching on the gravel and sounds of vehicles on the main road near the park it should be recalled that Moody had made tests at Broadwater Park. According to Moody's expert opinion these tests were not inconsistent with the tape produced by Dodd.

12.14 Pressure placed on Pfuhl to change his evidence

Saunders furnished to the Commission a statutory declaration which her solicitors had obtained from Pfuhl on 1 May 1990. It will be recalled that Pfuhl had received the telephone call from Spires advising where to locate the abandoned firearms. In that statutory declaration Pfuhl had declared that Webb and possibly Williams had taken him into an interview room at the Cleveland Magistrates Court and had asked him questions about the statement which he had previously given to Inspector Webb concerning the telephone call. He stated that particular emphasis was placed on the identity of the female voice and whether he knew Saunders. This passage then appeared in the statutory declaration:

It was obvious to me then that pressure was being put on me to give evidence that the female voice on the phone was that of Lorrelle Saunders. I would not go along with the

suggestion. I said that I knew Lorrelle Saunders and that I could not say that it was her voice on the phone. In spite of this I was still asked a number of times whether I was sure it was not Lorrelle Saunders. I kept stating that I could not say that it was.

In the same statutory declaration Pfuhl stated that prior to his giving evidence at the District Court Webb again raised the issue of the female voice with him "over and over again." The following passage then appeared in the statutory declaration:

I was left in no doubt that Inspector Webb was trying to convince me that it was Sergeant Saunders who made the telephone call and that he wanted me to give evidence to the effect that it was her voice on the telephone. He was trying to do this by way of power of suggestion. This was particularly so because I was a junior officer and the issue was being repeatedly raised with me by a high ranking officer.

When officers from the Commission obtained a statutory declaration from Pfuhl he explained that when he had given the statutory declaration to Carew he provided the information to the best of his knowledge as it was in 1990 and that he had not canvassed the issues for many years. He stated that he did not have the benefit of his transcripts of evidence to assist him in his recollection of events. He stated that his present recollection was that he had been placed under no pressure at the Cleveland Magistrates Court by Webb and Williams. In this statutory declaration he recalled that the first intimidation he felt was from Webb just prior to the committal hearing. Webb had asked him whether he could identify the female voice and whether the voice was Saunders's voice. Webb continued to ask him "Are you sure?" Pfuhl stated that he did feel some intimidation from Webb as he began to think that he was not acting properly in being persistent. His account of the behaviour by Webb at the District Court was that he had been waiting to give evidence for approximately a day and a half. During this time Webb raised with him on several occasions whether it had been Saunders's voice on the telephone. Pfuhl stated that he told Webb that he thought that his suggestions were "getting out of hand" and that he would not change his evidence. Webb apparently then backed off. He stated that it seemed clear to him that Webb had been attempting to get him to give evidence that it was Saunders's voice. He believed that this was being done by virtue of the power of suggestion from a senior officer.

Before me Pfuhl explained that for the last eleven years he had been saying that he was not sure whether it had been Saunders's voice or not. He stated that Saunders was the furthestest thing from his mind on the night that he received the telephone call. This was consistent with the evidence he had previously given. He maintained his account that Webb had become particularly persistent in the District Court. Pfuhl was questioned by Counsel Assisting concerning what he believed Webb had been attempting to do by his persistence:

All right. I should put this hypothesis to you, I suppose. Difficult one, looking back after so many years, but: Was his attitude consistent with his believing, perhaps, that you were one of the police who might have been on her side and you had not been - you had been protecting her by saying, 'I couldn't really say whether the voice on the phone was hers or not'? Do you follow what I mean?---Yes.

In other words, he thought, 'Oh, you're deliberately sitting on the fence to help her,' when - unless you are a complete dill, you must have know whether it was her voice or not. You should have been able to come down and say, yes or no, and he suspected, therefore, that you were saying you did not know because, in fact, you did recognise her voice: do you understand?---I can understand him thinking that. I probably would do the same thing myself, but, again, it was a case where it was police against police and I guess there's basically three camps in existence and it would be difficult for him to work out who was in which camp, as far as how you treat your witnesses, and I think I highlighted in my statutory declaration that, for the first time in my career, I was being treated as a normal witness rather than a police witness because, obviously, police witnesses are privy, a little bit more, to what's going on after you give your evidence. I mean, even to this day, I still don't know the full story and I don't really want to know.

In questioning by Quinn on behalf of Webb Pfuhl acknowledged that he had not been threatened by Webb nor offered an inducement in terms of his career. He conceded that it would have been easy for Webb to have charged him departmentally if he had wished to do so.

not been lying but at the time it was understandable that Webb with his state of knowledge thought that he may have been lying. In the circumstances I do not think Webb acted improperly.

To my mind this attempt by Webb to have Pfuhl identify the voice on the telephone is inconsistent with a conspiracy by police to 'set-up' Saunders. Pfuhl had been interviewed by Webb prior to 26 March 1982. If Webb had been involved in a 'set-up' then at Dodd's interview on 26 March 1982 he would have had Dodd state in his record of interview "Saunders told me that she telephoned the Beenleigh Police" or words to that effect. After all Pfuhl had not discounted the possibility that it had been Saunders's voice. Instead it was recorded that Dodd stated that it had been Wills putting on a female voice. If Webb had caused Pfuhl to identify the voice as that of Saunders Webb would have discredited Dodd his principal witness. Hardly the actions of someone in league with Dodd to 'sink' Saunders.

It was submitted by Carew and Company that it was significant that Webb did not play the fabricated tape to Pfuhl if he had been genuine in his attempts to have Pfuhl identify the female voice on the telephone. It would seem to me that Webb did not consider playing the fabricated tape to Pfuhl because he considered Pfuhl was unwilling to implicate Saunders.

12.15 Pressure placed on Krosch to change his evidence

Saunders furnished to the Commission a statutory declaration which her solicitors had obtained from Krosch on 21 June 1990. In it Krosch referred to his interview with Webb and Flanagan on 30 March 1982. He declared that:

Flanagan (at least) was trying to convict Lorrelle Saunders and Superintendent Lobegeiger.

Krosch added later in the statutory declaration:

They were trying to put words in my statement that I did not agree with and that they were obviously trying to convict Lorrelle Saunders and Superintendent Lobegeiger.

Krosch had previously made similar allegations in a statutory declaration dated 5 October 1988 furnished to the Fitzgerald Commission of Inquiry. In that document the following appeared:

I firmly believe that immediately prior to, and during that interview with Flanagan, that he and Webb were trying to fabricate evidence against Lorrelle Saunders. Webb was attempting to get me to include false statements in my statements about her. I held the firm belief that, for some reason, Detectives Flanagan and Webb were attempting to induce me to provide a statement which was not correct. I noted this in my notes at the time, and I still hold that belief.

In Krosch's statutory declaration dated 10 May 1993 to the Commission he recanted his allegations against Webb. In that statutory declaration the following passage appeared:

Inspector Flanagan was trying to have me say things that were not correct. I cannot remember now particulars of what he was trying to have me include in my statement. They were overriding things that were not correct. From what I can remember him saying he did not like Saunders or Lobegeiger. He was trying to make it sound worse than what it was. Inspector Webb was not trying to put things into my mouth for the statement.

The statement to which Krosch was referring was the one in which he detailed his dealings with Dodd and in particular the meeting of 9 March 1982 between himself and Saunders and Dodd. Shortly after the interview he made notes because he was concerned disciplinary action would be taken against him as he was not prepared to sign the statement owing to Flanagan's refusal to give him a copy. It is worth setting out the relevant part of the notes in full:

*Call to Inspector Hinds. Me to see Flanagan at 1030hrs.
To Flanagan. Webb also present.*

Start statement.

Typing by young girl.

Webb starts to dictate statement.

I have to ask him twice to outline nature of inquiry.

During statement, questions about Ananda Marga and agent. I do not wish to discuss. He says 'Dodd has mentioned all about Ananda Marga and you trying to recruit him. You had better fully explain it.' Supple pressure on me during statement; Flanagan keeps trying to put words in my statement. He is obviously trying to

convict Laurie Saunders and Superintendent Lobegeiger.

Typist leaves at 1200.

Webb does typing.

Finish statement.

Flanagan: 'Will you sign them, Brian - come outside.'

Flanagan and Webb leave room and talk outside.

All I heard was at end of conversation, something about stamping statements.

Flanagan: 'No he will sign them. They can be stamped later on.' Return to office. Have you signed them yet?

No. Here, this is the original. I sign the first page, and initial the other pages.

Flanagan: 'You can sign the others.'

Krosch: 'Can I have my copy first.'

Flanagan: 'No, you are not entitled to one.'

Krosch: 'What do you mean, I have just provided you with a statement. I am entitled to a copy.'

Flanagan: 'You are entitled to nothing. Internal affairs do not give you a copy. You can do whatever you like.'

Krosch: 'I most certainly take this matter much further.'

Flanagan: 'You can complain to the Commissioner and the Union.'

Krosch: 'I will be complaining to many people, including the Commissioner and the Union. This is a very serious matter. No member of the Department should be treated like this. I have bent over backwards to assist you with your inquiry. I have mentioned subjects which are very sensitive. Political dynamite. I went away to get you my personal file on this fellow, now you treat me like an inferior citizen. I have prepared lots of statements too, and everyone is entitled to a copy; it is their basic right?'

Flanagan: 'I am going to ring the Deputy about this.'

Off he goes.

Webb: 'Be careful with him, he has a temper. He is only doing his job. You might do yours.'

Krosch: 'I am only insisting on a copy of the

statement which I have just provided. I go to these extreme lengths to be more than co-operative. I should not have told you some of those things. Criminals get better treatment than this.'

Webb: 'He is saying that if you get a copy it might fall into the wrong hands.'

Krosch: 'You mean that he does not trust me. Listen Sir, if I wanted to, I could leave here, and ring Laurie Saunders and the others and tell them everything.'

Flanagan: (Returns) 'You are not getting a copy, and that is that. You can complain all you like to the Union. If you were a suspect I would give you one; as you are not a suspect; you do not get one.'

Krosch: 'I will certainly tell it to the Union, and I will be telling it to other people. This is a gross miscarriage of justice. I would never have made that statement if you had told me I was not going to be provided with a copy. I was about to offer you some assistance with your inquiries but not now. With respect Sir, I object strongly to the way you operate, I will never repeat that statement, and as far as I am concerned, you can go to buggery.'

Flanagan: 'I will have you charged if you swear at me like that again.'

Krosch: 'I did not swear at you. I have heard you swearing at many people. I would be ashamed of some of the things you have done.'

Flanagan: 'I will have you charged with withholding evidence.'

Krosch: 'I am not withholding evidence, I was going to offer to solve the thing for you. But not now.'

Krosch: 'Am I free to leave now, Sir.'

Flanagan: 'Yes, get out.'

I then returned to my office where I advised Det Inspector Hinds of the matter.

Williams denied that he had ever spoken to Pfuhl about his statement. He also denied that he had seen Pfuhl at the Cleveland Magistrates Court. He also denied every interviewing Pfuhl with Webb.

Webb denied that he had ever tried to coerce Pfuhl to change his evidence. The following exchange occurred between Counsel Assisting and Webb:

You did not try to give him the sign in some way or other that you would like him to change his evidence?---No.

Did you see any of the - I do not see this happened as a fact, but did you have any belief that police officers might be lining up in this case, friends of Saunders, as it were, trying to protect her or help her, whereas you might get more co-operation from people who did not know her so well?---That is a fair summary, yes.

That was something that was in your mind?---Yes.

It was submitted by Carew and Company that in view of Dodd's answers to Webb during the record of interview of 26 March 1982 there was never any basis for Webb pressuring Pfuhl as to whether the female who telephoned him at Beenleigh might have been Saunders. The submission pointed specifically to Dodd's answers that he had Wills feigning a female voice make the telephone call to the Beenleigh police and that subsequently he had telephoned Saunders to advise her that the guns had been dumped and the Beenleigh police advised. This submission overlooked the fact that Pfuhl had told Webb that it had been a female rather than a male who had telephoned the Beenleigh police. Webb was no doubt pursuing the possibility that it had been Saunders rather than Wills who had made the telephone call.

I am satisfied that Williams played no part in any pressure that might have been placed on Pfuhl. I have no doubt that Webb at no stage put pressure on Pfuhl to give false evidence. Whatever pressure had been placed on Pfuhl had been pressure for Pfuhl to tell what Webb believed to be the truth. It seems clear to me that he had perceived Pfuhl to be in "the Saunders's camp" because Pfuhl was "kept in the dark" and was asked about his relationship with Saunders. As Pfuhl had given a non-committal response to the question of the identity of the voice on the telephone and as Webb was convinced that Saunders was behind the theft of the firearms I am confident he believed that Pfuhl was not telling the truth and he was unwilling to implicate Saunders. I should add that it is clear that Pfuhl had

Before me Krosch was questioned by Counsel Assisting concerning discussions that he had with Flanagan during that interview:

Okay. Well, then, you thought that Flanagan was trying to have you say things that were not correct?---Yes.

And you cannot remember what any of them were now?---Not - not really specifically. It was just generally about Saunders and Lobegeiger.

Yes?---Their relationship and how it stood at that time.

I see. But that is what he was on about, was he? He wanted you to say, for argument's sake, that they hated each other or that they loved each other or something; is that - - ?---That's correct, yes.

You cannot remember what it was now?---Well, I must - you know, something like I must have known that it was all over and that, therefore, she would hate him. Well, as far as I knew, they were very much in love. I mean, I didn't know anything to the contrary.

Yes. But did you ever discuss the affair with Lobegeiger or only with Saunders?---Only with Saunders.

So your total source of information about their relationship was Saunders?---Yes.

I see. Was Flanagan saying well, he had another version of it from Lobegeiger?---I don't know where he got it from.

Yes. But he was putting a different version of the relationship to you?---Yes.

Which was different from the one that you got from Saunders?---Yes.

And it was on the basis that the relationship had broken up?---Yes.

And that she was pestering him - pestering Lobegeiger

and so forth?--Well, he was suggesting that I must have known about it.

Yes. Yes. But, no, first of all, that is what he was suggesting?--Yes. Oh, yes.

It was the true situation?--Yes.

And then you were saying, 'Well, I don't know that. I mean, I think that they're still - it's all still on from what I believe'?--That's - - -

And he is saying, 'Come off the grass. You must know about it;' that is the sort of way it was going?--That's - that sort of line of questioning.

Right. Okay. And you, then - that was one thing that you thought he was getting to say was not correct?--Yes.

You thought he would like to have in a statement, 'I know that the relationship has broken down as far as Lobegeiger is concerned' - - -?--Yes.

- - - 'but she is pestering and wants to renew it'?--That's correct, and, as far as I knew, it wasn't over and there was no problem.

Right. Okay. No, I understand. Now, what else was there? Was there any other topics?--Well, it became very, very clear during the interview that Mr Flanagan in particular was out to get Saunders. To my way of thinking, he should have been far more objective and shouldn't have been coming through to me like that and I thought he was after Lobegeiger, too, for some reason.

Yes?--But I can't be much more specific than that.

No?--I remember I noted that soon afterwards. I can't remember now.

In further questioning by Counsel Assisting Krosch was asked to comment upon the propositions that Flanagan had thought that he was much more friendly with Saunders than he actually was and that Flanagan believed that

he was trying to cover up for Saunders. Krosch replied:

Oh he certainly thought that.

Shortly after the following exchange took place between Counsel Assisting and Krosch:

Now, I am just wondering whether this is enough to account for his attitude towards you, you see: that he is expecting you're much more friendly with Saunders than you are and that he has had Lobegeiger's account of the affair which is quite different from the account Saunders gave?---Yes.

So, he starts trying to bounce you, believing that you are deliberately taking her side, as it were - - -?---Yes.

- - - and putting a different construction on the affair. Just test that. I mean, does that explain his actions towards you, or are the actions worse than that - you know - they are not susceptible of that as an explanation?---Sir, I can understand their frustration because, as I said, I only heard recently about what happened on the night of the 9th, about the weapons being - I mean, at that stage, I didn't know that. For 10 or 11 years, I didn't know that - because when I look back at it and put myself in their situation on that day, they probably thought I damn well did know a lot more than I was saying. But still, I'm still saying that Mr Flanagan went beyond the bounds of propriety there, a little bit, and I mean, I wasn't going - I wasn't telling him what he wanted to hear. I just told him what I knew. And that's what caused the problem, I think.

Yes?---That's what started it.

I see. Well, you cannot remember anything else in these particulars of falsehoods - - -?---No.

- - - or something or other, if you can call them that? Now, leaving aside that comment you make about Flanagan and you say Webb did not do anything like it. He did not try to put words in your mouth or argue the

*case with you. Is that right?---He, in fact, advised me to
- to calm down.*

In questioning of Krosch by Fleming QC his attention was brought to the extract from his statutory declaration of 5 October 1988 in which he had stated that both Flanagan and Webb were trying to fabricate evidence against Saunders and Webb was attempting to get him to include false statements. It was suggested to him that his recollection was different five years ago. There is no doubt his recollection was different at that time but of course that account of events was inconsistent with the notes that he made on 30 March 1982 shortly after the incident. In that document Krosch recorded a complaint only against Flanagan.

Quinn - questioned Krosch about his present appreciation of the circumstances which led to the interview of 30 March 1982:

And looking back on it now the information that you now have, in particular the meeting on the Tuesday night - that is 9 March when the very next day, very early hours of the morning, those guns were found and the actual circumstances of that meeting, you now understand why the police, Inspectors Flanagan and Webb on that particular night, were concerned about these matters and perhaps your involvement perhaps?---I understand that better now than I did at the time.

Right. And could it be that the best way of describing the interview between Inspectors Flanagan, Webb and yourself is that there was a robust investigation?---I'd say it's very robust and going very close to being improper.

Flanagan in evidence before me stated that he could not recall the conversations to which Krosch referred. He seemed to think that the dispute at that meeting was over his refusal to give Krosch a copy of his statement. He described as "ridiculous" any suggestion that he had told Krosch what to insert in his statement.

Webb stated that any suggestion that Flanagan was trying to put false material into Krosch's statement was "rubbish." He stated that Krosch went along with the statement until it came to the end and he found out he was not going to get a copy of it. It was then that a dispute broke out between Flanagan and Krosch. Webb stated that there was "obviously bad blood between him and Flanagan."

There is little doubt that Webb played a minor role in this matter. According to the notes made by Krosch on 30 March 1982 and Krosch's evidence before me Webb was trying to calm the waters. It also seems clear that Krosch's main dispute with Flanagan was the decision not to provide him with a copy of the statement. Certainly Krosch's notes were dominated by this question. I am sure that the strained relationship that had previously existed between Flanagan and Krosch did not help the situation. I have no doubt that Flanagan was not attempting to have Krosch give false evidence. Flanagan had been advised of the state of the relationship between Saunders and Lobegeiger by Lobegeiger two days before. Krosch was giving him a contrary account. It should be remembered that what Flanagan believed to be the true situation concerning Lobegeiger's relationship with Saunders I have concluded was correct. I have no doubt that Flanagan thought Krosch was covering for Saunders. In light of the known association between Saunders and Krosch and Flanagan's state of knowledge I do not consider that Flanagan was unreasonable in having this belief. Krosch himself now recognises the position that Flanagan and Webb were in at the time. A telling factor to my mind is the reference in Krosch's notes to "supple pressure." This was no doubt intended to mean subtle pressure being placed upon him by Flanagan. This suggested to me that Flanagan had not been telling Krosch what to record in his statements. He had been telling Krosch that he did not believe him and he wanted the truth. I should hasten to add that I consider that Krosch had not been lying to Flanagan. Krosch had been relating his state of knowledge as given to him by Saunders. Krosch was not to know that he did not have a true picture of the relationship. In the unusual circumstances I do not believe Flanagan or Webb acted improperly.

12.16 Attempts to elicit a complaint from Emmanuel Lourendos

Emmanuel Lourendos had been a friend of Saunders for many years. He described himself as a "very very close friend."

In Saunders's statement to the Commission she claimed that she had been told by Lourendos that Webb and Flanagan had tried to elicit from him a complaint about her. She claimed that she had been told by him that he had told Webb and Flanagan to get off his premises. She also claimed that she had been told that he had made no complaint about her to them.

In Saunders's Legal Aid material reference had been made to Lourendos. In the notes headed "Webb/Flanagan" the following extract appeared:

*A Greek friend of mine Emmanuel Lourendos operates a fish shop at Beaudesert Rd Moorooka.
He has told me that on two occasions Webb and Flanagan have come to his shop and endeavoured to talk about me.
He alleges he has told them in no uncertain terms to leave.*

It is clear that since the time that her Legal Aid material was written Saunders's account changed from a mere desire by Flanagan and Webb to speak to Lourendos to an attempt to elicit a complaint from him.

Lourendos was asked by Counsel Assisting whether Webb and Flanagan had ever tried to get him to make a complaint against Saunders. He replied:

Never ever. I don't know the people.

He was then asked whether any police had ever tried to get him to make a complaint against Saunders and he replied:

Definitely not.

Webb and Flanagan both denied ever seeing Lourendos before.

I should mention here some other evidence given by Lourendos which quite frankly makes little sense to me. Lourendos described that at some time between 1976 and the publicity concerning Saunders in 1982 two men in a cream Ford Falcon drove alongside his vehicle after he had just left Saunders's home. These people did not identify themselves but said to him:

You have been associating with Lorrelle Saunders. Keep away from her problems or otherwise you are going to find yourself on big troubles.

He was told that they would see him again. Lourendos stated that he never did see them again. Lourendos explained that he never forgot a face. He was shown a photograph of Dodd and asked whether it had been Dodd who had been involved in the incident. He said it had not been. Webb had been in the court room whilst Lourendos gave his evidence. He did not identify Webb.

Lourendos also described three telephone calls that he received some time after being intercepted by the men in the cream Falcon. In each instance a

different anonymous male told him to keep away from Saunders's problems otherwise he would find himself in the river. These voices were not the same as the voice of the man from the cream Falcon who had spoken to him. The other male in the Falcon had remained silent. When originally asked how long after the Falcon episode he received the first of the three telephone calls he replied that he was "not sure but about a month." Later when questioned by Counsel Assisting the following exchange took place:

And the whole thing stretched over a period of about eight or ten weeks. The Falcon episode and the three phone calls?---No, no, no. The phone calls - they were spread in that time period, but the stoppage on the road it was long before that.

He explained that although he told Saunders about the telephone calls some time after she had been released from jail he had never told her about the Falcon incident. He explained that he did not take any of the incidents seriously. He explained that until he had spoken to Carew a couple of weeks before he had given evidence he had never mentioned to anyone outside his family about the Falcon incident. I could not understand his reasons for reporting the telephone calls but not the Falcon incident to Saunders.

Assuming that the incidents occurred there is no evidence to connect them with Saunders's charges. Lourendos never discussed with Saunders her problems and was unable to date the incidents in relation to them. The best he could say was that he believed that the incidents predated any publicity concerning them. I have no doubt that if Saunders thought that the telephone calls were in any way connected with her predicament she would have referred to them in her evidence or her statement. It was not suggested or put to Lourendos by Fleming QC that he had not advised Saunders of the three telephone calls. I do not believe that Saunders forgot about the telephone calls having included in her statement to the Commission specific reference to Lourendos.

12.17 Evidence of Dodd having been given favourable treatment

It was implicit in Saunders's statement to the Commission and in her evidence before me as well as in the examination of witnesses by Fleming QC that Saunders considered that Dodd was treated most favourably by the police investigators. I have no doubt that Dodd was treated favourably. I should add that I do not consider that his favourable treatment was in all

the circumstances improper or even evidence of impropriety.

I have already expressed my views concerning Dodd's release on bail on 15 April 1982. On 5 July 1982 Dodd was taken before the Magistrates Court at Cleveland, charged with Spires, Alan Glanville and some other youths with the unlawful use of a motor vehicle on 4 July 1982. They had been found stripping parts off the motor vehicle in bushland off Avalon Road at Sheldon. Williams had been the arresting officer.

In her evidence Saunders made the point that when Dodd was released on bail on 5 July 1982 he was released on a weekly reporting condition whereas prior to that he had been on a daily reporting condition. She stated that this was "pretty strange." This view was also shared by Fleming QC who stated from the bar table that whilst Dodd was on a daily reporting condition he committed this offence and his bail conditions were then relaxed.

It is true that on 5 July 1982 Dodd was released on a weekly reporting condition. It is also true that on Dodd's release from Cleveland Magistrates Court on 15 April 1982 he had been released on condition that he report daily between 3 and 4 p.m. at the Cleveland Police Station. However when he next appeared before the Magistrates Court on 10 May 1982 the Magistrate had varied by consent the reporting conditions to each Saturday between 9 a.m. and 11 a.m.. It was therefore not correct to say that at the time that he committed the offence of unlawful use of a motor vehicle on 4 July 1982 he had been reporting on a daily basis. The court released Dodd on bail on the same conditions that he had previously been on. Having said this there is no doubt that Dodd was treated leniently. The police had consented to the relaxing of the reporting conditions on 10 May 1982 and they had not opposed bail on 5 July 1982 after Dodd had committed a further offence whilst on bail. However I do not believe that there had been anything improper in their having done so. Certainly nothing was done contrary to the provisions of the *Bail Act*. It was understandable that they had bent over backwards to keep a prime witness 'on side.' This was a common practice apparently. I will return shortly to evidence of this practice. There was certainly no evidence to suggest it was an uncommon practice. Certainly there is no evidence that once released Dodd reoffended again prior to his being sentenced on 7 October 1982 for this offence and the others in respect of which he had made admissions in late March 1982. He was sentenced to 18 months imprisonment for each of the offences.

There was also evidence before me that action was not taken against Dodd

in relation to an unlawful carnal knowledge charge until a time later than otherwise would normally have been the case. Baker was a Detective Senior Constable of Police attached to the Holland Park Juvenile Aid Bureau in 1982. On 9 March 1982 at 7.00 a.m. he went to 59 Ney Road, Capalaba and spoke to Dodd. It was around this time that Dodd had moved out of Ney Road according to Dodd, Spires and Helena Dodd. It is not clear whether Dodd was still living with Helena Dodd at Ney Road on this date. It was pointed out by Carew and Company in their submissions that later that evening Dodd abandoned the firearms. That is the case but not before Saunders met with Dodd in the absence of Krosch. Dodd told Baker that he would see him later in the day. However he did not attend upon Baker until 23 March 1982 at which time he was interviewed. Dodd was interviewed again at Boggo Road on 10 April 1982. On 19 April 1982 Baker took out a summons in respect of the offence of unlawful carnal knowledge of a girl under the age of 16 years. He subsequently made inquiries and ascertained that Dodd was required to attend regularly at the Cleveland Police Station as a condition of bail on other charges. Baker stated that he went to the Cleveland Police Station with the intention of serving the summons on Dodd or ascertaining where he was for the purpose of serving the summons. Whilst at the Cleveland Police Station he had a conversation with Williams and advised him that he had a summons to serve on Dodd. Williams told him that Dodd was assisting police in relation to another matter and he did not think it would be a good idea to put him offside. Williams then told him that he would ring Murphy. Williams then picked up a telephone and contacted a person who Baker presumed was Murphy although he did not recollect Williams referring to him by name. During the telephone call Williams explained the situation to Murphy and as a result of questions asked by Murphy of Williams, Williams asked questions of Baker. One of the questions asked of Baker was whether he had commenced proceedings within the six months statutory limitation. He confirmed that he had taken a summons out against Dodd already. After Williams terminated the telephone call he said to him that Murphy had said to leave Dodd alone. Baker interpreted this to mean that he was to be left alone until they had finished whatever the police were doing with Dodd. He expressed some displeasure about the matter to Williams and he was told that he was only a Senior Constable and Murphy was an Assistant Commissioner.

When Baker returned to the Holland Park Juvenile Aid Bureau he took up with his officer in charge who made further inquiries. Baker was ultimately told that it was a matter out of the hands of the officer in charge and he had to leave Dodd alone "for the time being."

During the following months on at least one occasion Baker asked Williams when he could serve the summons on Dodd. Williams made inquiries and subsequently told him that he had been advised by senior officers at the Brisbane Criminal Investigation Bureau that there was now no reason why he could not proceed with the summons. Baker then served the summons. This was done at Boggo Road prison on 28 October 1982. The unlawful carnal knowledge charge was proceeded with and Dodd was convicted of the offence on 1 June 1983. This was prior to the commencement of Saunders's second trial but after the first. Dodd was sentenced to 3 years imprisonment which was subsequently reduced to 18 months on appeal.

Before me Baker entered into the following exchange with Fleming QC:

Did that surprise you that you had to follow it up on such a serious charge?--No, I didn't surprise me. It's not uncommon in policing for police to try and keep people on side for various matters that relate to them and - to the police and that person, and it wasn't really surprising that someone wanted - someone wanted to look after Dodd in a manner that suited them. But I certainly had to keep that going. I think if I would have forgotten it, it would have been forgotten by everyone for ever.

Baker's comment that if not for him the matter would have been forgotten by everyone was not at all surprising in view of the fact that he was the arresting officer.

Assistant Commissioner Pointing expressed similar views concerning police policy.

Murphy could not recall the telephone call from Williams but he did not deny it had occurred.

Williams was questioned by Counsel Assisting in relation to the incident. He could recall that Baker had come to the office to serve a summons on Dodd but he could not recall that he rang Murphy. He stated however that he knew Baker as an honest man and he would accept what Baker had said. He stated that there would have been a reason why he telephoned Murphy. He suggested that it may have been because he could not get the other officers. He denied that there was ever any suggestion that the charge would not proceed. He could not remember whether Baker had sought him out at a later time to see whether it was suitable at that time to

serve the summons on him. Williams agreed that the idea was to try to keep Dodd 'sweet.' In examination by Fleming QC the following exchange took place:

What I am suggesting to you is that he seemed to have been getting a bit of favourable treatment?--Well, that's the interpretation you put on it, but at the same time he is a vital witness in relation to allegations of misconduct, or call it what you like, in relation to a police officer.

Shortly after he stated:

It is not uncommon for police officers when they are using informants for these sort of things to happen and in the interest of justice we must sometimes do these things.

Once again I am sure that Dodd did receive favourable treatment. However in light of the practice of which Pointing, Williams and Baker spoke I am satisfied that there was no impropriety attached to the action. There certainly was not an inordinately lengthy delay in serving the summons on Dodd and it was not suggested that he gained any benefit from the delay. There was no suggestion from Baker that when he served the summons on Dodd he (Dodd) had expressed an expectation that he was never to be charged with the offence. There was certainly no mention of a quid pro quo for his willingness to give evidence against Saunders. Carew and Company submitted that Williams was a party to obstructing the course of justice and thereby committed an offence against section 132 of the *Criminal Code*. There is not the slightest evidence that Williams was guilty of such an offence.

CHAPTER 13

CONCLUSIONS

13.1 The alternative possibilities which could have accounted for Saunders having been charged on 23 April 1982

When I commenced my investigation into the first three charges which were brought against Saunders in 1982 it occurred to me that there were a number of alternative possibilities which could have accounted for the position in which she found herself on 29 April 1982. Accepting at face value the many and varied claims which Saunders made in her signed statement to the Commission, although many of them were more in the nature of suspicions that police had been corrupt or at least dishonest in their dealings with her, the primary possibilities were:

- (1) That Saunders had been 'set-up' by Dodd and corrupt police either from the very beginning or at a later stage during the investigation. The fabricated tape recording was the focal evidence for either scenario.
- (2) That the police investigators had been dishonest to the point of having been corrupt or alternatively that they had been guilty of neglect or violation of duty.

However as the evidence progressed the first possibility looked more and more remote. In the course of Saunders's evidence and particularly when examined by her own counsel she seemed to recognise this. It is worth repeating in full the relevant part of her questioning by her own counsel:

Sergeant, at the outset, I want to ask you a couple of questions about the people who are mentioned in the first part of your statement; people, for example, like Mr Webb and Mr Williams. Now, the incidents that are recorded in the first part of the statement, do you claim that they somehow or another implicate them in any sort of set-up?---No.

Have you ever made a complaint to that effect?---No, I haven't.

Now, we're talking - we are not talking about perhaps the

incident relating to the jail, but rather we are talking about the personalities who are mentioned in the earlier parts of your report. And I should perhaps deal with some of them. I will come back to Mr Webb and Mr Williams, because you do have a complaint about them in relation to the way in which the investigation itself is conducted?---That's correct.

All right. Not about any of their earlier personal behaviour against you?---No.

All right. Now, at pages - at page 20 of your statement, there is Mr Williams - we'll come back to Mr Williams. At page 21, Mr Tutt?---Yes.

Do you have a complaint against Mr Tutt in that in some way or another he is implicated in any set up of you?---No, I do not.

Mr Webb is on page 22. Inspector Flanagan?---Again, my complaint is only in relation to the way the investigation was carried out.

Yes, now Mr Krosch is mentioned in paragraph 9.2?---I've got no complaint in relation to Mr Krosch.

Page 24, Mr Pointing - that's Laurie Pointing, and Trevor Menary?---No complaints in relation to them.

And at page 25, Mr Symes?---Not exactly a - I was - just that I wasn't happy in his attitude back in 1982; but I've got no complaint now - about him now.

All right. Now, Mr Murphy appears through your statement from time to time. What about Mr Murphy?---I've got no complaint as such against Mr Murphy.

Do you have any knowledge of involvement by Mr Murphy in corruption?---No, I don't.

With the exception of Lewis the police officers named in this passage comprise all those officers who could have been involved in some sort of

conspiracy to harm her. If Lewis had been involved in such a conspiracy he would have needed the assistance of one or more of those absolved by Saunders in the passage to which I have just referred.

More importantly by the time that she had absolved the police from corruption her own credibility was beginning to be in some doubt. As her credit continued to waver so the possibility arose that the allegations in her statement to the Commission were based on a desire to be vindicated in circumstances which did not warrant vindication. Indeed the probability that the police officers who had conducted the investigation had not only not acted corruptly but that they had not acted dishonestly or been guilty of any neglect or violation of duty loomed larger as a basis for relevant findings.

When one has regard to her signed statement to the Commission and also to campaigns conducted on her behalf in the media and the course of her later claims for compensation, all of which directed attention to the price she paid because she had been the target for corrupt police, her words quoted above become more and more striking.

In February 1990 in Carew and Company's letter to the Honourable T Mackenroth MLA in which compensation was sought it was said:

In hindsight and with the benefit of the Fitzgerald Report and evidence given to the Inquiry it can now be said with a great deal of confidence that the corrupt sections of the Police Force did intend the framing of Sergeant Saunders to be a lesson to others.

This investigation was undertaken at the direction of the Parliamentary Criminal Justice Committee and in the submission dated 28 May 1991 to that body one finds this passage:

When all of the evidence and surrounding circumstances (including information that was revealed for the first time during the Fitzgerald Inquiry) is examined it is very difficult to conclude that Dodd and that female acted alone in framing Lorrelle Saunders. It is also difficult to conclude, after examining the role of the so called investigating police, that they were not involved in the frame up.

Again in the submission to the same body on 1 November 1991 the

following is stated:

It is submitted that, at the very least, the existing evidence creates a strong suspicion that senior police were involved in fabricating the Dodd tape recording and other evidence against Lorrelle Saunders and/or knowingly making use of such fabricated evidence and the perjury by Dodd.

I personally have been led to the point of wondering what would have been the attitude of members of the Parliamentary Criminal Justice Committee had they had foreknowledge of what Saunders would relevantly say when time came for her to give evidence.

13.2 No evidence of a 'set-up' involving police

I was not prepared to rely upon Saunders's statement of absolution of police with respect to any possible corruption. Central to the whole investigation was whether or not police had acted corruptly and I was obliged to determine the issue upon a consideration of all the evidence. After considering all the evidence I was left in no doubt that at no time had there been any 'set-up' by Dodd and corrupt police. I take great comfort in the conclusion that I have reached from the fact that any other conclusion would have involved accepting that there had been a conspiracy amongst a number of people. If a conspiracy to 'set-up' Saunders had existed one would have expected to have found evidence of motive in relation to at least some of the people concerned. I found no such evidence. A further telling factor was that Dodd and Wills remained in custody from 27 March 1982 until 15 April 1982. If a conspiracy had existed either from the beginning or from the time of Dodd's and Wills's interviews on 25 March 1982 one would have expected that bail would not have been opposed when Dodd and Wills faced the Magistrate on 29 March 1982. Further one would not have expected Wills to have been charged with such serious offences as he was.

Any fair minded critical examination of the evidence bearing upon the relevant circumstances, including the relationship existing among the police officers to each other and to Dodd, made the possibility of a finding that the charges against Saunders were as a result of corruption by police quite remote.

13.3 The fabrication of the tape recording

I have no doubt that there was no police involvement in the fabrication of the tape recording. I accept Thompson's evidence that she had not been approached by anyone other than Dodd and Spires to seek her assistance in making the tape recording. I accept also her evidence that no-one had approached her after the tape recording had been made with a view to her remaining silent about it. I accept her account that Spires played a far greater role in the making of the tape recording than Spires admitted. The other persons who were residing at the Glanville household at the time of the making of the fabricated tape or who were closely associated with those who resided there testified that there had been no police involvement at all. There is no reason to doubt their evidence. Furthermore none of these persons suggested that they had been pressured in any way either to give a false account or to give a specific account of events.

It will be recalled that the scientific evidence and the evidence concerning the Radio 10 jingle confirmed my conclusion that the tape recording had been fabricated before it was placed in the hands of Webb on the afternoon of 23 April 1982.

The evidence which suggested that there had been police involvement in the creation of the tape recording was Dodd's letter dated 14 July 1982, Woods's evidence concerning his conversation with Dodd in prison and the evidence of Goodwin relating to his conversation with Lawrence Pointing. I have no doubt the letter had been written by Dodd to use for his own advantage at some time in the future. I have rejected that it was factually correct in its assertion that Webb and Williams had been involved in the fabrication of the tape recording.

Woods gave evidence that Dodd had told him that police had been involved in the manufacture of the tape recording. He had also given evidence that Dodd had told him that a prostitute had provided the female voice on the tape. This was proved to be factually incorrect. So was the assertion that Woods claimed Dodd made to him concerning the tape recording having been produced in the basement of Police Headquarters. I concluded that even if Woods's recollection had been correct that one could not rely on Dodd's unsupported claims.

I have already explained my conclusions in respect of the evidence of Goodwin concerning the conversation he had with Lawrence Pointing which suggested that the background noise on the tape recording was that of an air-conditioner in the basement of the Police Headquarters. The

evidence of Mainstone supported my conclusions in this regard.

If Webb and Williams or any other police officer had been involved in the fabrication of the tape recording I have no doubt it would have been raised by Dodd at his committal and at his trial through the questioning by his legal advisers and especially of witnesses such as Webb and Spires. Furthermore in view of the fact that Dodd had turned against Saunders I have great difficulty in accepting any suggestion that Webb, Flanagan, Williams or any other experienced police officer would have been prepared to rely on Dodd in a corrupt agreement knowing that Dodd could turn on them at any moment.

13.4 No evidence of a dishonest investigation or of neglect or violation of duty

I have considered at great length what evidence Webb and Flanagan had available to them in the course of their investigation. There is no doubt that some of the evidence that they had was subsequently discredited. However I consider that at the time they were entitled to rely upon the great majority of it. Obvious examples were the fabricated tape and Bernie Hannigan's account of conversations with Saunders.

Prior to the production of the fabricated tape by Dodd there was a great amount of evidence before Webb and Flanagan which supported Dodd's account. Much of this evidence has remained untarnished. For example the coincidences involved in the stealing of Coomer's guns from the Torana. Coomer was a close associate of Saunders and she was a police officer well known to Dodd. She was with Coomer at the relevant time. The Torana was being used by Coomer and Saunders because it was only on the day of the theft that the vehicle generally used by Coomer for carrying of his guns needed repair or was otherwise unavailable. Prior to the theft and while Coomer and Saunders were at the rifle club Saunders on the evidence had undoubtedly rung Helena Dodd and said that she wanted Dodd to ring her at the club urgently. The change to the Torana represented a change of plan and not only was this change of plan known to Dodd and discussed by him with Webb and Flanagan before they took statements from Coomer and Saunders but the lateness of that change of plan had been mentioned by Dodd. Further the firearms were abandoned by criminals who had previously engaged in violent crime. To Webb and Flanagan who had been innocent of any conspiracy it would have seemed extraordinary that valuable firearms which were even more valuable in the hands of criminals had been abandoned. It would indeed have seemed

significant that an unidentified female telephoned the Beenleigh Police with vague and imprecise descriptions of where the vehicle could be found. Similarly it must have seemed very significant to Webb and Flanagan that the abandonment of the firearms took place within a very short period of time of Saunders having met with Dodd in the absence of Krosch. To add to this they of course had the fact that Saunders at no stage had nominated Dodd as the suspect for the theft of the firearms when he was the obvious suspect. They were also aware of Dodd's knowledge of Bull and Lobegeiger and Lobegeiger's evidence of the state of the relationship and the shooting incident at Gatton. In relation to the shooting incident they had an inconsistent account from Saunders as related by Noyes. There were many other matters which fall in this category to which I have referred earlier in the report. I will not repeat them.

No doubt also apparent to Webb and Flanagan was the fact that Dodd had been prepared to steal Coomer's firearms knowing full well that Saunders was a police officer who was aware of a number of factors which pointed directly to him having been involved in the theft. For example Dodd knew that Saunders was aware that he had recently met Coomer, that he had discussed the guns with Coomer, that he knew Coomer shot at the rifle club, that he had a charge against him for possession of a firearm outstanding and that he had a very lengthy criminal history.

Armed with such coincidences and compelling evidence, much of it circumstantial, it is little wonder that Webb and Flanagan accepted Dodd was telling the truth as I believe they did. I had little doubt that the state of mind in which Webb and Flanagan found themselves prior to the production of the tape recording predisposed them to the belief that Dodd was indeed deeply involved with Saunders in an improper fashion. Although Webb and Flanagan may have believed that they were being 'taken for a ride' by Dodd when no tape was produced on 15 April 1982 it did not follow that they should have been suspicious when he produced one on 23 April 1982. It should be remembered that in the meantime they had been provided by Dodd with genuine documents which unquestionably had come from Saunders. The tape had been produced in an environment where most things seemed to tally with Dodd's account. The view I hold as to the state of mind in which Webb and Flanagan found themselves is consistent with evidence Webb gave at Dodd's committal. There the following exchange took place between him and the prosecutor:

*Mr Webb, in respect of any of those charges did the contents of that tape recording have any relevance? ---
Yes to my thinking at that time, it supported information I*

had previously obtained, and it very strongly supported that information, so much so that I arrested the woman Saunders.

I have no doubt that the predisposition that they had was the most significant factor resulting in the deficiencies in the investigation after the production of the fabricated tape.

In this context one can understand why it was that the tape recording was not subjected to vigorous examination as it was submitted it should have been. As I have previously stated the investigations of Menary and Pointing had been conducted with the great benefit of hindsight. They had what had been accepted to be a fabricated tape and were trying to discover only the circumstances of the fabrication. Flanagan and Webb had been pursuing evidence which supported Dodd's account because they accepted, not unreasonably, that the tape was genuine.

It must be remembered that even if Webb and Flanagan had conducted a full and complete investigation most of the matters that they would have established would not have been conclusive. As it turned out many of the matters were litigated again and again for example the identity of the voice on the tape and the attendance by Saunders at the Balmoral Football Club incident. Experts still differ in relation to some aspects of the fabricated tape and whether the conversation recorded was a genuine one or not. In this regard it should be remembered that Saunders relied on her undoubted right not to go into the witness box but as a result the jury were deprived of any opportunity to hear her speak for the purpose of making comparisons with the fabricated tape. Similarly she relied on her undoubted right not to answer questions on 29 April 1982 and the investigators were deprived of any opportunity to hear Saunders's account of events.

I have already discussed the deficiencies in the investigation. I was satisfied that there was no dishonesty evidenced by any of these deficiencies. In all the circumstances I do not believe that there was any evidence of neglect or violation of duty. Webb's workload, the resources at his disposal, his health and that of Flanagan were all relevant considerations. In this regard it should be remembered that shortly after Saunders had been charged the Crown Law Office became involved. As soon as they become involved the conduct of the prosecution fell upon them. For example, it was not Webb's decision not to call Mainstone although Mainstone had given a contrary opinion to Webb. By this I do not intend to criticise anyone in the Crown Law Office. The Crown

Prosecutors would also have been entitled to consider those matters which seemed to support Dodd's account. These matters would have no doubt seemed as persuasive to them as they did to Webb and Flanagan. Saunders's counsel Jerrard QC and Dick both gave statutory declarations to the Commission in which they made no criticism of the prosecution. In Jerrard's QC statutory declaration to the Commission he stated that the Crown case was prosecuted with endeavour and vigour but not improperly or unethically. He stated that although the proceedings were heated it was fair to say that they had been heated on both sides. He added that the prosecution had indeed provided to the defence much of the material which was used in the defence, for example the report of Majnstone, the logs and the statement by Carnes. Dick stated that in her view the prosecution did not act unethically. She added that she considered that they had acted in a very determined fashion but not in an unprofessional manner. The critical letter dated 14 July 1982 written by Dodd was of course also handed to the defence.

At this stage I think it is appropriate to observe that any poor investigation did not mean that only Saunders was prejudiced. There were in my opinion avenues, which, if pursued, may have strengthened the Crown case at least in relation to the theft of the firearms. For example using hindsight one can say that the discussions, influenced as they probably were by suspicions held by the investigators, which were had by Webb and Flanagan with Krosch and Pfuhl would have been more useful to the former pair had different attitudes been adopted. Only at the time of my investigations did Krosch suspect how he may have been used by Saunders and acceptance of Pfuhl's non-recognition of the female voice which led to discovery of the guns may have furthered inquiries of Helena Dodd and Spires as to their and Dodd's association with Saunders and provided support for the explanation of Dodd and Wills of the reason why they had abandoned the firearms.

Again using hindsight Coomer was a witness whose association with Saunders should have been more closely examined and investigated. Only in this investigation did the extent to which Saunders was prepared to use and even dupe her lover emerge; even if the fact of his being her lover had been established there would have been good cause to doubt her assertion of a continuing relationship between her and Lobegeiger.

At this stage it is appropriate that I refer to some evidence concerning Graham Charles Rhead, who at the time of Saunders's trial was a barrister in the Crown Law Office. Rhead had previously been a police officer. In her statement to the Commission Saunders had said that Rhead, who was a

distant relative, had at the time told another of her relatives that "there was something suspicious going on" concerning Saunders's case. Saunders stated that she did not know to what he had been referring.

Rhead is currently a Senior Crown Prosecutor in the Attorney-General's Department in Hong Kong. He advised officers of the Commission by telephone that he could not recall any suspicions about the case other than what became public knowledge after the disclosure of the controversy surrounding the jingle on the fabricated tape. He stated that he was not aware of any impropriety or misconduct on the part of any Crown Law officer or police officer in connection with the matter.

It should also be remembered that this investigation was not specifically directed towards examination of the extent to which Saunders may have been culpable in respect of charges on which she was tried or in respect of the one charge the subject of the nolle prosequi. Incidentally to the "terms of reference" it has been necessary for me to discuss some aspects of her involvement in them and even to express opinions but I am not obliged to and will not be making findings in that behalf as a basis for possible action against her.

13.5 No evidence that police improperly failed to charge Dodd

I have already commented on the favourable treatment shown to Dodd and the fact that in my view there had been no evidence of impropriety arising from this treatment. There is no evidence before me that Dodd was charged with any lesser number of offences because of his assistance to the police investigators. In this regard I should mention that Dodd was convicted in the Holland Park Magistrates Court on 7 June 1983 and sentenced to 3 months imprisonment on the charge of possessing a concealable firearm on 23 December 1981. This had been preferred against Dodd by police from Holland Park prior to his introduction to Saunders.

It is true that suspicion existed that Dodd had been involved in some further offences but as was correctly stated by Williams without Dodd's admissions there was no evidence upon which he could be charged. It should be recalled that Wills did not implicate Dodd in any offence with the exception of the theft of the firearms and the unlawful use of the vehicle in which the firearms were abandoned. Without Wills's own admissions the vast majority of the charges against him could not have been laid.

Although there had been no evidence before me that Dodd was charged with any lesser number of offences there was evidence that at Dodd's committal hearing on 9 July 1982 the police prosecutor sought an amendment of the charge that had been laid against Dodd by Millard. Millard had charged Dodd with receiving two tyres and a quantity of cigarettes stolen from the Caltex Service Station. The prosecutor sought to delete reference to the two tyres from the charge. The Magistrate acceded to this request. The resulting charge was that Dodd had received a quantity of stolen cigarettes knowing them to have been stolen. Officers of the Commission made enquiries of Millard, his corroborator Neilson and the police prosecutor, Inspector Ray Mewburn, who was then a Sergeant in the Prosecution Corps, to see whether they could throw light on the circumstances for the amendment. None of them could remember the circumstances leading to the amendment.

In my mind nothing turns on the fact of the amendment. Significantly, tendered at the committal hearing was Millard's statement in which it was recorded that Dodd had admitted to receiving both the tyres and cigarettes believing them to be stolen. If there had been a corrupt agreement to charge Dodd with receiving less stolen property than he had received I have no doubt Millard's statement would have made no reference to the tyres. The last thing a corrupt officer would wish to do would be to draw attention to the apparent discrepancy between the statement given by the accused to the police and the charge upon which the Crown intends to proceed. I think it fair to assume that the reason for the amendment of the charge resulted from some problem associated with the identification of the specific tyres. It should be remembered that on that same day Dodd was committed to the District Court on two more serious charges; the theft of the firearms from Coomer and the unlawful use of the Paterson vehicle. When Dodd appeared before the District Court he pleaded guilty to all the charges and was sentenced on each to eighteen months' imprisonment. I have no doubt that charging Dodd in relation to the two tyres would have made no difference to the length of sentence. I do not believe the tyres would have been perceived as a bargaining point of any significance.

It was submitted by Carew and Company that further favourable treatment had been shown Dodd when he was not subsequently charged over offences for which Wills "implicated" him at Saunders's first trial. The evidence given by Wills was far from specific. He referred to Dodd's assisting him to sell stolen tyres, a television set and cigarettes to unknown persons. The owners of the goods were not nominated. Even if they had been Dodd could not have been convicted on the uncorroborated evidence of an accomplice as section 632 of the *Criminal Code* then stood.

Similarly there is no evidence that any police officer or any other person acted improperly in the prosecution of Dodd in respect of three counts of perjury. The solicitors for Saunders submitted that although Dodd perjured himself on a large number of occasions in the Magistrates, District and Supreme Court of Queensland he was only prosecuted on three counts of perjury. Implicit in the submission is that Dodd was treated favourably. It is true that there were a number of other perjuries for which Dodd could have been prosecuted. However these were only peripheral to the three for which he was charged and convicted. In relation to those three charges he was sentenced to imprisonment with hard labour for three years on the first two counts and to imprisonment with hard labour for six years on the third. It was ordered that the three sentences be served concurrently. I have no doubt that if he had been convicted of any further counts of perjury the sentences would have been served concurrently as well. No doubt the police and the prosecuting authorities recognised this and decided to prosecute the most significant offences only.

PART C - THE FOURTH CHARGE

CHAPTER 14

CONTACT BETWEEN SAUNDERS AND LOBEGEIGER IN THE PERIOD BETWEEN SAUNDERS'S TWO ARRESTS

14.1 The relevance of the events which occurred between the date of Saunders's release on 30 April 1982 and her subsequent arrest on 9 September 1982

On 7 September 1982 Cooper was arrested after Lobegeiger had located him loitering around his police house at Miami. Webb and Flanagan were called to interview Cooper when it became apparent that he had been associating with Saunders at that time. On 8 September 1982 at 4.25 a.m. a lengthy record of interview was taken from Cooper by Flanagan and Webb. He made admissions involving him in a conspiracy with Coomer and Saunders to pervert the course of justice in relation to Saunders's forthcoming charges. During this record of interview Cooper stated that Saunders had suggested to him that he give false evidence at her trial on her behalf and he had agreed to do so. He explained that Saunders had shown him a statement of the evidence that she wished him to learn and eventually give in court. The statement related to events at Gatton in February 1982. He also told Webb and Flanagan that Saunders had been seeing Coomer on a regular basis and that Saunders had him and his girlfriend Gray deliver a letter to the police house occupied by Lobegeiger at Miami. He also stated that after he and Gray had delivered the letter he went to the police house at Saunders's request in order to get a close look at Lobegeiger. It was at this time that Cooper was seen by Lobegeiger and subsequently arrested.

As a result of this information a search warrant was obtained to search Saunders's premises and later that day a search was undertaken of Saunders's premises and a number of items located. Amongst the material seized was a tape recording of a telephone conversation between Lobegeiger and Saunders. Also found was a tape recording on which Saunders could be heard playing the part of Cooper and reciting an account of alleged events at Gatton in February 1982 which was to be adopted by Cooper as his when he came to give evidence.

As a result of locating this material which was corroborative of Cooper's account to the police in the record of interview Saunders was arrested and

charged on 9 September 1982 with attempting to pervert the course of justice in relation to the charge of conspiring with Dodd to procure the murder of Lobegeiger.

It is fair to say that in relation to this fourth charge Saunders had less criticism of the police conduct in the investigation. It was upon her arrest on this fourth charge that Saunders was refused bail by the Stipendiary Magistrate and remanded in custody. Notwithstanding a number of applications for bail to Judges of the Supreme Court she remained in custody until 4 July 1983.

As Saunders's period of incarceration resulted directly from her having been arrested on 9 September 1982 on this fourth charge it is of considerable importance to examine the circumstances leading to her arrest. In particular it is necessary to consider her association with Coomer, Cooper and Gray and her dealings with Lobegeiger. It should be remembered that Saunders was released on bail by the Stipendiary Magistrate on 30 April 1982 subject to conditions of bail requiring her to refrain from making contact with Coomer, Lobegeiger and Dodd. It is clear that although Saunders did not have any dealings with Dodd after her release on 30 April 1982 the same could not be said with respect to Coomer and Lobegeiger.

14.2 The Spirax Notebooks

The two Spirax Notebooks located in her Legal Aid material were critical to Saunders's account of events after her release on bail on 30 April 1982. Saunders stated on oath that the notes had been written by her contemporaneously with the events recorded in them for the period 11 August 1982 and 9 September 1982. She also swore on oath before me that they were true and correct to the best of her recollection.

In these two notebooks there was a total of 127 pages of handwritten notes covering alleged meetings, discussions and telephone conversations involving both Saunders and Lobegeiger and Saunders and Cooper, Coomer and Gray. There were also some notes recording conversations with police during the search of her home on 8 September 1982. In her Legal Aid material, the existence of the notebooks is explained in a document headed "Notes re Colin Stanley Cooper and Susan Joy Gray ... co-accused and Crown witness." On that page the following passage appears:

After what happened with other witnesses on August hearing ... Hannigan, Coomer, Tucker, Cheryl in main when Cooper arrived I was very suspicious as I was of another person that suddenly phoned from the South ... and arrived in Qld ... I kept a full record of dealings with Cooper which I wrote on a daily basis as I had contact. Notes also include some conversations with Allan Lobegeiger, Roy Alfred Coomer and Susan Joy Grey. ...

These notes are contained in two notebooks ... Spirax Brand. ...

When I had to go to solicitors re Cooper I placed all this material in a plastic bag and placed it in cupboard under stairs. ...

Police researched house after I was arrested and did not search downstairs area of house. ...

Notes have remained there as solicitors did not want instructions at committal proceedings.

And later in the Legal Aid material, the following passage appears:

All conversations and dealings and with Cooper and Gray recorded directly after meetings and conv. very suspicious of Cooper contacting me.

In examination by Counsel Assisting, Saunders stated, in relation to the notebooks:

I started keeping this one, [this is a reference to both notebooks] because of contact with Lobegeiger, Coomer, and because of suspicions with Cooper, I recorded all my conversations with them.

Saunders also stated that, because her lawyers had asked her to record all contact with these persons, she had kept detailed notes of any telephone conversations or meetings.

There is no doubt the two notebooks recorded events which did not occur. There is also no doubt that they were written after Saunders's arrest on 9 September 1982. To my mind the sheer volume alone makes it improbable they were written contemporaneously with the events recorded in them. I have never seen 'contemporaneous' notes recorded in such a fashion. The detail of the conversation is such that I doubt that any person could have remembered it. The conversation is not in summary form but in "I said," "he said," form. One could be forgiven for believing that the conversations were recorded from transcripts, rather than an unaided recollection of the conversations made some time afterwards, albeit as Saunders claimed, shortly afterwards. There are many conversations regarding which

Saunders has completed 8 to 10 pages of handwritten notes. They include reference to terms, expressions and detail which one would imagine would never be included in diary notes, let alone recalled. I have earlier in the report discussed a lengthy entry in the notebooks for 25 August 1982 and concluded that the entry recorded events which did not occur. Set out below are further examples of entries in the notebooks. These entries are characteristic of most entries in the two notebooks and I have quoted them without any editing or deletions because to do otherwise would detract from their effect on the reader. They evidence the extraordinary detail to which I have referred and include fanciful, unrealistic and what on the evidence were patently false accounts of events. Saunders, by them, was attempting to create a screen to protect her and to discredit Gray, Cooper and Lobegeiger. The first entry is a self-serving account of a telephone conversation between Saunders and Lobegeiger. This conversation suggests, like many others recorded in the notebooks, that their relationship was on-going at this time. I have already referred in the report to the many reasons why I do not accept that the relationship was on-going. Also in this telephone conversation, as in others recorded in the notebooks, Lobegeiger ostensibly makes admissions that he perjured himself at the earlier committal hearing. It is unusual that a senior, experienced police officer would make damning admissions on the telephone to the person who would suffer the consequences of the false testimony. Saunders, herself, accepted that Lobegeiger suspected that she would tape their telephone conversations and if it were true that he had such a suspicion then his conduct would be beyond comprehension.

Fri. 13 Aug 82 - About 7AM. Phone call. (STD)

LS Hello
AL It's me - Oh Christ have you seen the fucking papers.
LS Allan, what the hell are you ring for - after your little effort yesterday.
AL Have you seen the papers, damn you.
LS No. I'm in bed - I was asleep- & don't damn me - I haven't said anything - you said enough for both of us - & as for Cecily - I should have let her kill herself - what a performance - she should get an Oscar.
AL I know. I know all the Court was laughing - but the papers - that's my promotion.
LS Be realistic - I'm not too interested in your promotion right now - do you remember what you

said to me last Saturday.

AL Stuff last Saturday - your photo is n the front of the Sun, mine is front page on the Mail - headlines - She fired a shot at her lover - & the write up - Christ how can I face work.

LS At least you're going to work - congratulations - well its Friday 13th - so nothing in the papers surprises me - I shouldn't be talking about the case to you - God - Allan - why - obsessed - you bastard.

AL Don't blame me - bloody Howell - I lost my temper - I didn't mean it the way it was taken - you know I use that word.

LS Yes - you surely do - where other people say love - that's not in your vocabulary - you just lied so much - what about Gatton - what are you trying to do - you said I haven't told them anything about Gatton.

AL I didn't - they knew.

LS Knew - you were the idiot running around firing - that was so close - & you damn well know I was alone.

AL I found out ages ago Dodd was going to deny ever having met you in Gatton - I thought it'd help & I did see 2 people.

LS Don't lie to me anymore & don't do me in more favours - I'm the woman you just had that short little liaison with - nothing serious - did we throw any muck at you - no - I told you I'd try & protect you - you got off nice & lightly - at least I thought you'd be honest for a change.

AL You know what happened - I told them a story & was committed - I never thought you'd be arrested - How did such an intelligent woman as you get in this mess.

LS Very simple - bastards like you not telling the truth.

AL What did your solicitor mean about the photos - what photos - I was sick with worry at lunch time.

LS You know what photos - up at Tribulation - well darling - they weren't produced - so your superannuation is safe.

- AL *Don't be sarcastic - & I want to thank you for that - they'd sack me over the misuse of that vehicle.*
- LS *I've got to be mad to care what happens - & then the tent - That could have been my tent - first Coomer gets accused of it at Cleveland - then its dropped on me in court - I hope you're sleeping well.*
- AL *I'm not - I still care - I wanted to hold you yesterday - it hurt so much to see you there.*
- LS *I hurt more I assure you.*
- AL *And then Knight - why did you involve him.*
- LS *Involve Ray - I seem to remember him being a Crown witness - at least Ray told the truth.*
- AL *Made me a nice liar.*
- LS *You are a liar - lets fact it - at least Ray didn't go into a lot of the things he's seen - weren't you lucky he gave his Ev. before Cecily arrived.*
- AL *What do you mean.*
- LS *Allan - Allan - its painfully obvious now - you've told her that you haven't seen me since last Sept - how about if we'd asked you about all the times since - one by one - would have been nice for you.*
- AL *Stop it - I don't want to fight - I just want it over so we can sort this mess out - can I see you & talk - you might be recording this.*
- LS *I might - too - but I'm not - I've been told to.*
- AL *So you still care.*
- LS *I feel numb - anyway you & your Sgt mate from Gatton couldn't even get your dates right - you were a week out.*
- AL *I wondered about that - he's no mate. I didn't even know he was being called until I saw him at Court - I thought it was the 19th later.*
- LS *Yes the 19th - & you had a sudden lapse of memory over knowing Dodd previously - & the 23rd - didn't meet me in Gatton.*
- AL *I tell you I'd committed myself.*
- LS *No wonder they arrested me - this liaison that was over so quickly - & the suicide in the driveway - you've got your women mixed up again - Try Cecily - Sept 1981 - the police house - Broadbeach.*

- AL *I'm not seeing her.*
LS *Allan - you took her back to the airport - well - I should say you went through the great pretence of going over the Freeway - then back up George St to get her - & faithful Williams looking after her - last seen with her in the p/v - in, I think its Turbot St.*
- AL *Where were you.*
LS *Waiting for transport - I had to go back - I would have walked into her & Williams - I could do without that.*
- AL *I'll have to get ready for work - how can I face them.*
LS *You're the Supt.*
AL *Don't you care - can we talk tonight.*
LS *Where.*
AL *What are you doing today.*
LS *I might - I just might go up to Gatton & check all the facts - that's if your sure that Dodd is going to deny being there.*
- AL *I'm sure - don't go alone.*
LS *That's a problem - my friends are either police - & can't see me - or civilians who may be defence witnesses - its a problem.*
- AL *I think its important you're able to tie Dodd down - - yeah - its hard on you.*
LS *And you.*
AL *It won't go up.*
LS *No I don't think it will either - Shane thinks the Union is going to pull out though - no thanks to you - either.*
- AL *Pressure from Murphy.*
LS *Is it.*
AL *What do you think.*
LS *Umm - I'll check everything just in case - you know if it goes up we're going to have to attack you.*
- AL *Yeah - I'd be out by then - I'm sorry - for what's happened - by the way there's someone working on the property today.*
LS *Don't worry - I won't go inside the boundary line.*
AL *I still would like to know if you were alone.*
LS *I bet you would - if you can't believe me that's*

- your problem.*
- AL *I'll be here until about 9 - then Cleveland - if you want to talk.*
- LS *I'll think about it - I'll go & get the papers - how do I trust you after yesterday.*
- AL *If I hadn't lost my temper - Howell got to me - & by killing - all I meant was you've been trained to kill.*
- LS *Its a pity you hadn't said that.*
- AL *Anyway - I'm off - & I still do love you.*
- LS *If you love me - let me check what I want tomorrow.*
- AL *I can't - you know that - I've done all I can - too much, telling you about Dodd.*

The next entry which purports to be in respect of happenings of 13 August 1982 and early hours of the next day reads:

13th Aug 82

About 3.00 pm - ph. call from Cooper - wanted to see me this afternoon/evening.

LS *I'm going out.*

CC *What time will you be back.*

LS *I'm not sure - actually - I'm going to Gatton to check some facts for c/e Dodd - if you like you can come along - give Sue a chance to see a bit of the country & I'm a bit worried about being up around that way - alone - Might be your bi chance to give me some help.*

CC *How come.*

LS *Well if the local Sergt saw me - might want to know what I'm doing.*

CC *So what would I tell him.*

LS *The truth - up there getting evidence for my court case - its up to you.*

CC *No I'll come - I'd love to solve it - its got me in. I'll se you in about 20 min. Arrived at approx. 3.10 pm*

Arrived & Gray watching TV

LS *Okay - this is what I intend to do - go up to Gatton via Cecily's.*

CC *Why.*

LS *I want to do exactly what I did on the 19/2 - go to*

where I met Dodd - work out distances - times -
what happened at Allan's - how long I was there.

CC Why is it so important.

LS Have you seen the papers.

CC No. There hasn't been time - we stayed in bed
until I phoned, almost.

Gray & Cooper appeared to read papers -

CC Don't like your photo - I bet he doesn't like that
photo of him there - does it look like him - ... you
shoot.

LS Sure does - & he and Bull lied in Court - I
couldn't believe it.

CC What did you see in him - the old prick looks
older than my old man. I had this dream once
when I was a kid that U and the man got hitched -
do U like old men or something.

LS Just read - I want to get going.

CC Bit heavy.

SG How old is this Bull woman.

LS Early 50's.

SG Did she really go on like this in court.

LS Yes - Sue has Colin told you what I'm doing.

SG Yeah, going up to - where is it - Gatton to get
stuff for court.

LS Evidence - are you coming too.

SG Yeah - nothing better to do, it'll be good to have a
bit of a look around - I'd like to see this Cecily -
doesn't seem for real that stuff.

LS Okay - I'll just get some tapes.

CC The radio will do - I don't think we'd have the
same taste in music.

LS I'll take tapes. There's something wrong with - I
suppose - the electrical system. The radio's
okay - then just cuts out but the cassette works -
sometimes the fuel gauge works - & the speedo -
other times nothing - I must get it fixed. I can do
without getting tickets.

CC I need some work done on the Toyota. Do U know
any good blokes.

LS I go to a top mechanic - or I did - Bernie
Hannigan - but is a Crown witness - that's where
I met Dodd - so I don't want to go there - his
father is an Inspector - he said if I want to take it

over he'd be there so there'd be no allegations - but I don't want to involve him. Dodd told me he'd drunk with him up at the Mansfield - & that was a lie -

Left - Cooper got a bag from the Toyota - Gray a jumper.

Self - Clipboard - foolscap, camera, wallet, jumper - 6 tapes.

To 75 Denham Tce, Wellers Hill - 3.40 pm - to Ipswich Rd - Chardons Cnr.

LS I know I got the red light here at Chardons & I checked the time - it was about 1.30 pm. I made a note - 1.30 - 3.40.

Ipswich Rd - Seating - Cooper in front passenger - Gray - rear LHS.

Very little C. had to turn radio/tape down - as vol. for Gray - Out around Wacol.

CC Do you want a drink.

LS No, surely you don't.

CC I've got some in the bag. Pulled out a Carlton stubbie.

LS Listen pal - if you want a drink I'll stop - you can get yourself a few cans but you're not drinking out of glass whilst we're mobile. Not in my car - I'd prefer you don't drink - at all.

CC I'll get some cans - where's the nearest pub.

LS I'll stop this side of Ipswich - you'll survive that far - if you can put that bag in the boot.

"Carlton" Hotel - Cooper bought 6 cans. Finished before Gatton. About 2 km N. of Mt Mee - Radio - Fuel - Speedo - pot.

LS Oh no - there it goes - pass me a tape please Sue. Let's hope it comes right - I need the Km.

Arrived Gatton about 4.45 pm - angle parked opp. Royal towards P.O. - Went into Royal (2.15 - 4.45)

CC Like a drink Lori.

LS Quick one - Sue - yeah. I'm going to play the machine.

Cooper came back - handed me a pot - Sue - coke. Gray left.

LS I didn't really want a beer - what's Sue drinking.

CC She thinks its coke - don't tell her. I always get her Vodka - she doesn't know the difference -

stupid bitch - look at her now - those bloody machines - she'd break a man on them - don't tell her - I keep money aside - I had enough for the van the other night - & then they didn't make me pay the bond - I gave them a hard luck story - if she knew I had money - it goes. Space invaders - chocolates - lives on stuff like that - never buys food and cooks a decent meal - bloody junk food - about 4 litres of coke a day - no wonder the silly cow is so fat - I'm thinking of going back to Terry - I want the kids - I want Terry to come back to Qld - I hate the South - I miss the weather here - that's my problem.

LS This is where I met Dodd - about 2.30 pm. I parked there just about the same spot as today - it was warm, actually very hot. I came in here - stood there at the window - saw him arrive - parked beside me - I went over - we talked - I had a denim bag with me - put it on the floor.

[Street map showing diagram of hotel and car parks inserted]

Dodd F/Falcon 275-OGB. Off/White - Maroon roof. 2 aerials - pink whip type. Indian ... either side.

(Later ch. roof to stickers)

CC And left it there.

LS You're not wrong - extra ammo, notebook, keys, wallet - ID. photos - credit cards - drivers license, street directory. It was the little bag I used to take to work. The info wasn't much. Had to meet a guy - the grass was coming from Stanthorpe or Toowoomba. clover - Gatton - wanted me to go but too risky - so he took off - over there (indicated road between Commercial & Rly - I must check & see if that's a "through" Rd. Remind me, went out to Allan's - met him back up past the P.O. Let's get going - I just have to check over at the Commercial - I want to check the area at night too.

Dragged Gray away from machines - over to Commercial - Gray/Cooper went through into "lounge" area -

I was checking outside - & main bar - went into lounge - Cooper had bought another 2 pots & a "coke" - Money in pool table.

- LS *We haven't got time for that - I don't want to be out there after dark. You can stay here if you like - I'll pick you up.*
- CC *No that's why I'm here isn't it - in case you need me - what if something happens and you're there by yourself.*
- LS *Let's go - finished drinks - Cooper complaining about leaving money in pool table.*
- On way to car - Cooper said had to use toilet - came back with 2 cans from Royal - Radio/Tape off -*
- LS *I should have come up earlier - I going to have to come back - damn it.*
- To Warrego Hwy*
- LS *I got a lift here - out to the turnoff - There's the Gatton Liq. Barn where we had dinner.*
- CC *You and Allan.*
- LS *No. Dodd & I on the 23rd - Now when we get out here - I don't want to go onto his property - I want to be as quick as possible - There's houses at the end of the cul-de-sac - Seeing us walk through the bush & leaving the car - they're just as likely to ring the police - here's the turn-off what's that - about 2km.*
- CC *More like 4.*
- LS *If you stopped your drinking you might be some help - there's the airport sign - 8km.*
- SG *Lori - I can drive a Falcon. I've been dying to drive it - what if I drop you & Colin & come back then the car wouldn't be there - Would that help.*
- LS *Are you sure you can drive an automatic.*
- SG *Oh yes - please let me.*
- LS *I suppose so - here's the Council depot - now coming out - I jogged - well I wasn't that fit walked & jogged from the Hwy - I guess this be about another km. Okay Sue - if you think you're right to drive.*
- SG *I am, I am.*
- LS *Drop Colin & I off & wait here - gives us an hour - it seemed a long way that day - its probably not that far - if we're not back - gives us another 15 min or so - alright.*
- SG *No worries.*
- LS *Here's the dirt road - & now the turn-off is on*

the right - I felt like I'd done a 30km route march by the time I got back to Gatton that afternoon.

LS *Here it is that'd be about 1km - & about 1/2 km along here. Okay you're the drive - come on Colin - See you at 6.*

5.07pm

Clipboard - camera.

LS *You don't need the beer Colin - or my cap.*

CC *I can't waste this - I've just opened it - come on let me wear it.*

Gray drove away.

LS *This place wasn't for sale when I was here - it was virgin scrub - Someone coming -*

A red mini - drove down track near 4 sale sign - & along cul-de-sac.

From cul-de-sac at 45° angle.

LS *I think the property is L shaped - up here - I don't want to set foot on Allan's - you say with me.*

CC *Let me go for a look see.*

LS *Colin - do as you're told - you're supposed to be here to be able to say I didn't go on the property - or touch anything - with my luck there'll be a bush fire and I'll get the blame -*

CC *Smells like fires around the place - they're probably burning off.*

LS *There's his fence & the top dam -*

CC *How about I go for a swim for a laugh -*

LS *Forget it.*

Continued west & then S. [map of dam inserted]

LS *Hold on here - I'll make a few notes.*

CC *Are you taking any photos.*

LS *No - its really clear now - it was very bushy in Feb. would be no point - looks like his shed is finished.*

CC *Is that all his.*

LS *Yes & over there - that's where the shots were fired - well - he was telling the truth - there is someone down there - working.*

CC *So you are in touch.*

Making 2 rough sketches - notes. Cooper finished his can.

CC *They're leaving - looked up Falcon P/Van -*

metallic blue/grey driving away. I'm going for a look.

LS Get back here - Cooper ran across & through barbed wire fence - totally ignored my yells.

CC I'm going riding.

Nothing I could do - chased around the paddock for ages & caught a horse - jumped on & riding - rode for some time.

Eventually got off - getting dark.

CC That was fun.

LS You're the limit - you stupid irresponsible fool - that was an offence.

CC What, being on his property.

LS Yes, against all I said.

CC But I'm getting evidence to help you in court - I might have found the shells.

LS Don't make things worse - haven't you heard of the unlawful use of a horse.

CC The old nag enjoyed it. Pity that prick didn't ride his horses instead of women.

LS Just shut up & come with me.

Waited about 15 min. Gray arrived. 6.35 pm

SG I've been worried. I came back before 6pm & I've been up & down. I got scared sitting by myself in the car - its so isolated. What's the matter.

I drove out & up to the Mt Sylvia Rd.

LS Just keep quiet - I'm too angry - okay - I got a lift from here to town. On the Tues (23/2) Dodd & I drove out here further - about 6km - to a hotel - Tent Hill Hotel - I want to check there.

SG What's happened.

LS Ask that drunken boyfriend of yours.

CC I'm sorry - I really am - Its my fault we weren't there at 6. Lori was sketching so I went on his property & caught a horse & took it for a ride.

SG Oh Colin.

Tent Hill Hotel - Approx 6.50 pm

LS Lets see if we can get a meal. I'm starved - & its sure wouldn't hurt you to get some food into you - Mr Cooper.

Into hotel - ordered meal - quite crowded - table near door. C. re food - my not eating red meat or salt etc.

LS See the end of the bar there - that's where I sat

- with Dodd when Dodd wasn't here.
- CC What do you mean.
- LS His denying he ever met me here - Gatton I mean.
- CC But he did.
- LS Yes - of course.
- CC Well that's stupid - he must have done a few jobs up here & trying to cover up - what do you reckon.
- LS I've got to the stage where I'm so confused - I can't work it out.
- Cooper cont. to drink steadily - gen. C. re job prospects - hoped meatworks would reopen - only his Father & an engineer at Wallangarra -
- Man - 50's - 60's selling raffle tickets. Are you tourists.
- CC Yeah. Looking at Jo's state - be alright if you had a decent premier like Donny Dunstan - he pulled S.Aus out of the pits.
- Man. There's nothing wrong with Jo.
- CC This is a funny state - what about that policewoman that tried to kill that police Supt. up here. It was in the paper today - what do you reckon about that.
- Man I don't read the papers. But I was a Sergt. of Police if you don't like it here got back South.
- CC Listen you old
- LS Be quiet Colin - we're going 8.30pm
- Outside
- LS What was that for.
- CC I just want to find out all I can. You're not telling me everything.
- LS That's right.
- Into car.
- LS Allan's place is up there - I just want to check it. Cooper had "passed out."
- SG It must be awful for you. Colin keeps saying he's going to help & give evidence.
- LS Look Sue - I doubt it'll go to trial. if it does we probably won't call defence evidence - a trial would be months away - maybe even next year - the real issue is the tape - oh here's Allan's - I was here with him on the 23rd Feb. He forgot that in court - the moon about the same - not much.
- SG Why is that important.

LS *Allan was strange - kept thinking there were lights over there & he told me he knew Dodd from ages ago - then yesterday he said he didn't. There's something funny - why should Dodd deny meeting me - oh well. Back to town - I'll have to come back - I've got more to do & I need daylight. Drove back into Gatton.*

Lighting - P.O. Commercial Hotel - very good overhead system of street lighting.

SG *Colin says he can help by saying he's been here with you.*

LS *No - look anything I say about the case can become relevant - that's why I don't talk about too much - put a tape on - please.*

Bne - 9.40 pm Cooper still "crashed."

I've got to go to Cleveland & the Coast, possibly - I have to see someone - you're welcome to come for the drive. I might be able to show you around Surfers a little.

To Cleveland - very little gen. c. - parked in church car park up from Allan's. Approx. 10 pm.

LS *I shouldn't be too long.*

Allan not home - returned.

To Gold Coast - parked on beach front in Marine Parade. Approx 11 pm.

As above

Obviously we'd passed ...

Showed Sue around Surfers, Island Estates - Southport.

Stopped 24 hr S/Stn. near Kentucky Fried - Southport.

LHS Hwy - going to Bne. Gray & self - hamburger - coke.

Cooper declined - Bne - 1.30 am. - [home] - had trouble waking Cooper - straight to Caravan Park - Cooper still so "UIL" left dog at my place - Cooper staggering - shocking condition.

There was, of course, a visit to Gatton by the three persons, primarily to familiarise Cooper with the area to which his evidence was to relate, but the so called contemporaneous notes of what occurred illustrate not the truthfulness of the entries but the fertility of Saunders's imagination.

There are a number of other matters which support the view that the notebooks are a fabrication. These two notebooks first surfaced when her solicitor Sorensen attended at her home on her instructions at a time when

Saunders was in custody in relation to the fourth charge. He located the notebooks and some other material under the stairs of the house. Sorensen is able to say that this occurred sometime after his first contact with Saunders at the prison on 23 March 1983. This was well after her committal hearing.

When police searched her premises on 8 September 1982 they did not locate the two notebooks. Saunders claimed that they were hidden in the stairwell under her house and the police did not search there. It is true that the police did not search the bottom part of her residence as it was occupied by her mother. After the police had left Saunders's home she telephoned Herbert QC to advise him of the search. In the notebooks it is recorded that she telephoned Herbert QC. It is not disputed that she did telephone her solicitor. She failed to notify him of the existence of any notebooks at this stage. The following day she received a telegram from Herbert QC to attend at his offices. Once again she failed to mention any notebooks to him. She stated that it did not occur to her to take them to Herbert QC at this time. Throughout my investigation and despite her counsel's acceptance on her instructions of the truth of Herbert's QC affidavit, Saunders maintained that her understanding of Herbert's QC advice enabled, in what she said were the relevant circumstances, continuing association and contact between her and Lobegeiger and her and Coomer. One must ask why, if these notebooks had been in existence, they were not taken to her solicitor for his safe custody. Although Saunders had suggested that she did not trust Herbert QC there is absolutely no reason to believe that he would have somehow destroyed or acted improperly in relation to them. I have no doubt there were no notebooks then in existence to deliver to Herbert QC.

These notebooks, which purport to record regular contact between Saunders and Lobegeiger and between Saunders and Coomer in the period between her first and second arrest, were not provided to any of her solicitors during the many bail applications to the Supreme Court made on her behalf. No matter how disaffected she might have been with Herbert QC, who was responsible for only one of the applications, the notebooks, if true, would have been of invaluable assistance in any application for bail. If the notebooks were to be believed the contents would have given her counsel a significant basis for seeking her release on bail. At no stage were the notebooks produced by Saunders to assist in any application for bail prior to her first trial.

My conclusion that Saunders did not refrain from passing the notebooks to Herbert QC because she did not trust him or had been disaffected with him

is supported by many of the notes in the Legal Aid material which are headed "Information for Shane Herbert." For example in the Legal Aid material appeared notes dated 29 August 1982 for the information of Herbert QC headed "Notes for c/e of Douglas Mervyn Dodd re Gatton ... poss. further c/e of Allan Lobegeiger and Cecily Bull." These notes were prepared for Herbert QC **after** the first part of the committal hearing had been completed. If Saunders did not trust Herbert QC or had been disaffected with him why was she preparing notes for his further information? It should be remembered that these particular notes were made a mere ten days prior to her subsequent arrest on 9 September 1982. This is clearly inconsistent with Saunders's account concerning her lack of faith in Herbert QC.

Also significant is the fact that although Herbert QC had told her to record any conversations with Lobegeiger and Coomer, she admitted that she had not divulged to Herbert QC at any time prior to her subsequent arrest that she had been having contact with Coomer, Cooper, Gray or Lobegeiger.

Most relevant is the evidence of Goodwin who was Saunders's solicitor during her committal hearings in November 1982. Saunders stated that she did not provide the notebooks to Goodwin as he did not want instructions for the committal hearings. In his statutory declaration to the Commission of 9 July 1993, Goodwin stated that if he had been aware of these notebooks he would have sought their immediate delivery to himself or, conversely, would have sought instructions as to how he could have obtained them. It is worth setting out in full paragraphs 4 to 7 of Goodwin's statutory declaration to the Commission:

4. I was never advised at the time of the committal by Saunders that she had in her possession, or available to her, contemporaneous notes of dealings with the persons referred to in the previous paragraph of my statutory declaration. If I had been told of their existence, I would have sought their immediate delivery to me or, conversely, I would have sought instructions as to how I could have obtained them. I am advised that the diaries were located by Saunders' solicitor, Peter Sorensen from stairs underneath Saunders' house ... Whilst Saunders was in custody I had occasion to attend at that house to pick up a bank book for her. Whilst she was in custody, on at least one other occasion I attended there. I can no longer remember when these visits occurred and what, if anything, I picked up. I was certainly never asked to pick up these

notebooks for her.

5. *Saunders always expressed great fear that her house may be unlawfully searched, material removed and/or drugs planted on her. In these circumstances, I am surprised that she did not provide these notebooks to her solicitors for safe-keeping as soon as possible.*

6. *In paragraph 7 of my previous statutory declaration, I indicate that I would probably have advised Saunders to retain all the diaries and notebooks that she had until after the committal and after the witnesses for the Crown had given what evidence they were to give. This is a reference to police diaries and notebooks, not to diaries and notebooks which purported to record contemporaneous notes of conversations and contact with relevant parties. I repeat, if I had been advised of these notebooks and their content, I would have taken immediate steps to obtain them.*

7. *In so far as these notebooks purport to record contemporaneously contact with Lobegeiger, Gray, Cooper and Coomer, I would have regarded them as vitally important to Saunders' defence. At Saunders' committal Gray gave evidence, for the Crown, of her conversations with Saunders and others. Clearly the notebooks would have been relevant to her cross-examination. If the notebooks purport to contain a carbon copy of the letter that was delivered to Lobegeiger by Cooper and Gray, rather than one which the Crown claim was delivered by Cooper and Gray, it would once again have been of vital importance to obtain the notebooks to ascertain the nature and content of the letter. The notebooks would also have been relevant to the question of bail. I also consider that the notebooks would have been of relevance in relation to the question of the alleged telephone conversation between Lobegeiger and Saunders, the subject of a tape recording which was tendered by the Crown at her committal.*

I am fortified in my conclusion that the notebooks are a fabrication by the fact that if many entries were correct, Cooper, Coomer and Gray perjured themselves before me. They would have had to have done so despite, as Saunders agreed, having no motive to do so. Lobegeiger, in so far as

evidence which he had given contradicted relevant entries, also must be taken to have lied. I do not accept that on the aspects I have been discussing Saunders was truthful.

Another matter which clearly indicated that the notebooks were a fabrication was an entry of a carbon copy letter which was said by Saunders to have been written on 6 September 1982. Evidence produced at Saunders's committal hearing in November 1982 included an envelope and letter which Lobegeiger testified that he had received in his mail box at the Miami police house on 7 September 1982. This was the envelope that Cooper had claimed to Webb and Flanagan during his record of interview to have delivered with Gray. Lobegeiger handed the sealed envelope containing the letter to the police on 9 September 1982. He testified that he never opened the envelope. The letter was a confidential exhibit before me.

In Saunders's statement to the Commission she claimed that this letter was not the letter written by her on 6 September 1982 but one which had been written some time earlier. A copy of the one that had been written on 6 September 1982 she claimed appeared in the Spirax Notebooks. When Saunders gave evidence before me she originally seemed to be less certain about her assertion that the letters had been switched. She finally conceded however that if the letter that was produced by Lobegeiger was different from the carbon copy letter which appeared in the Spirax Notebooks then they had been switched. Saunders dismissed the possibility of having written two letters on 6 September 1982 to Lobegeiger.

The carbon copy letter in the Spirax Notebooks is completely different from that which Lobegeiger handed to the police. The carbon copy letter is a self-serving account of Saunders's claimed association with Lobegeiger after her arrest. I have previously rejected this account. It is completely 'sanitised' compared to the letter handed in by Lobegeiger. Whereas the latter letter was almost entirely devoted to their relationship and stated her feelings towards him in explicit sexual detail, the former is in effect an abridged version for "public consumption."

In the Legal Aid material in the document headed "Defence corroboration witness SPO Hallett" the following extract appeared:

May 21st Saunders birthday .. read and with Saunders when posted letter to Lobegeiger ... this letter is the one Crown is now claiming he received in September.

Elsewhere in the Legal Aid material the following extract appeared in a document headed "Saunders April 1982":

Letter read by Joy Hallett ... written on my birthday 21/5 and completed on am of 22/5/82. Posted by Joy Hallett. We had celebrated my birthday and she had taken it to the post on her way home. This is the letter that Allan now states was in his letterbox on the 7th Sept.

This document then recorded that upon receipt of this letter by Lobegeiger he telephoned Saunders and requested the meeting at Yatala to which reference has already been made.

I should add that Saunders in evidence before me accepted that she was not suggesting that there had been anything sinister about the switch of letters or that any police officer had acted improperly in relation to them.

I have no doubt that the letter handed by Lobegeiger to the police and produced at Saunders's committal hearings was written by Saunders on 6 September 1982 and delivered by Cooper and Gray. It follows that the carbon copy letter which appears in the Spirax Notebooks is a fabrication. There are several factors which support the conclusion that the carbon copy letter is a fabrication. I am at a loss to explain why Lobegeiger would swap the two letters if he had in fact received both. Why would he not have given both to Webb? Saunders in evidence before me suggested that Lobegeiger switched the letters because the letter which she claimed to have written on 6 September 1982 established that there had been physical contact between the two and he had been attempting to hide this fact. There are two flaws in this suggestion. First, merely because Saunders recorded it in her correspondence it did not follow that it was a truthful account. There is an abundance of false material in Saunders's notes, letters and statements. Secondly, Lobegeiger had no idea what was in the letter furnished to the police because it remained in a sealed condition until it was handed to the police. If he had been concerned about the contents of the letter he would have opened it prior to deciding to hand it to the police.

On page 8 of the letter which was handed in by Lobegeiger the following appeared:

I can understand why you lied and I truly believe you when you say it should never have gone as far as it did. I don't want to talk about it.

Presumably this is a reference to the evidence given by Lobegeiger at Saunders's committal hearing in August 1982. If this is the case then it could not have been written in May 1982 as claimed by Saunders.

Although only a minor thing it should be remembered that the two accounts in the Legal Aid material of Hallett having dealt with the letter differ in that in the first account Saunders claimed to have posted the letter whilst Hallett was present and in the second Hallett posted it on her (Hallett's) way home.

In the carbon copy letter in the Spirax Notebooks there is no suggestion that Lobegeiger had requested her to stay away from his premises. To the contrary it gives every indication that access to his premises by her was encouraged by him and further that she had recently attended there. This impression is completely inconsistent with the evidence of delivery of the letter to Lobegeiger's letterbox. When Webb and Flanagan interviewed Cooper on 8 September 1982 Cooper stated that Saunders, he and Gray had driven to the Gold Coast and arrived at approximately 3.30 p.m.. At that time they went around to the post office close to the Broadbeach Hotel and he went in and bought a postage stamp and had the postal officer behind the counter frank it to make it look as if it had been used. They then drove past the corner of Lobegeiger's house and dropped Gray off. She posted the letter in Lobegeiger's letterbox. When one looks closely at the envelope furnished by Lobegeiger one can see that the adhesive stamp has franking marks on it whereas the envelope around it has no such marks. This is completely consistent with Cooper's account. If one accepts Cooper's account and there is no reason why I should reject it for it is in material respects supported by Gray's account and the franked postage stamp itself, then one must ask why would Cooper have gone to such trouble. It is clear to me that Saunders had to convince Lobegeiger that the letter had been sent through the mail. She could not afford to reveal that she or one of her associates had been to his premises to drop it in his letterbox. If the carbon copy letter in the Spirax Notebooks had been a truthful account of her physical contact with Lobegeiger there would have been no necessity for Saunders to have had Cooper go through the devious procedure of having the postage stamp franked in order to give the impression that the envelope had been delivered through the ordinary mail. I should add that Cooper's instructions to his solicitors at the time of his trial for conspiring with Coomer and Saunders record that he accepted that the account he had given to Webb was correct. In evidence before me Cooper again accepted the account. Flanagan's diary records that attempts on 13 September 1982 to establish the identity of the postal officer who had franked the postage stamp proved fruitless. Saunders denied that she

had asked Cooper and Gray to deliver the letter. She claimed she had dropped them off at the Broadbeach Post Office to post the letter as she could not get out of the car because of her period. She allegedly then returned home without them as they were going to go to the Casino. She claimed Hallett could have corroborated this account. I have no doubt it is a false account.

Another factor which assists in establishing that the carbon copy letter was a fabrication is that in Cooper's record of interview of 8 September 1982 he is recorded as having stated:

Tuesday morning Laurie had a love letter written to Mr Lobegeiger which she read half the contents of the letter to us. The letter was about very intimate details of their sex life about how they used to behave in bed and what they used to do to each other and basically how much she loved him and wanted him back.

This description given by Cooper fits the letter handed to police by Lobegeiger but not the one that appears in the Spirax Notebooks. If it be thought that the idea that the letter contained intimate details had been put into Cooper's head by Webb's questioning it should be realised that Lobegeiger did not hand the unopened sealed envelope containing the letter to police until the day after Cooper's record of interview had taken place. Webb and Flanagan would have had no idea of the details of the letter at the time that they had been interviewing Cooper other than the information provided by Cooper.

As I am satisfied that the notebooks were written sometime subsequent to Saunders's incarceration on 9 September 1982 and before she was released from prison it follows that the notebooks had to be removed from the prison and secreted under the stairs of her home. Inquiries of former prison officers failed to disclose how the notebooks were removed from the prison. But this does not lead to a conclusion that they were not removed from the prison. It was suggested that documents were often taken out for prisoners by other prisoners. It was also suggested that material was passed to friends during visits. Furthermore Saunders had been on a friendly basis with some prison officers prior to her being incarcerated on 9 September 1982. It is a possibility that one of these prison officers assisted Saunders in the removal of the notebooks from the prison. It does not follow that if any such assistance was offered that the prison officer would have been acting improperly. The notebooks were on their face genuine and relevant to Saunders's legal defence. I can readily accept that

in these circumstances any prison officer removing them from the prison would have thought that there was nothing untoward in so doing.

In conclusion I reject Saunders's account of events as related in the notebooks unless supported by independent cogent evidence.

14.3 Physical contact between Saunders and Lobegeiger in the period between her two arrests

Saunders gave evidence before me that she met Lobegeiger on four occasions between the time of her release on 30 April 1982 and 9 September 1982. This obviously excluded any contact which took place within the precincts of the court during the first part of her committal hearing in August 1982. I have already discussed in the report the last of the four meetings which Saunders claimed to have had with Lobegeiger. It allegedly took place at the Miami police house after Lobegeiger had given evidence at the committal hearings in August 1982. During this meeting she claimed to have had sexual intercourse with Lobegeiger as part of their on-going relationship. I have already referred in the report to the reasons why I reject Saunders's evidence regarding this incident. The other meetings were said by Saunders to have occurred prior to the committal hearing commencing on 9 August 1982. She stated in evidence before me that Lobegeiger had come to her house on two occasions. On the first occasion she let him in and on the second occasion she came home and found him in the house. She claimed that he had a key which he would not return to her and he had been going through some things in the house. According to Saunders he removed property which belonged to him from the house. On the third occasion she met Lobegeiger at Yatala on his request. She had her friend Hallett follow her there. Interestingly Hallett was one of the prison officers who had charge of Saunders when she was in custody from 9 September 1982. Saunders stated that Hallett provided a statement to her solicitors at the time. In the Legal Aid material there was no statement by Hallett.

In the Legal Aid material is a one page document titled "Defence corroboration - witness SPO Hallett." It lists the dates of events in relation to which Hallett was presumably to give evidence concerning Lobegeiger meeting or speaking with Saunders. The notes were typed by Saunders even though parts of them are recorded in the first person as if written by Hallett. An entry for 2 June 1982 recorded:

Accompanied Saunders to Yatala late in evening where

Saunders and Lobegeiger met.

There was no reference to any event in which Hallett arrived at Saunders's home with Saunders and located Lobegeiger in the premises. In evidence before me was a thirteen page typed statement apparently signed by Hallett and dated 12 July 1984. This was located on the police file relating to Saunders. It would seem that the statement was prepared in response to the complaint made by Lobegeiger that Saunders had been at Mount Berryman in March 1984. I have referred to this incident earlier in the report. The statement bears all the hallmarks of having been prepared by Saunders and I have no doubt that she did so. Hallett attended the Toowoomba Police Station with Saunders to furnish the statement to police investigators. It follows the form and expression of other material produced by Saunders. It includes information which could further Saunders's cause and has the same extraordinary detail as can be found in most other Saunders's prepared statements and notes. I have no doubt that in the same way that Coomer signed statements prepared by Saunders Hallett signed this statement which had been prepared by Saunders. What is most striking is the fact that the statement records specific dates of events which allegedly occurred as far back as 15 January 1982; two and a half years before. Extraordinarily it refers to Cecily Bull and John Howell and states that Bull was involved in some illicit activities. Also extraordinary is the seemingly pointless assertion that:

To my knowledge and I'm sure it's correct Lorrelle has never been involved with Coomer in any way other than that of friendship.

What possible relevance would any of this have had to the complaint made by Lobegeiger?

In this statement reference is made to Hallett following Saunders to Yatala on 2 June 1982 and there is a reference to an event which occurred "about the 26th June." The statement claims that Hallett and Saunders returned to Saunders's home at about 11 p.m. and found that the security door was unlocked. They went upstairs and found Lobegeiger in Saunders's study standing at her cassette player. He is said to have jumped when he was surprised. The following conversation is recorded as having occurred:

Lorrelle said, 'What the hell at you doing?'

Allan said, 'Playing tapes. What do you think.'

Allan tried to grab a tape from the player and I think that is when he realised I was present.

Allan screamed 'What the fucking hell is she doing here. I'm off.'

Lorrelle grabbed at the tape and screamed 'You bastard, Allan.'

Allan said, 'I'm off. Get out of my way.'

Lorrelle said, 'Give me my house key back.'

Allan said, 'No way.' He then left the house and walked away up ... Street towards Mt Gravatt Capalaba Rd.

This was another illustration of Saunders's creating history for her own purposes.

At Saunders's committal hearing Lobegeiger denied having had physical contact with Saunders between her two arrests other than in the precincts of the court. His denial entailed a fair degree of risk if independent evidence was available from Hallett or perhaps Saunders's mother to demonstrate that he had indeed been in Saunders's house with her.

I have no doubt that the four incidents described by Saunders did not occur. Other reliable evidence suggested that Lobegeiger wanted nothing to do with Saunders.

14.4 Telephone contact between Saunders and Lobegeiger in the period between her two arrests

When Lobegeiger gave evidence at Saunders's committal hearing on 15 November 1982 he stated that the last time he telephoned Saunders was around October 1981. After some cross-examination he conceded that it could have been up to November 1981 but no later. He specifically denied making any telephone calls to Saunders between 29 April 1982 and 7 September 1982 although he readily conceded that she had made many to him during this period.

In evidence before me Saunders stated that Lobegeiger had telephoned her some time after her first arrest. According to Saunders after this initial contact by Lobegeiger she telephoned him prior to the committal hearings on several occasions and he telephoned her. According to the Legal Aid material this first contact is recorded as having been on 14 May 1982, the day that Lobegeiger was upgraded from Superintendent Third Grade to Superintendent Second Grade. In evidence before me Saunders stated that after the committal hearing she received a telephone call from Lobegeiger in which he expressed disapproval of the manner in which he had been

cross-examined by Saunders's solicitors. Saunders claimed that notes of this telephone call were recorded in the Spirax Notebooks. I have quoted the entry earlier in this chapter. Following this telephone call Saunders claimed that she was in regular contact over the telephone with Lobegeiger. She claimed that on some occasions she telephoned him and on some occasions he telephoned her. Recorded in the notebooks are a number of telephone conversations which are purported to be accurate accounts of conversations between Lobegeiger and Saunders. There are passages in these conversations which satisfy me that they are not truthful accounts of any telephone calls that may have taken place between Saunders and Lobegeiger. In the notebooks the following extract appears in a telephone conversation which is said to have occurred "about 6.30 a.m. on 14 August 1982":

- LS You never stop working.*
- AL No. I was thinking are you interested in doing a bit of digging around for me. Is this dog any good? [reference to Cooper]*
- LS If I can keep it off beer. ½ the time he wouldn't know what day it is. He wants me to go to Byron Bay tomorrow. Has been telling me for years about a hashish factory there. I'm inclined to believe him. I've heard about it from a lot of sources.*
- AL I've heard a whisper. Watch it down there. Those boys play rough. If you go and anything eventuates don't go to the local police. I should be back at Miami by 9-9.30 ring me. When will you be back.*
- LS Okay. Monday or late Sunday night. I'm not too keen about going if it means staying.*
- AL If you do stop at Surfers on the way back. See if you can pick up anything around the Beer garden. There's so much on and the time they're giving me I'd like to throw a bit back.*

It is a preposterous proposition that Lobegeiger, who wished to have nothing to do with Saunders, was asking her to undertake drug investigations whilst she was under suspension. It is even more preposterous to suggest that Saunders would have agreed to this course. I have little doubt that Saunders had made up this account to explain why Saunders had been with Coomer, Cooper and Gray at the Beer Garden at Surfers Paradise and at Byron Bay. In the next telephone conversation

recorded in the diary which ostensibly occurred on 23 August 1982 not surprisingly there is no reference to any drug information that had been picked up on any travels to Byron Bay or at Surfers Paradise. As part of that telephone call the following conversation was supposed to have occurred:

- AL* *Lori, sweetie. No. Come around and talk. I don't like phones anymore than you do.*
- LS* *I might but not tonight. What do you want?*
- AL* *The beer garden drugs and lots of break ins around Surfers. There's something on involving police at the Jet Club and Bartletts Barn. There's a big drug deal on there. I'm sure of it and I'm sure it involves some of my men. I know they're getting free piss there, all hours. I heard a whisper they're using the cruise boat The Lady Lindemann to run stuff. There's a hell of a war between the various boat operators. It's a real cut-throat business. Why don't you go on the trip, it'd be a nice day and have a look around.*
- LS* *Are you paying.*
- AL* *Probably organise something, pay on results.*
- LS* *Yes, well I'll put it on my bankcard, just in case you want to deny all knowledge of it.*
- AL* *You know you're on your own here. I can't admit seeing you. If anything happens I don't know anything. It's got to be this way. If you get something I'll make sure you'll get the recognition. It could only help your case. I wish I could do more. As I've said a hundred times, it should never have gone this far. Be careful.*

This is another extraordinary and unbelievable request to perform undercover drug work. What makes this more incredible is that it is supposed to involve police officers who may have known Saunders. I have no doubt that this implausible conversation was inserted to explain the evidence given at the committal hearings to the effect that Saunders had travelled with Coomer, Cooper and Gray on the Lady Lindeman and had purchased the tickets for the cruise and some jeans for her companions on her bankcard.

The notebooks record that in the next telephone call the following day Lobegeiger is ostensibly making further admissions about his having

perjured himself at Saunders's committal hearing. Had he consistently made such surprising admissions one would have thought that Saunders would have tape recorded them.

In the notebooks it is recorded that a telephone call was made by Lobegeiger on 26 August 1982. According to the notes Lobegeiger became jealous of Coomer saying that he would "fix the bastard." I have no doubt this conversation did not occur. Lobegeiger wished to have nothing to do with Saunders. He certainly would not have been jealous of any person who may have been directing her attentions away from him.

In the notebooks for 1 September 1982 two telephone calls from Lobegeiger are recorded. On both occasions Lobegeiger is recorded as having requested Saunders to write to him concerning her feelings towards him as he still loved her. Once again this is completely inconsistent with acceptable evidence. I am confident that these entries appear in an attempt to justify why she had written the letter that was delivered to Lobegeiger on 7 September 1982.

The cassette tape of the telephone conversation between Saunders and Lobegeiger located by Webb and Flanagan when they executed the search warrant on Saunders's premises on 8 September 1982 was tendered at her committal hearing as evidence of contact between her and Lobegeiger whilst on bail. If the Spirax Notebooks had contained a truthful account of the telephone calls between Saunders and Lobegeiger one would have expected that a conversation approximating that which appeared on the cassette tape would have been found or at least referred to in the notebooks. There was not. The discussions on the cassette tape evidenced Saunders in a distressed state questioning Lobegeiger as to whether or not he had read her recently delivered letter to him. This dates the conversation some time after delivery of the letter on the afternoon of 7 September 1982 and prior to the search of the premises on 8 September 1982. Lobegeiger testified it occurred on the evening of 7 September 1982. Lobegeiger's voice sounded cold and indifferent. It also gave me the impression that he desired Saunders to leave him alone. There is no entry in the Spirax Notebooks which would indicate that Lobegeiger was ever in such a frame of mind when speaking to Saunders on the telephone. The notebooks give the impression that Lobegeiger was always seeking Saunders's affection and concerned about her well-being. This telephone call is completely consistent with evidence of the state of the relationship and supports Cooper's observation to which reference was made earlier in the report that Saunders seemed to be conducting "a campaign of harassment of Lobegeiger."

I should add that Saunders in evidence before me specifically denied that she had ever claimed that the police had doctored the cassette tape in some way. Her Legal Aid material suggests otherwise. In a document headed "Allan Lobegeiger ex-Supt of Police" at page 100 the following passage appeared:

Only other conversation between Allan and I is the tape they've "doctored" alleging it to be a call from me to Allan on 8 September 82.

Senior Constable O'Malley of the Electronic Recording Laboratories was asked to give an opinion as to whether the telephone conversation on the cassette tape had any apparent editing. In his opinion "there were no transient signatures or background noise deviants consistent with analogue edit points within the conversation segment." In short there was no evidence that there had been any 'doctoring.'

In her Legal Aid material Saunders claimed that there was a number of other tape recordings of conversations between herself and Lobegeiger which the police removed during the search of her premises on 8 September 1982. In evidence before me she stated that the police did not take any other tape recordings of conversations between herself and Lobegeiger other than the one that was tendered at her committal.

There are many other telephone calls recorded in the notebooks. I am satisfied that not one of them is a truthful account.

I have no doubt that Saunders instigated all telephone contact during this period. As I have remarked several times Lobegeiger wished to have nothing to do with Saunders. His denial of having made calls to her was something which, as he would have known, was subject to check particularly as the notebooks are said to evidence long distance or S.T.D. calls.

14.5 Correspondence between Saunders and Lobegeiger in the period between her two arrests

In her statement to the Commission Saunders claimed that prior to the committal hearing she wrote two letters to Lobegeiger and he wrote two to her. She stated they were just "normal letters between two people who cared for each other." I could find no reference to any letters from Lobegeiger to her in the Legal Aid material. There had not been any

questioning of Lobegeiger during the committal hearings which suggested that he had written to Saunders during this period. Furthermore no letters by Lobegeiger were ever produced by Saunders. I have already discussed in the report my reasons for rejecting Saunders's evidence that she destroyed all the letters that she had received from Lobegeiger because she did not wish their contents to be published. I do not believe he wrote to her as she claimed.

I have already made reference to the letter which was deposited in Lobegeiger's letterbox on 7 September 1982.

In conclusion I am satisfied other than in the precincts of the court there had been no physical contact between Saunders and Lobegeiger between her two arrests. I am satisfied that all the communication which did take place between Saunders and Lobegeiger in the form of telephone calls or correspondence emanated from Saunders. Lobegeiger wanted no part of it.

The significance of Saunders's assertions that all the alleged contact was instigated by him will become evident when I discuss Saunders's justification for having had contact with Lobegeiger and Coomer seemingly in breach of her conditions of bail.

CHAPTER 15

CONTACT BETWEEN SAUNDERS AND COOMER, COOPER AND GRAY IN THE PERIOD BETWEEN HER TWO ARRESTS

15.1 The original accounts given by Cooper and Gray of the events during the period between Saunders's two arrests

On 8 September 1982 Cooper and Gray were both interviewed by Webb and Flanagan. Cooper was interviewed in the form of a record of interview and Gray made a statement. On the basis of Cooper's account Webb and Flanagan obtained a search warrant which was executed on Saunders's premises. The following day they charged and arrested Saunders and Cooper. It is clear that the events described by Cooper and Gray were critical to this arrest of Saunders.

Cooper's account:

Cooper's account was that he had first met Saunders in 1974 when she had arrested him in connection with some drug offences. He was 16 at that time. He claimed to have provided her with drug information for approximately 5 years until he moved to South Australia. He explained that his father had telephoned him in South Australia to advise him that Saunders was in trouble. He detailed how he had telephoned her old telephone number and spoke to a friend of hers through whom contact was made with Saunders. Saunders asked him if he was coming back to Brisbane and he indicated that he would be doing so at the end of the year. She kept saying that she was framed. She asked him if he could return sooner as she could need a character reference in court. Cooper explained that as he owed Saunders some favours from when he was younger he agreed to do so. He left South Australia as soon as he could and with his girlfriend, Gray, travelled to Brisbane. They arrived on 11 August 1982. This was the Exhibition Day holiday.

When he arrived in Brisbane Cooper telephoned Saunders and a meeting was arranged at the Newnham Hotel. When Gray and he arrived Saunders was alone. She gave him \$50.00 to get into a caravan park and bought them a meal. Before they left she bought a dozen cans of beer for them and she directed them to the home of her friend, Pat Palmer.

He said that when they arrived at Palmer's place Saunders was waiting for another policewoman to arrive. When this policewoman arrived they went

downstairs to the bar room to make a tape to produce in court the next day. He was told that Ray Knight was to identify the woman's voice on the tape as that of Saunders although it was in fact the other policewoman's voice. He stated that the policewoman read the female role from a script of a telephone conversation with Lobegeiger. He explained that the tape was supposed to be a "one-sided telephone conversation" where only the female speaker could be heard.

That night they stayed in a caravan park. The following night after court had been adjourned they went to Saunders's home where Saunders talked about the committal hearings and claimed that Lobegeiger and Bull had been lying when giving evidence. At this stage Saunders asked him if he would be a witness for her if it went as far as a trial and he said he would. He stated that she was very vague about the details of the assistance that she wished from him. He stated that she said that one day they would have to go to Gatton where she would show him the layout of the property and where everything was supposed to have happened. She added that they would "get a little bit of a statement going" to try and establish that he was there on the day of the shooting incident. On the weekend Saunders told him that they would go to Gatton during the week so that he could be shown where everything happened and so they could get their "stories straight." At that stage she said there would be no trouble if they stuck together. She asked him to do this for her in court as she claimed he was the only one who could possibly help her. They then started running through all the details of what he was to say.

On the Sunday evening Saunders, Coomer, Gray and he went to and stayed at a motel at Byron Bay. Coomer and Saunders stayed in one room and Gray and he in another. Coomer paid for the accommodation in cash.

The following Tuesday Saunders, Gray and he drove in Saunders's private car to Gatton. They went to the Royal Hotel where Saunders described to them what she and Dodd had done on the day of the shooting. A location at which Cooper was to claim that he had been on that day was agreed upon. After they had had a couple of beers and some games of pool they drove out to Lobegeiger's property. He and Saunders got out of the car and walked on to the property and an adjoining one. She then described to him what she claimed were the events on the day of the shooting. She showed him where he was to say he had been sitting during the shooting incident. He was to claim that he had taken photographs from this location. After about half an hour they left the property, returned to the car and drove to the Tent Hill Hotel. There they had some drinks and a meal and returned to Brisbane.

Cooper was asked by Webb what he was to say when he was asked why he had gone with Saunders to Gatton in February 1982. He replied that when he was in court he was to say that Saunders had telephoned her partner, Knight, who could not accompany her because of personal reasons and that he went because she was scared of Dodd who had a bad sex offence record. Cooper was then asked by Webb how he was supposed to have travelled to Gatton on that day in February. Cooper then gave an account which, not surprisingly, was very similar to that on the tape recording located during the search of Saunders's premises. Cooper stated that when they returned to Brisbane they went back to Saunders's home, had a few cans of beer and started typing up rough statements of what she had told him. The following day he read over some of the rough statements that she had typed out. Saunders bought a carton of beer and they talked and drank for the rest of the day.

Cooper stated that two days later Saunders, Gray, Coomer and he returned to Gatton in Coomer's four wheel drive. When they arrived in Gatton they went straight to the Royal Hotel and Saunders and he walked from the hotel down to the corner where the police station was located. Saunders described to him what she claimed Dodd and she had done back in February 1982. His story as an 'eye witness' was settled. After they left the Royal Hotel he and Saunders walked up the highway to where she decided they would say that they had been picked up when hitchhiking in February. They timed the walk. Coomer picked them up at this location and they drove out to the Tent Hill Creek turn-off and clocked the mileage from there to the back entrance of Lobegeiger's property. This was just under three kilometres. They then returned to the Tent Hill Creek Hotel where they had some more to drink and Coomer purchased tea. After tea all of them went to a veterinary surgeon to have Gray's dog attended to as it was quite sick. They then drove back to Brisbane. On a number of occasions Coomer thanked Cooper for assisting Saunders. Cooper stated that although Coomer did very little talking he was present and agreed with suggestions put forward by Saunders.

There was obviously some confusion in Cooper's mind as to the timing of these events. Independent reliable evidence established that the visit to the veterinary surgeon occurred on Tuesday, 17 August 1982. Consequently the first trip to Gatton must have been prior to this date.

Cooper's original account continued that on Monday, which would have been 23 August 1982, Saunders, Coomer, Gray and he packed Coomer's four wheel drive and went camping on the Gold Coast at the Miami Council Caravan Park. They booked in under the name Roy Baker. There

was very little discussion at this time of the false evidence he would give for Saunders. They stayed on the coast for a number of days. Cooper described how during this holiday Saunders told him that on one occasion she had gone to Lobegeiger's back door and knocked repeatedly. She claimed that Lobegeiger told her to go away and when he refused to open the door she reclined under the steps and played with a German Shepherd puppy. She told him that after a while she went upstairs again and knocked on the door but as Lobegeiger did not acknowledge the knocking she gave up and went back to the tent.

When they arrived back from the Gold Coast on the Friday he and Gray drove to Newcastle to pick up his children. They did not arrive back in Brisbane until the following Thursday where they met Saunders at the Jindalee Beer Garden. Saunders told him that she had just seen a friend about a job for herself. Later that evening they went to Saunders's home. At that time she had a statement fully typed out and gave it to him to read. Gray was also present. Saunders told him that she wanted him to study and learn it as she was going to take a copy of it to her solicitor. She wanted him to write it out in his own words so it wouldn't sound too much like "cop talk." Cooper stated that Coomer had read the statement and had made this suggestion to Saunders. They left her place at about midnight when the children were asleep.

On 4 September 1982 it was arranged for Coomer and Saunders to drive Gray, Cooper and his children back to Newcastle. As Saunders was sick Coomer drove them in his four wheel drive. The next time Cooper saw Saunders was at lunch time on the following day. He and Gray slept at Saunders's premises that night as well as the following night. On the Monday he, Saunders and Gray went to the Ansett Terminal to wait for Bull. She arrived and they followed her along Sir Kingsford Smith Drive and over the Story Bridge. The next morning Saunders woke them and told them that she had telephoned Lobegeiger and had taped the conversation. She told them that Lobegeiger was very upset and angry at Saunders for following Bull. When Saunders went to play the tape recording back for them for some reason no recording had been made.

Cooper described how the following day Saunders had read to them some of the contents of the love letter to Lobegeiger and how they delivered it to his home. I have referred to this account in the previous chapter of the report.

After the letter had been delivered to Lobegeiger's letterbox Gray, Saunders and he drove across the Pacific Highway to a reserve. They stopped there

and purchased some beer and chips and rested on the lawn where they had a clear view of Lobegeiger's house. There were some children in the yard which Saunders explained were his grandchildren. They remained there drinking for half an hour after which Saunders suggested that he walk across and get a closer look at Lobegeiger who was in the yard. By the time that Cooper crossed the street Lobegeiger was inside the house so he decided to go around the back. In the street behind he cut through a yard and into some bushes. By this time it was just on dark. He waited a couple of minutes and a dog started barking. Shortly after Lobegeiger came out, had a good look around and walked underneath the house. As Cooper was about to leave Lobegeiger returned with a shotgun. Lobegeiger yelled in his direction something like "Come out and keep your hands up or I'll shoot you." Cooper stood up and was walked at gun point around the outside of Lobegeiger's boundary fence. He was asked where his gun was. Cooper told Lobegeiger that he did not have one. Lobegeiger walked around to the front of the house and gave the shotgun to a person standing at the fence. This person was asked "to cover him" whilst Lobegeiger called for the police. The police then arrived, questioned him and took him away.

Cooper was asked whether he had seen Lobegeiger prior to this incident. He explained that he and Saunders had been jogging along the beach one morning during the time that they were holidaying on the coast. Lobegeiger drove past going to work but by the time Saunders could point Lobegeiger out to him he could only see Lobegeiger's back. He explained that she was purposely waiting for Lobegeiger so that he could see her and she was hoping that with his poor eyesight he would mistake him (Cooper) for Dodd. He added that Saunders stated:

If he mistakes you for Dodd that would really put the shits up her.

Cooper explained that Saunders always referred to Lobegeiger as "she," "her" or "it." Cooper stated that Saunders had been ringing Lobegeiger three or four times a week at work and at home.

Cooper said that he had never met Dodd although Saunders mentioned him frequently. She had asked him to assist her in setting Dodd up on a Commonwealth offence. I have already referred to this previously in the report. Webb asked Cooper whether Saunders had ever mentioned her conditions of bail. Cooper stated that Saunders had told him that she had to be careful, especially with Coomer, not to be seen around together. She claimed Lobegeiger could not do anything about her contact with him

because he should have done something about it when it first commenced and now it was his fault as well as hers.

Cooper indicated that Saunders had advised him of the evidence that Coomer was to give. She explained that it was to be straight along the lines of the evidence that he had already given. The only difference was to be that Coomer was going to make some extra marks on the boot of the car from which the firearms were stolen and make it look like someone had broken in. Cooper had seen the boot and had not noticed any damage. When he advised Saunders that it did not look as if it had been forced and that they had better do something about it Coomer replied that he would do something about it before the case commenced.

On 10 September 1982 after the search of Saunders's premises Cooper was again interviewed and an addendum to his original record of interview was made. The addendum commenced with Cooper volunteering to disclose some further matters which he had missed during the previous interview. The addendum recorded that Cooper had heard the previous day the police playing the tape from Saunders's home which recorded the statement which Saunders had wanted him to learn. He confirmed that it was Saunders's voice on the tape and that she had previously told him that she was going to make a tape recording of the statement. She had told him that "cops never check what's on tapes." He added that the tape recording was much the same as the statement that he had been shown by Saunders with only minor wording changes. He went on to describe how Saunders had bought Coomer a pair of black jeans on her bankcard during the holiday on the Gold Coast and how she had paid for the tickets on the Lady Lindeman on her bankcard.

Gray's account:

Gray's statement to Webb and Flanagan substantially corroborates Cooper's account. Gray stated that at that time she was an 18 year old who had been living with Cooper for about the previous month. Her account of arriving in Queensland and meeting Saunders at the Newnham Hotel is consistent with that of Cooper's. She stated that when they left the Newnham Hotel they went to Palmer's house. There she did not take much notice of what was going on although there was some discussions concerning tapes. She stated that she was more interested in television than what was happening at the home. The following night she went to Saunders's home where the day's proceedings in court were discussed. She remembered the names Lobegeiger and Dodd having been mentioned but was unable to say whether Bull had been mentioned on that night. On

another occasion when she and Cooper were at Saunders's home Saunders asked Cooper to do her a favour to help her out and back up her story. He told her that he would give evidence that he was up in Gatton with her in February. They agreed that they would all go to Gatton to work out distances and times so that he would know what was "the story."

Gray stated that some time in the following week she and Cooper went to Gatton with Saunders in Saunders's car. She described in the same terms as Cooper what they did in Gatton on this occasion but she had only a vague recollection of the discussions. She did support Cooper's explanation of the reason for travelling with Saunders to Gatton in February 1982.

She described how they returned to Gatton on a second occasion so that Saunders could be sure that Cooper had everything right and that he was familiar with the layout of the land. Her account of the events up in Gatton on this particular day accord with that of Cooper's.

Gray stated that on their return from one of the trips to Gatton Saunders told Cooper that she was going to type out a rough statement about what he was to tell the court. She says they discussed the contents of the statement whilst they were in the lounge room but she was not particularly interested in it so she went inside and watched television. She stated that Saunders took a couple of days to type the statement and each time that Cooper and she went over to Saunders's place he would read it and comment upon it.

Gray confirmed that she, Cooper, Saunders and Coomer had hired a tent and stayed at a Gold Coast caravan park in Miami. This holiday lasted about five days. She stated that there was not a substantial amount of conversation concerning what evidence was to be given.

When they returned from the Gold Coast she and Cooper went to Newcastle to pick up his children. When they returned with them they booked into a caravan park for two days. On one afternoon Saunders came around. Saunders, Cooper and one of his girls went to the airport to see Bull but apparently they could not see her. Later that evening they all went to Saunders's place where Saunders and Cooper sat and read through the statement and Cooper picked out bits that were wrong, stating that there were parts in it which were not the way that he would talk.

Gray gives a similar account to that of Cooper for the return trip to Newcastle in Coomer's car to return the children. She also gives a similar

account of their subsequent return to Brisbane when they stayed with Saunders on the Sunday and Monday night.

She then described the posting of the letter in Lobegeiger's letterbox and what happened thereafter in the park opposite Lobegeiger's house. She said that whilst there she and Cooper had an argument and she returned to the car. Some time after Saunders returned to the car and told her that Cooper had gone for a walk across the oval to have a look at Lobegeiger's house. After a while Cooper had not returned so they drove around but saw some uniformed police beside two unmarked police vehicles. Saunders was concerned that somebody might have recognised her car and was out looking for her. Because of this concern they alighted from the vehicle and walked along the beach and Saunders asked her to walk past on the grass behind the police and see what they were doing. She walked past them and saw what she believed was a radar. They walked back along the beach and waited awhile until the police left. They became more concerned about Cooper. They drove around to the park to see if they could see him at Lobegeiger's house but all they noticed were the lights under the house illuminated and the doors to the garage open. They realised that something had gone wrong when a police car came around the corner and stopped at the house. Gray returned to the car and drove it around to the car park at the Miami Pizza Hut. She did this so that no-one would see Saunders's car and place her with Cooper. Saunders and she then decided that it was best to go back to Saunders's place in Brisbane because there was nothing they could do for Cooper. They were concerned about road blocks and took the quickest way back to Brisbane hoping that one had not been set up. On their return Saunders telephoned Lobegeiger. Saunders told her that Lobegeiger indicated that he had found someone around his house and he was waiting for a telephone call to find out what was going on with him. Saunders told her that Lobegeiger had stated that he thought it was one of Saunders's henchmen trying to get him. After that they went to bed.

The following morning Gray returned to the caravan park. Saunders had asked her to ring every hour to let her know if she had heard anything. Gray rang up at about half past ten and Saunders told her that they must have got Cooper as they were questioning him. Saunders asked Gray to get all his identification and put it in a safety deposit box at the bank so that they could not find out who he was. She did this and then went over to Saunders's place where Saunders played a tape recording of a conversation between her and Lobegeiger. Saunders left home to take her mother to hospital. Gray was directed not to let anyone except Cooper into the house. She was also told by Saunders that if the telephone rang she

was to say that it was a wrong number and if it rang again she was to let it ring out. At about four o'clock that afternoon the door bell rang. Police officers were at the door. She did not open the door as Saunders had told her not to do so. The police departed.

The day after the first search of Saunders's home an addendum statement was obtained from Gray. In this statement Gray stated that on 2 September 1982 when she was at Saunders's home with Cooper and Cooper's three children Saunders produced a tape recording. Saunders said to them:

I want you to listen closely to this tape of what Colin has to say in court and pick out anything you think is wrong with it.

Saunders then played the cassette tape. Cooper kept on dozing off from time to time so Saunders stopped the tape before it finished. After that they returned to the caravan park. In this statement Gray records that she recognised the tape recording as the one which had been seized from Saunders's premises the day before.

15.2 The evidence of Cooper and Gray at Cooper's trial

On 18 April 1983 Cooper's trial for conspiring with Saunders and Coomer to pervert the course of justice commenced. At that trial Cooper gave evidence at a voir dire with a view to the Trial Judge ruling that his record of interview of 8 and 10 September 1982 should be excluded from the evidence against him. He sought to do this on two bases. The first was that he had not been in a fit state to be interviewed and secondly, that the confessions in the interview had not been voluntary. In the absence of the jury Cooper gave evidence that because of his state of intoxication and his lack of sleep he had not been in a fit state to be interviewed. He claimed that he had been assaulted by the two detectives who had arrested him and taken him from outside Lobegeiger's police home. He also claimed that one of these detectives had told him that if he did not tell the truth a gun would be planted behind Lobegeiger's house with his fingerprints on it and he would be charged in connection with that. The Trial Judge, after hearing all the evidence in relation to these claims, rejected his application and the record of interview was produced as evidence before the jury.

The detail of the answers recorded in the record of interview left me in no doubt that even if Cooper had been drinking heavily beforehand, this did

not impair his recollection of events or conversations. Much of the detail in the answers could only have emanated from Cooper. The similarity in the detail of some of his answers to the detail on the tape recording of Saunders relating the version that he was to later give in evidence confirms this in my mind.

When Cooper came to give evidence in his own defence before the jury he did not repeat the allegations of assault or the claim that he was not in a fit state to be interviewed. He testified that the answers that he had given in the record of interview were a true version of events. The only caveat he placed upon this was a claim that when the addendum statement was prepared Webb approached him rather than he having volunteered the information to Webb. He stated that in any event the information in the addendum statement was correct. His defence was that although Saunders had asked him to tell lies on her behalf he had no intention of carrying through her request. He explained that as Saunders was giving them money, buying them whatever they wanted, taking them around the State and generally showing them a good time, he agreed to her face to go along with what she was suggesting. He added he did not believe the matter would go as far as it did. He told the jury that Saunders was a very vindictive sort of person and he did not want to get on the wrong side of her for fear that she would set him up or harass him as she had done some other people in the past. When asked by the prosecutor why he had not referred in the record of interview to his claimed intention not to carry through with the agreement he stated that the only reason he could give was that he was tired and the specific question was not asked.

The jury convicted him of the offence. The Trial Judge sentenced him to a term of nine months imprisonment. As the jury convicted Cooper they necessarily had to have been satisfied beyond a reasonable doubt that Saunders had asked him to give false evidence at her trial, that Cooper had agreed to do so and he had intended to carry out his part of the agreement.

Gray gave evidence for the Crown at Cooper's trial. She gave substantially the same account as that given in her statements of 8 and 9 September 1982 and as she had given on oath at the committal hearings of Saunders, Cooper and Coomer in November 1982.

15.3 The evidence of Cooper and Gray at Saunders's trial

After Cooper was convicted he was called by the Crown to give evidence against Saunders at her first trial. Prior to his giving evidence a statement

was obtained from him on 9 May 1983 in which he again stated that the answers in the record of interview were "true and correct." In view of rulings of the Trial Judge he was only required to give evidence of the conversation concerning the marks on the boot of the car from which the firearms had been stolen. Gray's evidence at Saunders's first trial was also restricted to this one incident.

Cooper and Gray were both to give evidence at Saunders's trial on the fourth charge but before they could do so the Crown entered a nolle prosequi in relation to it. By this time however Cooper had signed a further statement dated 17 November 1983 in which he reiterated his original account of 8 September 1982.

In relation to his statement of 9 May 1983 Cooper told officers of the Commission that he had no recollection of signing the statement or the circumstances surrounding it. In relation to his statement of 17 November 1983 he told officers of the Commission that he did not care what was in that statement as he was going to claim privilege at Saunders's second trial in order to avoid answering any questions.

15.4 Cooper's evidence before me

When Cooper testified before me he confirmed that the answers that he had given to Webb during the record of interview of 8 and 10 September 1982 were accurate and correct. He had however in the few months prior to giving evidence before me made at least two statements in which he claimed that Saunders had never asked him to give false evidence at her trial. On 27 October 1992 Saunders's solicitor, Carew, telephoned Cooper in Sydney. A transcript of that telephone conversation clearly shows that he did tell Carew that Saunders never asked him to give false evidence at her trial. He told Carew that the only reason the record of interview was signed was because of the punishment he had received at the hands of the police and the fact that he had not had any sleep the previous 24 hours. He again claimed that he had been assaulted by the two police officers who had taken him from Lobegeiger's premises.

On 2 November 1992 Carew again telephoned Cooper in Sydney. This telephone call was also recorded. From this conversation it would appear that Cooper had spoken to a journalist by the name of Ken Blanch and told him a story consistent with that which he had told Carew.

Approximately one week later Carew met Cooper in Sydney on 10

November 1992. The purpose of this visit was to get a more substantial account of events from Cooper. During this interview Cooper again unequivocally stated that Saunders had never asked him to give false evidence at her trial.

On 11 March 1993 officers of the Commission travelled to Sydney to interview Cooper. He provided a statement to them. In that statement he stated that he could recall Saunders asking him to tell lies on her behalf but only in relation to fooling Lobegeiger and not for the purpose of giving evidence in court. He once again maintained the allegations of assault.

When these previous inconsistent statements were put to him by Counsel Assisting, Cooper testified that they were basically incorrect. In relation to the statements he had given to Carew he stated that he did not really care to be there. He added that maybe he was a little bit scared and worried about the repercussions of saying exactly what happened. In relation to the interview with Commission officers he stated that at the time that they interviewed him he was not certain whether he wanted to come out and tell the truth. He hoped that it would not reach a stage where he would have to give evidence. He agreed that he had hoped that the whole matter would go away.

Cooper was further questioned by Counsel Assisting about the claim he had made to officers of the Commission concerning Saunders having asked him to lie in order to have Lobegeiger tell the truth.

What about this business about causing Lobegeiger to tell the truth?---That was information that I received from Lorrelle's solicitor on the day he interviewed me at his hotel. He said to me that that was how Lorrelle had instructed him of what the exercise was about. That is where I got that from.

I see. So you thought that you would adopt that because it was favourable to her, is that what you mean?---It seemed feasible.

You thought that might satisfy Mr Carew?---I thought so.

Well now, the - had you ever heard of that before, that the idea was that a tape would be made so that somehow Mr Lobegeiger would get possession of the tape and then he would hear on the tape her voice, apparently saying - - -

?--No, I had never heard that idea before.

The first time you heard it to that effect was really when Mr Carew told you, is that what you are saying?--That's right.

Under vigorous examination by counsel for Saunders, Cooper maintained his evidence that the statements that he had made to Carew and to officers of the Commission were false. He agreed that he had lied to Carew and to the officers but added:

Well basically I am under oath and I am not prepared to lie here.

Later in the transcript he said:

But I am not prepared to take any risk while I am under oath.

When pressed as to why he lied to Carew he stated that he did not want to say anything that would hurt Saunders and the only reason he was telling the truth in court was because he had no other option to do so.

Cooper was then examined by Fleming QC as to the reason why he had spent such a long time with Carew during the interview in Sydney.

And it went on and on for three hours. Where in that transcript do you object?--I don't. I just went along with it. I didn't want to be there. I just wanted it over and done with. I just wanted to finish with it, and as far as I was concerned, when it was finished, it was finished.

But to what avail? Surely you would have been finished with it earlier if you had said, 'Look, what I said the first time is true.' One sentence would have brought it to an end?--Yes. I didn't say that.

Why not?--I can't answer that; I don't know.

You just wanted to give him a packet of lies?--No, I actually thought what I was saying at that stage might have been going to help Lorrelle, but I was obviously wrong.

Why? Your telling lies was going to help Lorrelle. What convoluted thinking is that?--I don't know.

Cooper as a witness before me was in a difficult position as a result of the differing and contradictory statements earlier made by him but I have no doubt that the evidence he gave before me that Saunders had asked him to give false evidence on her behalf was truthful. I also have no doubt that he lied to Carew and the officers of the Commission who interviewed him beforehand. It would seem he also lied to Blanch. I am convinced that he lied to these people thinking that he would be helping Saunders and hoping it would not go any further; but when he was summoned to give evidence before me, he realised the penalties he could face for perjuring himself before me and was not willing to take that risk.

I think it is worth noting that between the time that he was first spoken to by Carew on the telephone on Tuesday, 27 October 1992 and the time that he was interviewed by officers of the Commission in Sydney on 11 March 1993, he had learnt of Saunders's instructions to her solicitor and adopted them as being correct. He told Counsel Assisting that the first that he had heard that Saunders claimed that he was to lie to cause Lobegeiger to tell the truth was when he had heard it from Carew. He gave the same answer to a question from Quinn in evidence before me. I have no doubt this is correct. The following passage from the telephone conversation between Carew and Cooper on 27 October 1992 puts this beyond any doubt:

Carew: Lorrelle apparently did um ah did tape on a tape some um a suggestion, I've never heard the tape, but I've read something in evidence where she ah admits that she made a tape basically designed to ah suggest to Lobegeiger that there was a witness to some incident that occurred up at his farm ah and the idea being that that was designed to ah to then ah force Lobegeiger to tell the truth if he thought there was a witness to the incident, he'd given one version of it and ah she said no that wasn't right. Do you know anything about that?

Cooper: No. No.

Carew: Nothing?

Cooper: *Not straight off hand, no.*

Further support for the view that Cooper was asked by Saunders to give false evidence at her trial can be seen in Cooper's instructions to his solicitors in relation to his charge of conspiracy in March 1983. After receiving a waiver of legal professional privilege the written instructions that Cooper had given to his solicitors were obtained. It is clear from these written instructions that Cooper accepted the accuracy and truthfulness of the answers in the record of interview other than a few minor differences.

The solicitor who had taken the instructions from Cooper was Lyle Allan Parker. In his statutory declaration dated 2 April 1993 to the Commission he confirmed that the instructions he had received were those which were before me in evidence. In that statutory declaration the following passage appears:

I can recall vividly that Cooper always maintained that the record of interview between Cooper and Det Inspector Brian Patrick Webb on 8 September 1982, was an accurate account of what Webb was told by him, other than a few minor differences. He was also adamant that Detective Parker's evidence at the committal, concerning the admissions made by Cooper to him, was accurate. On a number of occasions, I tested him as to whether in fact he was telling the truth in this regard. I remember stating to him that it would have been a lot easier to defend him if the facts had been that the police had made up the answers in the record of interview. However, he was always adamant that the account that they had given was accurate, although he would never have given them that account if he had not been threatened and assaulted by Detectives [Detectives named].

From my own memory and without reference to the file, I can categorically say that I was never told by Cooper that Saunders merely asked him to learn a story for the benefit of Lobegeiger. If this had been told to me, it would appear in the instructions. Cooper's instructions always were that Saunders wanted him to give evidence at her trial. Had Cooper told me that the story being prepared was purely for the benefit of Lobegeiger, and not for evidence in court, it would have been far easier to defend him, because in my

view, the defence case would have been much stronger.

Cooper's counsel during his trial was Ross Michael Bourke. He gave a statutory declaration dated 6 May 1993 to the Commission. In that statutory declaration the following passage appears:

It is obvious to me from the questions asked during the voir dire and the trial proper that my instructions were that the record of interview was an accurate record. The voir dire was conducted upon the basis that the record of interview was improperly obtained but the answers contained therein were true and correct subject to minor but inconsequential matters.

15.5 Gray's evidence before me

When Gray testified before me she confirmed the accuracy of the account she had given to Webb and Flanagan on 8 and 9 September 1982 and the evidence she had given in court at the committal hearings of Saunders, Cooper and Coomer and at Saunders's trial. Although she explained that she had told the truth previously she admitted that she had omitted from her original account of events one matter. She stated that she saw Saunders hiding the statement which Saunders had prepared for Cooper to memorise in the pocket of a parka in her wardrobe shortly before the police returned to search Saunders's home on 8 September 1982. In her statement to the Commission dated 30 March 1993 she explained that she was scared about what Saunders would have done to her if she had remembered to tell the police. She also claimed to have forgotten about the incident. When she had originally given evidence at Saunders's committal hearings she had stated that she had not been scared of Saunders.

She told me that she had been under no pressure from the police to make any statement or give evidence and that she was never offered any deals by them to give any particular evidence.

During examination of Gray by Fleming QC attacks on the accuracy of her original account were made on the basis of a telephone conversation between her and Carew and a letter and card written in November 1982 by Gray. The letter was addressed to Saunders's mother and the card addressed to Saunders. The letter recorded:

I hope Lorrelle gets out of this case alright. I feel terrible about what happened and I am truly sorry for it. I blame Colin for it. If it wasn't for him none of this would have happened.

In the card the following passage appeared:

I am sorry for what happened. I really am. I hope you forgive me and we are still friends. ... Thank you for all the good times and all the good things you did for me. I have to go now. Please forgive me. I am truly sorry. Take care. I will keep my fingers crossed for you.

Fleming QC asked Gray what she meant when she said that she blamed Cooper for it. Her response was:

Well Colin was the one that made me be involved with it all, like, I mean, it was his fault that I was there and that things sort of got out of hand, I guess. I blamed him for that.

Well what got out of hand?---Well I don't know the whole - the whole situation.

*But Colin was just somebody who really was participating with Lorrelle Saunders. Why would Colin be to blame?--
-I don't remember what I was thinking at that time, so I really couldn't say, now what I mean, I felt Colin was to blame.*

Fleming QC then questioned Gray concerning her request of forgiveness from Saunders. She responded:

Well, I hadn't - I wanted her to forgive me because I had had to tell them what had gone on and because she'd been nice to me and I knew that what was happening was going to get her into trouble and there was nothing I could do about it.

*So you wanted forgiveness from her for telling the truth?--
--I guess so yes.*

It does not seem to call for forgiveness, does it?---Well I

don't know. It depends on how you think about it. Everybody's different.

It was clear from this examination that Fleming QC was suggesting that Gray's references to having blamed Cooper for everything and having sought Saunders's forgiveness were made because Cooper and she had lied in their original accounts, and this had resulted in trouble for Saunders.

Quinn also questioned Gray in relation to this card:

Now, the card that you sent to or apparently sent to Miss Saunders, do I take it what you are saying in that card is that you got no joy out of giving the evidence that you gave against her but it was the truth and you had to say it?---Yes, that's exactly correct.

Nothing more, nothing less than that?---No.

You have no animosity towards Miss Saunders?---No.

Right. You get no joy out of the predicament in which she found herself and in which she finds herself?---No.

You are here, however, then and now, to give truthful evidence, to tell the truth as to what happened?---Yes.

Carew had telephoned Gray on 30 October 1992 and asked her a number of questions concerning the events that had occurred ten years before. After introducing himself and explaining that he acted for Saunders he advised Gray that there was to be an inquiry held into the matter. The following exchange then took place:

Carew: Actually I wanted to speak to you about um, do you remember writing a letter to Lorrelle and one to her mother at the time?

Gray: Um, no not really, I mean it was ten years ago.

Carew: Yes, I know yeah.

Gray: No not reall ... oh vaguely, no not really, um sort of, I've got some sort of vague

recollection that I wrote something to her mother, but I'm not too sure, I don't remember.

Carew: *Yeah.*

Gray: *Really, um there is a vague recollection there.*

Carew: *Yeah, well you wrote a letter, I mean basically what happened back then was that a lot of people were put under a lot of pressure to give um evidence against Lorrelle, um and that is what I really wanted to talk to you about.*

Gray: *Right.*

Carew: *Um, whether what sort of pressure was put onto you by the police?*

Gray: *Well, basically um as far as I was concerned like the only thing that I was involved in was ah the fact that she, they worked her and Colin who was my then boyfriend.*

Carew: *Yeah.*

Gray: *Were putting together a story for him to put to the Court that he was with her when certain things had happened, and as far as I am concerned that's the only part that I was involved in was being with them when they were planning the stories and what his story was going to be in Court, um what I believe was that they were both convicted of that crime, but she was let off of all the other charges.*

Carew: *No, no she was*

Gray: *I really like I said I don't know because I*

never heard anything from anybody about what happened, it was only hearsay that I heard what was ... um

Carew: No well she was acquitted of all of the charges.

Gray: Right.

Carew: Um and it was discovered that she had been um set up, you see.

Gray: Right.

Carew: Ah, that she'd been framed.

Gray: Ohhh

Carew: Um, by

Gray: Do they know who?

Carew: Well,

Gray: Am I allowed to know or?

Carew: Well, no no I can't tell you, no just to say that it's suspected that there were some fellow police involved because ah, um yeah well that's all I can really say to you really.

Gray: sure.

Carew: But ah you see um the evidence seems to point to now, towards this fourth charge, also this charge that you gave a statement to the police about, being also um a um false charge, ... know what I mean.

Gray: Right.

Carew: Um, and the letters that you wrote at the time um basically said as much that you

know you'd been, that you were as far as I can comprehend, you were pressured into giving the police a statement saying that ah Colin and she were planning for Colin to give evidence in Court, rather than ah that the idea being to let Allan Lobegeiger think that there had been a witness to an incident that occurred on his property, that there was no intention for Colin to give evidence in Court.

Gray: Right, well, um I only know what they told me, um which was that she had to appear in Court um and that she wanted him to give evidence.

Carew: Yeah who told you that?

Gray: She did.

Later in the transcript the following exchange between Carew and Gray appeared:

Gray: Um, you know because I mean if, if I hope I don't end up getting charged with perjury or anything like that I mean I never, I well I told them very little in Court anyway because I basically didn't remember very much.

Carew: Yeah.

Gray: And I was really scared.

Carew: Well you wouldn't be charged, you wouldn't be charged with um, well put it this way, I mean if, if I mean the situation as far as I can comprehend it, is that um the plan was for ah Lobegeiger who was the key thought to be the weak link in the prosecution against her,

Gray: Right.

Carew: *It was hoped that he would come to think that there had been a witness to an incident that occurred up there which wasn't one of the charges.*

Gray: *Right.*

Carew: *It was just related to the charge, and it was hoped that ah he would, he might think that Colin had seen, had been the witness.*

Gray: *Right.*

Carew: *Um, but Lorrelle says and Colin now also says*

Gray: *Yes*

Carew: *That ah there was never any intention for him to actually go along to Court and tell that story, the intention was that he would tell it to Lobegeiger if he was ah, if and when he was asked by Lobegeiger whether he really witnessed the incident and that was the reason for going up to Gatton, so he would know the property and also to get a look at Lobegeiger.*

Gray: *Yes that was stated.*

Carew: *So that he would be able to describe him.*

Gray: *Yes that was, I remember discussing that vaguely um that you know he would tell Lobegeiger that he was there, I mean like I said, as far as I knew she was going to court and she wanted Colin as a witness, that was what I was told, but then well that was how I understood it, but then like I said at the time I was very young and naive and I mean I really didn't understand a lot of what was going on anyway.*

Carew: *Well that's what I, yeah.*

Gray: *I sort of felt like I was you know an innocent bystander that got caught up in it all and ah couldn't sort of ah, couldn't get out, so yeah.*

Carew: *I understand that, but is it possible that um that in fact ah um, what you thought was that he was to be a witness in the court case and in fact all he was going to be was someone who could pretend to Lobegeiger that he witnessed this incident and to tell Lobegeiger not in Court,*

Gray: *Well,*

Carew: *But to his face.*

Gray: *Yes.*

Carew: *That he witnessed the incident which basically was that Lorrelle was up there and there was a couple of shots fired and then he came and hugged and kissed her, do you remember that?*

Gray: *Yeah, I remember all of that story yeah. Yeah. Um.*

Carew: *Is it possible that what in fact is said, well he was to be a witness to that, not in Court, but just to tell Lobegeiger that he saw it, in the hope that Lobegeiger would then tell the truth?*

Gray: *Well I suppose it is possible, like I said I really don't remember, I mean it was ten years ago that it all happened.*

The following passage appeared shortly after:

Carew: *So if you were, I'm just, see that's why I*

asked you before whether it was possible as you were in this difficult situation and you were only 18, whether or not he could have talked, asked you what had happened and you'd explain it and then perhaps he gave you the impression that it must have been the intention for Colin to give evidence in Court rather than simply tell Lobegeiger that he was a witness to the incident in the hope that Lobegeiger would then tell the truth in Court.

Gray: Mmm.

Carew: Do you understand what I am saying?

Gray: Yeah, yeah I do, um well I suppose, I mean police have a good way of twisting things.

Carew: Yeah, yeah.

Gray: Definitely, um it's definitely possible, um never having, I haven't been in trouble with the police but having more experience and seeing the you know, a little more of life since then.

Carew: Yeah.

Gray: Um, yeah it is definitely possible, and they have got a good way of confusing you with things, so they put it in a different way that it sounds right to you at the time you know, um it isn't right, and the way it is supposed to sound, um.

Had the content of this tape recording been tendered in evidence against an accused person as a conversation between a police officer and that accused it would undoubtedly have been rejected by the court. Vital questions were expressed in leading form and where statements of fact were made by the interrogator they were in some cases misleading and in some cases plainly wrong. In particular and importantly the letter and card enclosed which Gray had sent to Saunders's mother some ten years before did not

"basically" or in any other way say that Gray was, as suggested by Carew:

pressured into giving the police a statement saying that ah Colin and she were planning for Colin to give evidence in Court, rather than ah that the idea being to let Allan Lobbegeiger think that there had been a witness to an incident that occurred on his property, that there was no intention for Colin to give evidence in Court.

Although in the course of this conversation as recorded Gray by comment to Carew said things which indicated that events may have occurred as suggested by him she, before me, made it plain that her original version of relevant happenings was correct. She told me that Carew had put words into her mouth and that at the time of the conversation she was confused about whether she should be speaking to him. This does not surprise me but even the lapse of time had not dimmed Gray's understanding which emerged early in the conversation that Saunders and Cooper "were putting together a story for him to put to the court that he was with her when certain things happened" On no fewer than three further occasions during the conversation despite Carew's insistence on and her agreement with there being another possibility she made this understanding plain.

What she told the police and said in her evidence in court some ten years ago and repeated at this hearing was to my mind essentially true, namely that it had been agreed by Saunders and Cooper that Cooper would take the part of an associate who had gone with Saunders to Gatton in February 1982 and would give evidence as to what then occurred in accord with what she wanted him to say.

15.6 Coomer's testimony concerning the events during the period between Saunders's two arrests

Coomer had not given evidence on oath relating to the events after Saunders's first arrest at any time prior to giving his testimony in this investigation. He had been charged on 23 September 1982 with conspiring with Saunders and Cooper to pervert the course of justice. He faced committal hearings at the same time as Cooper and Saunders in November 1982. He did not give evidence at the committal hearings. On 6 April 1983 the Crown entered a nolle prosequi on the charge against Coomer when the Trial Judge ruled there was insufficient evidence for the matter to go before the jury. The evidence against Coomer was far less than that against either Cooper or Saunders. He was not called to give evidence at

Cooper's trial.

I formed the view that in relation to his evidence of the events of this period Coomer, whilst attempting to be truthful, tried to avoid giving testimony which might damage Saunders's cause. This to my mind explained Coomer's reluctance to agree with suggestions put to him by Counsel Assisting which were inconsistent with Saunders's account. Notwithstanding this reluctance he did ultimately concede in evidence in chief that Cooper had been taken to Gatton by Saunders and himself to qualify Cooper to be able to give evidence in Saunders's defence at her trial. The following extract from the transcript of Coomer's evidence in chief evidences his grudging acceptance:

Okay. Now, what was the point of taking Cooper up there?---Not really sure, to be honest with you. I think he - - -

Well, let me try to remind you: the idea was that when it was necessary to give evidence in court Lorrelle wanted to be able to say that on the occasion earlier in the year, in February, when she had been up there on Lobegeiger's farm there had been also present another person?---Right.

She wanted somebody to be able to say, 'I also was present there and I saw what happened.' And he was affectionate towards - I should say, Lobegeiger was affectionate towards Lorrelle, and so forth?---Right.

And therefore Cooper is the man, so we will take Cooper up, show him the layout of the land, and so forth, so if he gives that evidence, then - if he is able to say, 'I was up there in February,' he would be able to describe how the land was, where the fences were, and all that sort of thing?---Yes.

That is the point, was not it?---Yes, I would say - - -

THE JUDGE: Just pausing there. Are you agreeing with Mr Hampson that Cooper was to give this evidence?---I think - I'm agreeing with him in - let's see - I think he's trying to put to me that - - -

No, all I am saying: are you agreeing that Cooper was to

give the evidence when the time came?---Yes.

HAMPSON QC: So, because he had only come to Brisbane in August, and he had not been here in Queensland in February, as you understood it - - -?---Right.

- - - it was necessary, unless his evidence was going to be shot to pieces, that he become familiar with the lie of the land at the place where Lobegeiger would have been working that day in February. That is the point, is not it?---Yes.

That is why you went up there?---Yes.

And it was also necessary to get him familiar with what distances there were; how far it was from Gatton?---Yes.

All those types of things?---Right.

Is that the point?---Yes.

That is what I am talking about. So, in other words, the trip up there was to put him in - was to qualify him - perhaps I could use that expression - to qualify him to be able to give evidence in her defence at her trial?---Right.

Is that correct?---Yes, I would say so.

And you were - you were - you knew - you were assisting because you, in fact, loved her at the time?---Yes.

Is that right?---Yes.

And, you were happy to assist her in any way you could to get her off the charge?---Yes.

Is that fact?---Yes.

Coomer resiled substantially from this position in examination by Fleming QC. In re-examination Counsel Assisting took Coomer through certain passages of two statements handwritten by Coomer and furnished to his

solicitors. I will return shortly to these two statements. As part of this questioning by Counsel Assisting the following exchange occurred:

Well, what was all this about parking, the distances, and saying well this is where the car was parked and all that kind of thing? Was not that for the purpose of getting the cross-examination of Dodd ready or the - getting Cooper up to speed on where things were supposed to be, back in February when he was there with her?---To get everything straight in her mind?

And in Cooper's mind, too?---Yes.

Yes. And it is the whole reason why Cooper was there because he had not been at Gatton in February 1982, had he? He had been in Adelaide at that time?---Right.

And so it was necessary, if he was going to give evidence as to what happened at Gatton in February 1982 when he was in Adelaide, he had to go up to Gatton and become familiar with the scene?---Right.

And that is why he was on the trip?---Right.

You remember that, do not you?---Vaguely.

Yes, well, vaguely, I mean that was one of the big purposes of the trip, was it not?---Yes.

Yes. All right.

Shortly after the following exchange occurred as Counsel Assisting continued to take Coomer through his two handwritten statements:

Okay. Now, there is a number of elements in that. First of all, did Cooper go to the airport to see Cecily Bull - to your knowledge, I mean?---Not to my knowledge, no.

Well, as far as you knew. All right. Did, in your presence, Gray ever say at Lorrelle's place to Cooper, 'Did you see Cecily Bull?---Not to my knowledge.

'Not to my knowledge.' In other words, it did not happen

as far as you are concerned?---That would be right.

That is right, okay. And then she:

started to dictate tape for joke on Alan.

What does that mean?---I don't know.

Birthday wishes or something like that?---I don't know.

No? A stripper-gram or one of those things - do not know what it could be?---You'll have to ask her about the stripper-gram.

Yes. Yes, but you are the one that has written it, you see. So again I take it this whole passage finds its way into your handwriting only because she wrote it out or whatever it was for you and asked to put it in your handwriting?---I would say so.

Is that right? Okay. Now, at the bottom of the page:

Lorrelle said the tape about Gatton was only a joke for Alan if he came prowling around. It was never

underlined -

intended for use in court, and it was never -

underlined -

intended to call Cooper as a witness.

See that?---Yes.

Now, it certainly was intended to call Cooper as a witness, was not it?---It was, yes.

Of course it was. I mean, the whole point of taking Cooper up to Gatton on two occasions so that he could become familiar with the scene and all that kind of thing was so that he could give evidence at Lorrelle Saunders'

trial and say that she was there in February when this gun was shot by Lobegeiger, a pistol was discharged - whatever happened anyway - - -?---Right.

- - - and that he - Lobegeiger - acted after that in a very loving way towards her?---Right.

I mean, that was the - we have got that right, have not we? That was the whole purpose of the evidence that Cooper was supposed to give?---Right.

To show that Lobegeiger was still lovey-dovey, if you like, towards Sergeant Saunders?---Okay.

No, not okay. Is that correct?---I would say so, yes.

That is your understanding, and that is your understanding of why he was taken up to Gatton; okay. And so it is incorrect to say it was never - underlined - to call Cooper as a witness; that is just incorrect, to your knowledge, is not it?---To my knowledge, yes.

To your knowledge, it is quite incorrect, and the only reason you have written that down there is because you were asked to do so by Sergeant Saunders; is that correct?---Right.

Earlier in the report where Coomer's character was discussed I referred to the fact that there had been a number of statements signed or adopted by Coomer which had been originally drafted by Saunders. These accounts not surprisingly gave versions of events which were consistent with Saunders's account and inconsistent with that given by others such as Dodd, Bernie Hannigan, Cooper and Gray. Notwithstanding Saunders's denials that she prepared these statements for Coomer there is little doubt that she did. Not only was the expression and form similar to many other statements prepared by Saunders but there was extensive evidence to establish that Saunders had "authored" many statements for other people.

As part of the Legal Aid material was a twenty page unsigned and undated typed document headed "Statement of Roy Alfred Coomer." A copy of this statement was provided to his legal advisers when he was facing his own charge. This canvassed only the issues prior to Saunders's first arrest. Coomer conceded that Saunders had typed it for him. Also in her Legal

Aid material was the same statement in a handwritten form. Coomer conceded that he had put it in his own handwriting from the typed account that Saunders had prepared. His lame explanation was so that he would have a record for himself. Later in examination by Counsel Assisting he agreed that Saunders had asked him to make a copy of the statement because it looked better if it were in his own handwriting. Notwithstanding vigorous examination by Fleming QC he maintained that he had handwritten the statement from the typed one prepared by Saunders.

When Menary and Pointing came to investigate the fabricated tape they approached Coomer. He furnished them with a signed statement dated 13 March 1984. It was the same as the statement which Saunders had originally typed for Coomer to adopt. He also provided them with an addendum statement which was also clearly drafted by Saunders. The matters raised in the addendum furthered Saunders's cause although of little significance to Coomer. Coomer conceded it had been Saunders who had suggested that he sign the statement and provide it to Menary and Pointing.

The addendum to the statement did make some references to events which allegedly occurred after Saunders's first arrest. I have no doubt that these references are not factually correct. In examination by Counsel Assisting Coomer was questioned about the addendum:

All right then. Then if you read on, that addendum continues:

I saw Lobegeiger for the first time in court in August 1982. I was in court when he gave evidence. At November 1982, Lorrelle and I were both in court, and I went to the toilet and Lobegeiger came in and said to me -

You see, this is Lobegeiger to you -

"So you're the little bastard I'm up against. She'll always be mine. You'll never fucking have her."

Remember that?---No, I can't even - - -

Did that ever happen?---I can't even find it yet.

It goes over from the bottom of the addendum - on the first page of the addendum to the top of the second

page?---I got it.

You got it?---Yes.

Did that happen?---Not that I can recall, no.

Well, it did not happen, did it?---No.

A few days later, Lobegeiger gave evidence. As he finished, he sat at the back of the court and Lorrelle looked round at him. Lobegeiger was looking at her and he said, "I still love you."

Did that happen?---Well, I don't know. You'll have to ask her that.

No, no, no. But you are the one who is supposed to be saying that. You follow what I mean? This is supposed to be Roy Coomer talking. Roy Coomer says:

I looked round and I saw Lobegeiger looking at Saunders and Lobegeiger said, "I still love you."

Did that happen, so far as you are concerned?---No.

No. All right. You say:

I was shocked after the lies he told in court.

What lies did you identify him as having told in court?---None that I could recall.

All right. Because he gave evidence about the things that you were never present at?---Yes.

Although Coomer resiled from these answers when questioned by Fleming QC he to a large extent adopted them again in re-examination by Counsel Assisting. This once again showed Coomer's reluctance to accept matters detrimental to Saunders's cause.

Among other statements furnished to his solicitors at the time that he was facing the conspiracy charge, Coomer supplied two statements in his own handwriting. The first was a five page document and the second a twenty

nine page document. These statements set out in great detail the alleged events leading up to Saunders, Cooper and him having been charged. Coomer was specifically questioned by Counsel Assisting concerning the authorship of these two handwritten statements:

And would it be true to say that like the other handwritten document that we had yesterday, you copied these documents from some typewritten material you were given?---I would say I copied them.

Yes?---But I couldn't say whether it was from typewritten material or what.

I see. But that certainly was not your composition, was it, these documents? Do you understand what I mean by that?---Yes. It could have been from bits and pieces that I have written down on bits of paper and decided to put it all onto one.

Yes. Or it could have been about 120 per cent more likely from a document that Sergeant Saunders gave you?---Well, I can't say either way.

If there is any doubt the two documents were prepared by Saunders then there is internal reference which removes any such doubt. There are many examples of the incorrect personal pronoun having been used, deleted and replaced with the correct one. For example in the five page handwritten statement the following passage appears:

*I had remarked how Colin looked like Dodd at a distance
so Sue and I went to the Surfers Beer Garden and Colin
and Lorrelle walked there past the police station. She said
to me that it would be a good way to see if Allan was
(Lorrelle)
genuine about my doing some drug work with Colin and
whether he wait and think Colin was Dodd.*

"(Lorrelle)" was written in different handwriting. It was not Saunders's. Whoever had corrected the statement recognised that the "my" was not

correct. On the last page of that document is the following passage:

The reason Lorrelle originally went to Gatton was to meet Dodd and to check the phone she had gotten saying Cecily Bull was up there. Lorrelle had to check all the information from the day Lorrelle met Dodd and the day she met Allan up there.

Appearing before the words "Lorrelle met Dodd" two words had been partially obliterated. They were "I met." No doubt as Coomer copied Saunders's draft he wrote "I met" instead of "Lorrelle met." Realising his mistake he erased "I met" and wrote "Lorrelle met."

In the twenty-nine page statement there are similar corrections. One of the more obvious is in relation to the Mick Webb incident at Miami. The statement states:

Took my rego number but didn't ask for anything else.

The word "my" has been written above an obliterated "his."

Coomer was questioned about these alterations by Counsel Assisting:

So you have rather agreed with me that it was a document you were given, and you were copying from the document?---Either that or bits of paper.

Yes. Anyway documents that you she gave you, and it may have been that sometimes they read 'her,' and it should have been changed to 'I,' because it was supposed to refer to you rather than Saunders?---Right.

In examination by Counsel Assisting Coomer had conceded that there were many matters in that statement which were factually untrue. For example the statement recorded:

Lorrelle refused to see me before the committal hearing.

Coomer stated that:

It is just not true.

He had given evidence which I accepted that sexual intercourse with

Saunders had continued unabated until her incarceration in September 1982. Further examples are referred to earlier in the report in the discussion of Coomer's character. He also conceded that words like "grub," "UIL" and "bust" which appeared in the statements were not terminology he would normally use.

It may be suggested that because Coomer furnished these statements to his solicitors that he would only have done so if they were factually correct. I could not accept such a suggestion. It was clearly in Coomer's interest to provide a version of events to his solicitors which was consistent with his innocence and Saunders's exculpatory account. These statements fulfilled both requirements. It did not follow that the version had to be correct.

As Coomer was charged on 23 September 1982 and his trial commenced on 6 April 1983 it is fair to assume that the statements were furnished to his solicitors some time in this period. Of course Saunders was for that entire period in jail having been refused bail on the fourth charge. It would seem therefore that whilst Saunders was waiting to be tried in relation to attempts to have Cooper give a false account of events, she had prepared the two false statements for Coomer to adopt.

The following was submitted by Carew and Company in their written submissions of 5 April 1994:

In our submission, you probably would conclude in relation to the statements concerning events in August/September 1982, that Coomer had access to notes written by Saunders.

In our submission however, there is little evidence that Saunders knew that he had access to what she had written. Further, even if you could infer that she did know, or that she was somehow responsible for arranging for him to have access to what she wrote, there is no evidence that she asked Coomer to agree with any such statement and in particular there was no evidence that she asked him to agree in the event that he either had no recollection or had a different recollection.

It is the case that Coomer himself was facing a serious criminal charge. In his own interests, in defending himself on that charge, he may have sought access to Saunders' notes. There is evidence that he attended Saunders'

premises whilst she was in prison. Therefore the possibilities are that:-

He gained access to her notes without the knowledge of Saunders either through locating them himself or via Saunders' mother;

He gained access with Saunders' knowledge (but this does not mean that he was asked by her to agree with her account of events);

Saunders was in prison at the relevant time. The evidence is that Coomer did not communicate with her, nor did he visit her during this period. There is no evidence to the contrary.

I cannot accept this submission. There is not the slightest evidence that Coomer gained access to Saunders's notes at her home without her knowledge. It was never suggested to Coomer and he never raised the possibility. As I have concluded that the notes had been written by Saunders after her arrest on 9 September 1982 they were not in existence for them to be left at her home prior to her arrest. I am satisfied that in some way Saunders's account was communicated to Coomer whilst she was in prison. Her intention was that he would adopt that account as he had adopted earlier accounts of which she was the author.

15.7 Saunders's account of events during this period

Saunders testified that as far as she could recall she had made no contact with Coomer in the period after she was charged the first time and before her committal commenced. Saunders claimed that some time during her committal hearings in August 1982 contact was made with her by Coomer. She was not sure whether he had telephoned her or merely arrived at her home. She stated that he was upset about how she was looking at court and he felt very guilty about leaving the weapons in the car. After this time she admitted that they had regular contact. She denied having sexual intercourse with him at any time.

Saunders testified that on 11 August 1982 she met Cooper and Gray at the Newnham Hotel. She had not seen him for a number of years beforehand. She had never previously met Gray. She stated that Cooper had telephoned Palmer, to try and ascertain her home telephone number.

Saunders stated that as she recalled it he telephoned Palmer again and on this occasion Saunders spoke to him on the telephone. They agreed to meet at the hotel. She claimed that Cooper merely wished to meet her because he had heard the plight that she was in after his father had telephoned him in South Australia where he had been then residing.

Saunders stated that the following Saturday Cooper went around to Palmer's place to try and locate her. Palmer telephoned her to advise her of Cooper's presence. Palmer was told by Saunders to send him around to her home. Saunders admitted that they had regular contact from then on.

In Saunders's statement to the Commission she claimed that shortly after meeting them she went with Cooper and Gray to Gatton. The Spirax Notebooks record the date for this trip as 13 August 1982, the day after the committal hearings were adjourned. Saunders claimed that Cooper and Gray "went along for the ride just to keep me company." Saunders had stated that she had Gray drop them off outside Lobegeiger's property at Gatton. Cooper and she looked around Lobegeiger's property to see if they could find any bird traps, ammunition or spent cartridges from the 19 February 1982 incident. According to Saunders they found nothing. She stated that she was also checking the evidence of times and distances which she was to give. Shortly afterwards Gray returned to pick them up and they drove back to Brisbane. She claimed to have explained to Cooper that the purpose of the trip was to check evidence.

In questioning by Counsel Assisting Saunders suggested that as Lobegeiger had told lies at her committal she had to ensure that her evidence was accurate and therefore needed these measurements. She also claimed that Cooper was to be used to bluff Lobegeiger into telling the truth if the opportunity arose. She stated that with Cooper being familiar with the territory he may have been able to bluff Lobegeiger into believing that he was with Saunders when the firearms were discharged on 19 February, thereby causing Lobegeiger to change his false account and give a truthful one. She denied the suggestion that Cooper had been taken to Gatton to be coached so that he would be able to give false evidence in her defence at subsequent court proceedings.

Saunders's account in the Spirax Notebooks for this trip has been set out in full in the previous chapter. It is an astonishingly detailed self-serving account of the day's events. In it there is a number of references to Cooper and Gray having drunk to excess. These were a clear attempt to discredit them as witnesses. There is no doubt in my mind that the events as described in this entry are false. They were written after Saunders was

charged on 9 September 1982 in an attempt to provide an innocent explanation for her conduct with Cooper and Gray on this day.

Saunders testified that she returned shortly after to Gatton to take further measurements as her odometer did not work during the first trip. On this occasion she claimed that as she did not have much money for petrol Coomer took her up in the car. Once again she claimed that Cooper and Gray went along for the ride.

The Spirax Notebooks record that this trip took place on 17 August 1982. There is independent evidence which confirms this is the correct date. Once again the account in the notebooks is a detailed, self-serving version of the events. I have little doubt that it too is false. Like the account of events for 13 August 1982 there are lengthy extracts where Saunders purportedly relates to Cooper and Coomer what Dodd allegedly told her during the trips to Gatton in February 1982. These accounts are inconsistent with what I have concluded were the facts.

After the Gatton trips Saunders claimed that the next major contact with Cooper and Coomer was when they went for a holiday with Gray to the Gold Coast. The Spirax Notebooks recorded this as having occurred on 23 August 1982. The notebooks record that they remained there till 27 August 1982. It was during this period that Saunders alleged that she had sexual intercourse with Lobegeiger at the police house at Miami.

Saunders claimed that the tape recording of her reciting the account of events at Gatton was part of the ruse to bluff Lobegeiger into telling the truth. She denied that there was a script for her to hide as alleged by Gray. She claimed that the tape recording was left at her premises in the belief that Lobegeiger would locate it there. She claimed that he had previously entered her premises and searched it. She hoped he would return, find the tape and believe that there was an eye witness to the events. He would then be forced to tell the truth when he subsequently gave evidence. I find this proposition absurd. First, Lobegeiger had to surreptitiously gain entry to Saunders's premises which I do not believe he had the capacity to do as it was like a fortress according to all the evidence. I do not believe he had a key as claimed by Saunders. Secondly, he had to locate this particular tape and play it. Thirdly, he had to be convinced by listening to a tape of Saunders's voice that there was somehow a third party witnessing the events. I have no doubt that Saunders lied when explaining the reason for the existence of this tape recording.

At this stage I should refer to some paragraphs of the statutory declaration dated 13 July 1993 of Herbert QC which support my conclusion:

2. *I have been provided with pages 329 to 336 of the transcript of evidence before the Commission, in which Saunders is questioned by Counsel Assisting in relation to the reasons why she made a tape recording introducing a non-existent person to events which apparently occurred at Gatton some time in early 1982. In particular, I have read where she states that she made it in the hope that Allan Lobegeiger (Lobegeiger) would enter her house, listen to the tape and believe that there was a second person present during these events, thus convincing him (Lobegeiger) to tell the truth. I was never given instructions to this effect. If I had been given these instructions, I would remember them because I regard them as completely fanciful and unbelievable. I find extraordinary the proposition that Lobegeiger was to get into a house which was secure, pick up a tape recording, presumably amongst many, play that particular tape and be somehow convinced by an account, in Saunders' voice, to change his evidence sometime in the future. I cannot imagine a Superintendent of Police admitting perjury.*

3. *I am led to believe that Saunders claims that Lobegeiger had a key to her house. I was not apprised of this fact whilst I represented her and I was certainly not apprised at that time that he had previously come into her house, without her consent, using that key. I would have thought she would thereafter change the locks.*

4. *At page 335 of the transcript Saunders suggests that she took Colin Stanley Cooper (Cooper) to Gatton in order that he would become familiar with Lobegeiger's farm and the distances associated with her previous visits there, thereby providing him with sufficient knowledge to carry on bluffing Lobegeiger if they confronted each other. Once again, I can say that I was never given these instructions.*

In the submissions furnished on 5 April 1994 Carew and Company submitted that if the truth had been that Cooper was to give evidence about the Gatton incident at Saunders's trial she would have got rid of the tape

recording and any other evidence after Cooper was arrested and prior to the police coming to her residence to search. It was further submitted that the fact that she did not do so demonstrated that she did not intend for Cooper to give evidence at her trial. I reject this submission. It ignores Gray's evidence that Saunders hid the statement which she had prepared for Cooper and for what it is worth it should be remembered that Cooper had told Webb in his record of interview on 10 September 1982 that Saunders had told him that police "never check what is on tapes." I also refer to evidence given by Inspector Flanagan that during the search of the upstairs rooms of Saunders's house on 8 September 1982 Saunders attempted to depress the record button on a tape recorder containing a cassette tape which Flanagan had picked up to remove as possible evidence.

I should also refer to some evidence given by former Chief Superintendent of Police Jill Bolen in her statutory declaration to the Commission:

During the time I was with Saunders at EDLU, I was aware that Colin Cooper was one of Saunders' informants. He was only young then. He would supply Saunders with various information and I can recall some of it may have been about who was doing break and enters. Cooper seemed to be infatuated to some extent by Saunders. In my opinion, Cooper would have done anything for Saunders. He was like a little puppy dog around her.

There is one further aspect of Cooper's record of interview of 8 September 1982 which requires comment. It will be recalled that Cooper had stated that when he and Gray had originally arrived in Brisbane they went to Palmer's place in the evening. Whilst there a tape was made to produce in court. He stated that he was told that Ray Knight was to identify the woman's voice on the tape as that of Saunders although it was in fact another policewoman's voice. This policewoman was Judy Helen Newman. Saunders stated that she had been requested by her solicitor Herbert QC to obtain a tape of Newman's voice. According to Saunders she had told Herbert QC that Newman's voice had been mistaken for hers in the past by Lobegeiger. In her statutory declaration dated 24 May 1993 to the Commission Newman confirmed that she did have discussions with Saunders's solicitor in relation to such a tape. She could not remember the name of the solicitor.

Knight's account of the incident was that he had previously had difficulties recognising the difference between Saunders's and Newman's voice over the telephone. When he was played a copy of the tape recording with

Newman's voice on it at Palmer's premises he could not tell the difference between her voice and that of Saunders.

Although Herbert QC had no recollection of requesting Saunders to obtain a tape recording of Newman's voice I am confident that this did occur with a view to its legitimate use sometime later in Saunders's defence. Although there may not have been anything sinister in the making of the tape at Palmer's home it is understandable in the circumstances why Cooper believed it warranted mentioning to Webb and Flanagan. I should add that Webb interviewed Knight and Newman concerning the incident but took no further action in relation to it.

CHAPTER 16

APPARENT BREACH OF THE BAIL CONDITIONS IMPOSED UPON SAUNDERS

16.1 Saunders's justification for communicating with Coomer and Lobegeiger

Saunders had been granted bail in the Magistrates Court at Brisbane on 29 April 1982 on condition that she refrain from making contact with Coomer, Lobegeiger and Dodd. Thereafter as can be seen from the two previous chapters of the report there was extensive communication between Saunders and Coomer and Saunders and Lobegeiger.

In Saunders's statement to the Commission she attempted to justify this contact:

My solicitor, Herbert advised me that it was okay for me to have contact with Lobegeiger providing he instigated the contact. He also advised me that I should record all such contact. He gave me similar advice in relation to Coomer, although I do not think he advised me to record all contact with Coomer.

Saunders was questioned about this statement in examination in chief by Counsel Assisting:

I mean, you were - by this time you were quite an experienced police officer, and you in fact would have your own knowledge, to some extent, about bail conditions - reporting conditions to the police, and conditions which sometimes required people to surrender passports or not to move out of a particular area, and also conditions not to be in contact with Crown witnesses or fellow charged; that is right - fellow accused?--As far as I was concerned it was not - not to make contact with. That's what I believed it to be. I didn't believe at any time I'd breached my - I'd breached the Bail Act.

Why was it - to your knowledge, or in your mind, why would it be that there would be a condition imposed on a person who was charged not to have contact with, let us

say, the alleged victim, who may also be, of course, a witness against the person charged? Why would that be?---Well, if there was some dispute between these persons, I suppose for their safety. But both these persons were friends who - I couldn't understand it. And Tucker wasn't, certainly, in the same sort of category.

Right. What about people who were fellow accused; that one accused should not have contact with another accused?---If it's said on the bail conditions, otherwise there's no problem with it.

No. But if it is said on the bail conditions the - in your mind the reason for that would be to stop people putting together a joint case, or something of that kind?---It may be for reasons that one might harm the other.

Yes. Well, in that event - if that is the reason behind that - it would not make much difference who instigated the contact, would it. If, really, the bail conditions are to stop contact - conversations - occurring, it does not really matter much who is the one who starts it?---Well, I would - I would assume that the bail conditions would be much more severely worded than I was not to make contact with these three persons.

So, in other words, the condition could be - there was no condition put on Lobegeiger - but he was not on bail - that he was not to make contact with you?---That's correct.

So it meant that if he made contact with you, your bail condition became meaningless. You could have as much contact with him then as you liked once he had made the first contact?---That's what I believed.

That is what we - you understood it to be; is that the position?---That's correct.

And you understood that from what Herbert told you, apart from your own experience?---Interpretation.

Interpretation?---Yes.

THE JUDGE: Did your own experience help you to arrive at that conclusion, Sergeant? I mean, do you think that - if it was loosely worded, as you say, but it said you were not to make any contact with the other person, do not you think a telephone call by you to the other person, or a letter by you to the other person would be in breach of that condition?---I didn't believe it was, your Honour.

I beg your pardon?---I didn't believe it was. I certainly wouldn't - wouldn't have knowingly gone and breached bail. I mean, it was - the situation was Lobegeiger - for example - you know - we were very close, and in my emotional state - and when he contacted me and he said it was all right, and - - -

Who said it was all right - Lobegeiger?---Lobegeiger.

Later in examination by Counsel Assisting Saunders gave some evidence which conflicted with her assertion that Lobegeiger had said it was alright once he had established contact with her.

All right. And he never said at any stage to you, 'Hey, listen; you better not be ringing me. Your bail conditions don't allow it.'? He never raised that particular point?---No, he didn't.

In re-examination by Counsel Assisting the issue of Saunders's general knowledge of bail conditions was further canvassed:

Almost 10 years, and you had some familiarity, I take it, with conditions of bail; how people got bail from courts and how they were bound over?---Basically.

How they would sign - - -?---Yes, basic - - -

- - - documents. You had - - -?---Yes, basically knew what happened, yes.

That sort of thing?---Yes.

And you were familiar with the concept that at - sometimes it was a condition of bail that people would have to surrender their passports - if it was a serious

offence, when it might be thought that otherwise they might go overseas?---Oh, I've probably been in court - I don't recall any - you know, specific incidents, but no doubt I've been in court when it's happened.

Yes. All right. And a very frequent condition, of course, is that defendants do not make contact with Crown witnesses?---Well, I don't know. It's - mine is the first one I knew about.

Are you seriously suggesting that the first time in 10 years, during which time you had been a detective, the first occasion that you ever heard it suggested as a condition of bail that the defendant not come into contact with Crown witnesses was your own cases when you were a defendant?---In any case that I had been present - - -

No, no, just - - -?--- - - - in court for the bail that I remember.

What is that?---In any case that I'd been in court while the bail was set.

In any case - just listen to the question?---I don't know. I could have - I could have read it in the paper, but I just don't remember anything.

The question is - the question is quite simple: are you suggesting that in all that experience, that 10 years almost in the Police Force, part of the time of which you were a detective, that the first occasion when you heard of a bail condition imposed on a defendant that the defendant not come into - not make contact with a Crown witness was your own case when you were a defendant?---Yes - - -

Is that what you are telling me?---Yes, it is actually.

All right?---I just don't - don't recall any other cases.

...

I see, all right. Now, you adhere to that statement, that in all that experience no one ever told you, you never read it

in a police lecture, you never heard it at any study that you were doing?---I said I just don't recall it.

No friend of yours in the police ever spoke of such a case?---I said I don't recall it.

You do not recall it?---No.

So as far as you were concerned, this was just a new, completely novel and quite extraordinary condition that was being imposed on you, the like of which you had never heard before?---It was to me. It was to me.

16.2 The advice given by Herbert QC

In his statutory declaration dated 6 May 1993 Herbert QC gave the following account of his advice to Saunders:

It is true that I provided advice to Saunders in relation to her bail conditions. All such advice was given after consultation with counsel retained on Saunders' behalf, Mr W Howell (now His Honour Judge Howell of the Queensland District Courts) ("counsel").

The advice which I furnished to Saunders was not volunteered by me. As Saunders was a serving police officer, it seemed to me to be unnecessary to volunteer such advice.

The advice which I furnished to Saunders in relation to her bail conditions was not given on a single occasion, but was provided in response to a number of separate enquiries which she made to me concerning her bail conditions.

- (i) *In the first instance, advice was sought and given in a formal conference attended by counsel. To the best of my recollection, the advice given on that occasion was limited to counsel emphasising that Saunders must not, under any circumstances, have any contact with any of the persons mentioned in the bail conditions.*

- (ii) *On a number of subsequent occasions (I think three or four), Saunders approached me for more specific advice. On each occasion, I reiterated that she must not have any contact with any of the persons named in the bail conditions.*

- (iii) *Finally, Saunders specifically sought my advice as to what she should do if telephoned by either Lobegeiger or Coomer. As best I recall, her enquiry was put on the basis of what she should do if either Lobegeiger or Coomer telephoned her and volunteered important information concerning her case.*

...

I cannot, of course, recall the precise words which I used. However, I am confident that the effect of the advice which I gave was as follows:

- (i) *I told Saunders that, as a matter of lawful compliance with the bail conditions, she must not under any circumstances be in the vicinity of Lobegeiger or Coomer, and that she must not telephone either of them.*

- (ii) *I also told Saunders that, quite apart from her obligation to comply with the bail conditions, it was in her own interests, as a matter of common sense, to keep right away from Lobegeiger and Coomer, and not to make telephone contact with either of them.*

In answer to Saunders' enquiry as to what she should do if telephoned by either Lobegeiger or Coomer, I told her:

- (i) *That she should terminate any such telephone call as quickly as possible.*

- (ii) *That, although any such telephone call would likely be taped by someone else, she should be in a position to record any incoming calls.*

- (iii) *That under no circumstances should she volunteer any information about her case, or respond to any questions in relation to her case.*
- (iv) *That, if the caller (Lobegeiger or Coomer) began to tell her something critical to her case, she could listen and record what was said, whilst still terminating the conversation as soon as possible.*

I did not provide Saunders with any advice in relation to writing letters to Lobegeiger or Coomer. She did not raise that matter, and it simply did not occur to me to discuss it with her.

Nor did I expressly advise Saunders that, for the purposes of the bail conditions, no distinction was to be drawn between "social" or "personal" contact, and any other kind of contact. The matter was not raised by Saunders, and I did not for a moment imagine that Saunders would perceive that such a distinction could legitimately be drawn.

To the best of my recollection and belief, I am certain that I did not say anything to Saunders which suggested, or which could be construed or misconstrued as suggesting, that initial contact with her by either Lobegeiger or Coomer would, in effect, operate as a licence for her thereafter to initiate further contact with either of them.

After the statutory declaration of Herbert QC referred to above was tendered in evidence Fleming QC made the following statement for the record:

Your Honour is conscious of the possible conflict between Mr Herbert's affidavit and Sergeant Saunders' evidence. Sergeant Saunders accepts Mr Herbert's affidavit as being an accurate account of the advices that he gave to her.

This concession by counsel for Saunders resulted in the legal representative appearing on behalf of Herbert QC seeking leave to withdraw apparently on the basis that Saunders would not take issue with the accuracy of Herbert's QC recollection of the advice given to her. When she returned to the witness box to give evidence as the final witness in the investigation

she was asked to comment upon the statutory declaration furnished by Herbert QC. Surprisingly she did not accept that his account reflected the advice she had received. Counsel Assisting questioned Saunders concerning her apparent about-face:

Sergeant, it seems to me that you are quarrelling with Mr Herbert's affidavit?---No, I'm saying that he - he believe what he's got in that affidavit. I have - whether I misunderstood his advice, but it's certainly my understanding of bail was as it stands in my statement.

Now, Mr Fleming did not say - your Honour is conscious of the possible conflict between Mr Herbert's affidavit and Sergeant Saunders' evidence. Sergeant Saunders accepts Mr Herbert's affidavit as being an accurate account so far as he can recollect things to be of the advice that he gave to her. You follow? Those words were not used. The acceptance was on the basis it was an accurate account. You follow?---Well, it doesn't mean I agree with it.

Well, it does not. I see. Well, we have had all these days and we have been told - Herbert did not come to give evidence, he was not cross-examined. We were told it was unnecessary because you accept his account of things - - ?---Yes, I accept his account is what he remembers that happened in 1982.

That qualification was not made, unfortunately, sergeant. The qualification was not made as to what he remembers?---Well, no, perhaps it should have been made, but I can't help that.

I have no doubt that Herbert's QC recollection of the advice is correct. I cannot accept that Saunders believed that she could approach Coomer and Lobegeiger once they had made contact with her. I would not expect a lay witness to have understood this, let alone an experienced police officer. I have little doubt that she would have advised her solicitor of any such contact as it occurred if that had been his advice. She did not. I reject Saunders's claim that she did not advise Herbert QC because she did not have any faith in him. In any event I reject Saunders's evidence that she only communicated with Lobegeiger and Coomer after they initiated contact. In the case of Lobegeiger all communication was initiated by her. He did not want it. I have no doubt that Saunders was aware that she was

flouting her conditions of bail. I found her answers to Counsel Assisting concerning this issue as most unconvincing and unsatisfactory.

16.3 Evidence supporting the conclusion that Saunders knew that she should not have any contact with Lobegeiger or Coomer

Support for the conclusion that Saunders well knew that she should not have any contact with Coomer and Lobegeiger can be seen in the record of interview of Cooper by Webb:

Q.126 Has Saunders ever mentioned to you that it is part of the condition of her bail that she does not contact Lobegeiger or Coomer?

A. Yes she has, she says she has got to be careful, especially with Roy, not to be seen around together, and she claimed Allan couldn't do anything about her contacting him, because he should have done something when it first started, and she says he is at fault now as well.

Cooper repeated this account in evidence before me where the following exchange appeared:

Did you know anything about the conditions of that bail?---Yes. I knew that she wasn't supposed to have any contact with Roy Coomer or make any contact with Lobegeiger.

You knew that. How did you know that?---Lorrelle told me.

She told you that?---Mm.

I see. She told you that even though, in fact, she was having the contact?---Yes.

And what were you supposed to do? Did she ask you to keep quiet about it or something?---There was no need to ask. It was - - -

Sort of understood - - -?---Yes.

- - - that you would have to keep quiet about it. I see.

Gray's evidence before me also supported this conclusion. When she was referring to Lobegeiger's police house at Miami the transcript reads:

And on one occasion, in fact, did you deliver a letter to that house?---Yes, I did.

How did you come to do that, Mrs Fisher?---Lorrelle asked me if I'd deliver it because she said that she couldn't. They'd recognise her and she wasn't supposed to be there, and that I wouldn't be recognised; so she asked me if I'd deliver it so they wouldn't put her with the letter.

She said she wasn't supposed to be there?---Yes.

Did she amplify that: why she wasn't supposed to be there?---I believed it was part of her bail conditions that she wasn't supposed to go near Mr Lobegeiger.

In Coomer's two handwritten statements supplied to his solicitors at the time he was facing the charge of conspiracy it is recorded that he made three requests of advice from Herbert QC concerning his contact with Saunders.

In Coomer's addendum statement to Pointing and Menary the following passage appeared:

Shane Herbert said it was alright to see Lorrelle if I contacted her first because there was no restriction allowing me to contact her.

In examination of Coomer Counsel Assisting, after reading the relevant extracts from the addendum statement to Coomer, entered into the following exchange with him:

Did Shane Herbert ever tell you that?---He did tell me things along that line, yes.

Yes, well, things along that line, but did he tell you, 'Look, it's perfectly all right for you if you've got - there's no problem if you contact her first. What she's not allowed to do is - she contact you first'?---Well, I cannot

remember the exact words.

No?---But, my recollection - he did say those things.

Yes, but did he say to you that you were not supposed to have any contact with her?---He did not say I was not supposed to contact her.

All right. Did he say anything to you or is your recollection that Lorrelle told you that Herbert had said it was all right if you contacted her but not if she contacted you?---You got me thinking now.

Yes, I know. It is a hard one, is not it?---Really, I could not say either way.

Yes. You see, when you think about it for a moment, the object obviously is a condition that a defendant, as she was, is not to be in touch with important Crown witnesses as you were. You were a Crown witness in this case - is to prevent - particularly if they are friendly - is to prevent the defendant perhaps influencing the Crown witness?---Right.

You can see the reason of that?---Yes.

Later in Coomer's evidence he again stated that he could remember asking Herbert QC whether he could have contact with Saunders but that he could not recall whether it was on three occasions as suggested by his two handwritten statements. In a statutory declaration dated 13 July 1993 Herbert QC responded to Coomer's evidence:

I say that at no stage did I give Coomer advice that he could contact Saunders. Notwithstanding the legal niceties of the condition of bail, the spirit of the condition was that there should be no contact between Coomer and Saunders. I would never have given advice to the contrary. Furthermore, to have given that advice and to counsel contact with Saunders would have prejudiced the credibility of Coomer as a witness for the defence as I understood he was eventually to be. In those circumstances, it would have been unthinkable for me to give him advice to the effect that they were permitted to have contact. I must add

that I am fortified in my belief by the suggestion that Coomer spoke to me on three occasions concerning this matter. The question must be asked why would Coomer have canvassed the issue on three separate occasions. After all, if he had already made the initial contact with Saunders (as the handwritten material suggests), on Saunders and Coomer's account of my purported advice, any future contact between the parties was permissible and further advice from me would have been unnecessary. I deny the allegation completely.

I am satisfied that Herbert's QC recollection of events is correct. I tend to think that Coomer had mistakenly thought that what he had actually been told by Saunders had come directly from Herbert QC.

In evidence before me was a newspaper article dated 10 September 1982 reporting upon Saunders's application for bail in the Magistrates Court. The article states:

Making an application for bail, Mr W Howell, for Saunders, said Lobegeiger had rang his client and that the conversation was taped on the advice of Saunders's solicitor.

Saunders in her statement to the Commission suggested that this corroborated what she had previously said about the advice she obtained from Herbert QC. I cannot agree with this view. It certainly corroborates Herbert's QC account that he told her to tape any conversations with Lobegeiger but it no way corroborates Saunders's account that if Lobegeiger had contact with her initially she had a licence to make contact with him as much as she wished afterwards.

A telling factor in my mind is that Saunders made no reference to having relied upon Herbert's QC advice when she gave instructions to Herbert QC upon her arrest on 9 September 1982. In Herbert's QC statutory declaration dated 6 May 1993 he stated:

.... I had no reason to suppose that Saunders would subsequently allege that her breach of bail conditions was contributed to by advice which I had given her. Indeed, the first time that I became aware that Saunders intended to make that allegation was when I received excerpts from her statement recently.

It would indeed be extraordinary if Saunders, having received the advice she claimed from Herbert QC, did not raise it with him when he sought instructions from her upon her arrest. If Saunders had raised the matter with Herbert QC at the time then one would have expected there to be reference to the matter in the affidavit to the Supreme Court in support of her application for bail on 16 September 1982. There was no such reference. The only basis for seeking bail on that occasion was the illness of her mother.

It was not until Saunders made a second application for bail to the Supreme Court that the question of the legal advice arose. In her affidavit of 29 November 1982 to the Supreme Court she stated:

If I was in breach of those terms of my bail it was as a result of my misunderstanding the advice I received from my then legal advisers, Mr W A Howell of Counsel and Mr S Herbert, solicitor.

She made a similar statement in her next application to the Supreme Court for bail. Nowhere in these affidavits did Saunders claim that she had been given advice which permitted her to have contact with Coomer and Lobegeiger. I have no doubt that if she had received the legal advice she claimed it would have appeared in her affidavits. Furthermore I have no doubt that attempts would have been made to obtain an affidavit from Herbert QC outlining the legal advice he had given her. This was never done.

If further support is wanted for the view that Saunders did not obtain the advice that she claimed from Herbert QC it can be seen in the confidential letter which was delivered to Lobegeiger's letterbox by Gray on 7 September 1982. At the foot of the last page of the extraordinarily intimate letter a postscript appears. It states:

I will meet you anywhere you nominate. I can borrow Nan's car.

To my mind this clearly shows that Saunders was well aware that she was not permitted to communicate with Lobegeiger. In her desperation to meet with Lobegeiger she was willing to go any place that Lobegeiger nominated and was prepared to borrow someone else's vehicle in order to ensure that any contact would not be detected.

16.4 Conclusions

It is clear that Saunders's period of incarceration resulted not from any improper behaviour by police officers or even from the acceptance of the fabricated tape as genuine by the police and prosecuting authorities. Saunders's contact with Coomer and her contact with Lobegeiger in the period after 29 April 1982 and before 9 September 1982, coupled with the fact that whilst on bail she allegedly committed what I have called the fourth offence, were directly responsible for her period in jail.

Although Saunders was never charged with breaching her bail conditions it is clear that the apparent breach was pivotal in the refusal of bail. In his statutory declaration dated 6 May 1993 to the Commission Herbert QC stated:

On 16 September 1982, a further bail application was made to the Supreme Court. This application was also refused. A central factor in the refusal of bail was that Saunders had breached the conditions on which she had previously been granted bail, namely the condition that she not contact certain crown witnesses, including Lobegeiger and Coomer.

Further support for this can be seen in Saunders's affidavit of 29 November 1982 to the Supreme Court:

It has previously been alleged that I was in breach of certain conditions of the bail I was allowed on the charges referred to in paragraph 2 hereof when I was arrested on the charge mentioned in paragraph 3 hereof. It was this allegation which substantially resulted in my application for bail on the charge referred to in paragraph 3 hereof being refused.

It was not surprising in view of this contact and apparent breach of bail that a Stipendiary Magistrate, a Judge of the District Court and three Judges of the Supreme Court were not prepared to release her on bail. There was every reason to believe that she would flout any bail conditions imposed upon her as she had previously done.

PART D - OTHER MATTERS OF CONCERN RAISED BY SAUNDERS

CHAPTER 17

SAUNDERS'S INCARCERATION

17.1 Saunders's placement at Boggo Road Prison

Saunders remained at Boggo Road from the date of her arrest on 9 September 1982 until she was released on 4 July 1983 after a successful application for bail to the Supreme Court. Self confident as she was and generally believing in her ability to control situations as I think she did imprisonment for her was a tremendous blow psychologically - a blow having effects which I would not attempt to minimise. She has made a number of specific complaints concerning her time and treatment in prison, which require some consideration however.

The then Superintendent of the prison, Margaret Beverly Godrich, testified that when Saunders first arrived at the prison she was placed in maximum security as were all remand prisoners when they first arrived. Saunders's recollection of this was that she was placed in medium security when she first arrived. Nothing turns on these differing recollections. According to Godrich shortly after she arrived a complaint was made that Saunders had been assaulted. As a result of this Godrich moved Saunders into medium security for her own safety. Saunders stayed in medium security until 11 March 1983 when she made a written application to go back on separate treatment in the maximum security section. This meant that she would be divided from the rest of the prisoners and had far more prison officer supervision. Godrich's account to me was consistent with an affidavit dated 31 March 1983 which she had provided to the Supreme Court for one of Saunders's bail applications. In it she had stated that Saunders was hated by many prisoners and special measures had to be taken to protect her from injury. She also said without any particularity that a number of incidents occurred whilst in the prison.

In evidence before me Godrich was unable to recall what these incidents were. In fact she had only a very vague recollection of Saunders's incarceration. I gained the distinct impression that having left the prison service she wished to leave that part of her life behind her.

17.2 Antagonism from prison officers

Saunders claimed that she had a falling out with a group of prison officers who did not like her. According to Saunders these officers made prison life more difficult for Saunders. She stated that the probable reason why this group did not like her was because of information she had received as a police officer concerning one of them. Saunders claimed that she had received information from an informant that Prison Officer Van Der Sande might have been involved in drugs when she was working as a barmaid at the Cleveland Sands Hotel. In her statement to the Commission Saunders explained that she had discussed Van Der Sande with a prison officer named Lee Hamwood. When Hamwood told her senior officer of the discussion the senior officer directed Hamwood to charge her with making a false accusation against Van Der Sande. Saunders claimed that she could no longer remember the name of the senior officer. Saunders was charged by Hamwood and was given seven days solitary confinement as punishment. Saunders claimed that at the end of this period she was let out of the cell for about twenty minutes before Van Der Sande was directed to charge her with basically the same charge. She received a further seven days solitary confinement for this. The inference was that Saunders had been singled out and double punishment inflicted upon her.

On Saunders's prison file there were in relation to this incident two charge sheets, one dated 23 February 1983 signed by Hamwood and another bearing the same date signed by Van Der Sande. Endorsed on both of those charge sheets by Acting Chief Superintendent Dobinson was "plea not guilty," "convicted" and the date "24/2/83." In relation to the Hamwood charge the charge sheet was endorsed on 24 February 1983 indicating that Saunders was sentenced to exclusion from work and leisure and association with other prisoners for a period of seven days. In relation to the Van Der Sande charge the charge sheet shows that Saunders was sentenced on 4 March 1983 to seven days confinement in a punishment cell with half rations.

In her statutory declaration dated 4 August 1993 to the Commission Hamwood confirmed that an account concerning the incident she had originally given on 23 February 1983 to Dobinson was correct. That account appeared in a report on Saunders's prison file. Hamwood had reported that Saunders had claimed that another prison officer named Turbyne had told Saunders that Turbyne and another prison officer had overheard part of a conversation by other officers that Hamwood was being forced into supporting one group of prison officers against another on threat of being 'set-up.' Hamwood asked Saunders who was the other

officer and Saunders replied she could not remember. According to Hamwood the following was then said by Saunders:

But you see, Turbyne doesn't like Sande (Van Der Sande) and all of them, but she likes you and Hallett you see. I knew of Sande years ago as a barmaid at the Sands and at the time, I knew of her as a drug dealer.

Having been told this by Saunders, Hamwood then advised Van Der Sande of the accusation and questioned Turbyne as to whether she had had the conversation with Saunders that Saunders had claimed. In a written statement located on Saunders's prison file Turbyne denied such a conversation with Saunders ever took place.

Hamwood explained in her statutory declaration to the Commission that as a result of this conversation with Saunders Van Der Sande charged Saunders with making a false allegation concerning the drugs and Hamwood charged Saunders with making the false allegations concerning the threat to "set her up." Although the two charges arose out of the one conversation they referred to two different false allegations. Hamwood stated that she was not directed to charge Saunders.

Hamwood stated that the *Prison Act* and Regulations permitted several charges to be made against a prisoner at the one time. However as far as she could recall the Act required for one punishment to be completed before the next was imposed. This accords with the two charge sheets on Saunders's prison file. It would account for the sentence in relation to the Van Der Sande charge having been imposed upon the expiration of the sentence on the first charge concerning Hamwood.

In Hamwood's statutory declaration the following passage appears:

The circumstances as far as I can remember of Saunders making the outlandish statement to me which resulted in the two charges being laid on the same day was as a result of the mind games that Saunders seemed to play. She was always saying or doing things as a result of her knowledge as a police officer.

Linda Marleen Verbeek Van Der Sande in her statutory declaration dated 30 July 1993 to the Commission stated that although she did not get on well with Saunders she bore no animosity towards her. In relation to the incident she stated that she could remember the incident and could recall

discussing it with Godrich and Chief Superintendent Dobinson in Godrich's office. She stated that apparently Saunders had said that the police had a thick file about her supposed drug activities and were getting very close to her prior to her joining the prison service. She denied the drug allegations that Saunders made against her. She also denied that anyone had directed her to charge Saunders.

Saunders was questioned about this incident by Counsel Assisting:

Well, anyway, I am just taking that first allegation as an account. It is, in effect, denied that there was any animosity against there, that there was any effort to restrict your activities, is not it?---It's her opinion. I've got mine.

I see. So - - ?---She did. She was ex-Army and she did work at the Cleveland Sands.

Yes, well, okay?---I sort of didn't just pluck that out of the air.

No, no, but I mean, it is a very very insecure foundation on which to build an argument that for that reason she was going to act maliciously and unfairly towards you; that merely she was ex-Army and worked as a barmaid at the Cleveland Sands Hotel?---Well, she charged me over it, saying it.

She charged you over saying what? You have not read her account, have you?---No, I was charged by her with false accusation, I think, for saying that an informant had indicated her to me and said she might be involved in drugs and she was ex-Army and had worked at the Cleveland Sands.

Yes. Well, of course, even to make that statement - even to make that statement was just passing around sort of a bit of poisonous gossip, not much higher than that, about a prison officer, while you, in fact, were in custody. Do you follow what I mean? Do you appreciate, even to say, 'An informant said to me - somebody said to me - I've got information from somebody or other that you, Prison Officer So and So, are involved in drugs.' You appreciate

that that in fact is an irresponsible and unprofessional thing to do for a police officer who is not - - -?---I was a prisoner, Mr Hampson.

- - - investigating that person. What is that?---I was a prisoner at that stage, not a police officer.

Well, it is even worse - it is even worse in the case of a police officer who is a prisoner to be using information that was obtained, if it was the truth, in the course of that police officer's duties for the purpose of abusing a prison officer who is in lawful control of that suspended police officer?---I - - -

Can you see that or not, or do you not agree with my - - -?---I was asked for it. My recollection is I was asked by a prison officer why she seemed to be giving me a bit of a bad time and that was my reply.

I see?---I certainly wasn't running around the prison talking to prisoners about it.

In light of the explanations given by Van Der Sande and Hamwood and upon consideration of the original reports prepared in relation to the incident, I am satisfied that Saunders had not been improperly treated.

Saunders described another incident when she was in medium security sitting at one of the tables. A prison officer called out Saunders's name and when Saunders turned around she had a cup of iced water thrown in her ear by this prison officer. Saunders "decked her." Saunders stated that the prison officer did not report the incident but one of the prisoners did and the prison officer was nearly sacked over the incident. Saunders was not charged over it. Godrich recalled such an incident occurring.

17.3 Strip searches

In Saunders's statement to the Commission it was asserted that just before her first trial in 1983 a group of prison officers told Saunders that they were going to teach her a lesson. She named three prison officers from this group. They said to her that they were going to find out "what turned on a male police superintendent" and that they would strip search her every time she went in and out of prison to attend court. Saunders claimed that

Godrich had heard what was going on and advised her not to let the "lesbian bitches" search her. Saunders stated that Godrich advised her to say to those wanting to search her that she was prepared to be searched by a female chief superintendent, a female superintendent or a chief prison officer. She claimed that Godrich asked her not to divulge their discussions. Saunders stated that she refused to be searched and was charged with twenty-nine charges of disobeying an order. None of these charges was ever heard. Saunders stated that the request to have her strip searched was "pure harassment."

Godrich in her statutory declaration to the Commission confirmed that discussions did take place between herself and Saunders concerning searches being conducted by certain prison officers. Godrich advised Saunders that if she had any difficulty with the prison officers conducting such searches she would conduct the searches. Godrich added that as she was never requested by Saunders to conduct such a search she assumed that the difficulties in this regard had been overcome. This statement is inconsistent with the Senior Prison Officer Logs and the Chief Prison Officer Journals which were maintained by the prison officers. There are a number of references to Godrich ordering that searches be undertaken on Saunders after the time that the logs record that Godrich directed that searches should only be conducted on Saunders by chief prison officers or senior prison officers.

I have great difficulty in accepting that the strip searching was harassment of Saunders. There was an abundance of evidence from prison officers that every prisoner whether remand or not had to be strip searched each time they went in and out of the prison. With the apparent exception of one strip search conducted by Prison Officer Bassett on Saunders's last day in prison there is no evidence that Saunders permitted any strip searches to be done on her. The Senior Prison Officer Logs and the Chief Prison Officer Journals indicated that no less than twelve prison officers charged her for failing to obey an order to permit a strip search. On consideration of these matters it seems to me that her objection to being strip searched had little to do with a claimed lesbian group but rather exemplified Saunders's unwillingness to be subjected to the same processes as other remand prisoners. I am confident she felt that she should have been treated differently because she was a police officer. There was evidence that she had objected to having been called "prisoner Saunders." When asked to explain her objection Saunders gave me the following improbable explanation:

What was happening, they weren't calling anyone that and

they were all just standing there chanting Prisoner Saunders - this particular group, I think, was what happened. And I just said if they want to call me Prisoner, then call everyone else the same. Don't single me out.

In support of this conclusion is a written request dated 27 May 1983 by Saunders to the Superintendent of the prison. In this request she states she does not wish to be issued with tobacco, cigarette papers and matches as it is a "filthy, disgusting habit." She signs the document:

*L A Saunders
S/Const of Police (under suspension)
Reg. No. 2281.*

There was also evidence that Saunders had threatened to prison officers that she would send reports to the Minister about their conduct. She had told them that she was still a police officer and it was her duty to report breaches. Furthermore a prisoner is recorded as having complained that Saunders had stated that she would have some prison officers sacked.

In Prison Officer Ida Jean Beerts's statutory declaration dated 2 August 1993 to the Commission she recorded an incident which she remembered involving Saunders and another prison officer by the name of Barker. Beerts was present when Saunders wanted to go unescorted to see the Superintendent about a matter. As part of her duty Barker was required to escort Saunders everywhere as Saunders was on separate treatment and in need of protection. Saunders wished to go directly to the Superintendent's office. Barker took her by the upper right arm and said to her words to the effect that Saunders was to go with her to the gate area and not to the Superintendent's office because she did not have an appointment. Saunders told Beerts that anybody who lays a hand on a police officer commits an assault.

17.4 Lack of exercise

In Saunders's statement to the Commission she stated:

I was occasionally allowed by myself into an exercise yard and places like that.

The clear impression given was that Saunders was denied regular exercise. When Saunders gave evidence before me she stated that more often than

not there was no-one available to take her to exercise so she was kept in a fairly small area.

In an attempt to encapsulate the gravamen of Saunders's complaint Counsel Assisting posed the following questions and Saunders gave the following answers:

No television and what about recreation, in the way of gymnastics or exercise; that sort of thing?---If there was prison officers available, there was an exercise yard I could just walk around, but a lot of the time there wasn't anyone available to take me out there.

So, you would say that exercise was restricted?---That's correct.

It was not completely denied but it was significantly restricted?---I think I - I think I got a few games of tennis at weekends sometimes.

Saunders sought to obtain support for her view that she was deprived exercise because there were not officers available to supervise her from a statement Godrich had made in her affidavit of 31 March 1983. In that statement the following appears:

She is unable to take any exercise in the open air.

I cannot accept that the statement by Godrich is any support for that proposition. The statement to which I have just referred is juxtaposed amongst a number of statements referring to Saunders's health. I have no doubt that the word "unable" refers not to a lack of opportunity for Saunders to have taken exercise but rather an inability for whatever reason on her part to take exercise. I base this view upon the Chief Prison Officer Journals and Senior Prison Officer Logs which show that even when Saunders was in maximum security she was offered exercise opportunities nearly every day. On most occasions she refused to exercise. Her refusal was such that on 16 March 1983 it is recorded that:

Prisoner Saunders was asked by Miss Godrich why she would not exercise in max yard but she said she had too much to do.

It is true that there are isolated occasions where exercise was not offered

Saunders because of lack of staff but there are less than a handful of these recorded.

17.5 Harassment by prisoners

Saunders stated that she originally received threats from prisoners but she did not take them too seriously. I have little doubt that having been a police officer Saunders would have been subject to much verbal abuse and threatening behaviour. No doubt Saunders did not take many of the threats seriously because the prisoners would not have had the opportunity to carry the threats out because of Saunders's separate treatment.

In her statement to the Commission Saunders cited a specific threat from a Tasmanian woman who had been in prison for some "terrible murders." Saunders stated that she had previously escorted this woman from the airport to jail when she had been extradited to Queensland. She claimed to be very apprehensive of her. She named this prisoner. Interestingly, on Saunders's prison file was a written request by Saunders to work with this prisoner.

Saunders claimed that there had been an incident where an associate of Billy Phillips had given Saunders "a bit of a bashing" in the toilets one day. Saunders claimed that she had come out of a toilet and had been kneed and punched over the wash basin. She had not responded to the assailant. Saunders made a complaint to Godrich who requested that she put it in writing; however Saunders refused to do so. Saunders stated that she subsequently had an operation on her cartilage. She did not know whether this incident was responsible but according to her it may well have been. There were no written complaints of assault made by Saunders.

In his statutory declaration dated 9 July 1993 to the Commission Saunders's then solicitor, Goodwin, made the following observations concerning Saunders's complaints of assault:

I should add that she did make complaints to me that she had been assaulted and that she was in fear of her life from certain prisoners (the names of whom I do not now remember) however, she did not give any appearance of having been apprehensive or in fear at the times when I saw her. There was no indication other than her verbal accounts of her being assaulted.

Saunders's solicitor after Goodwin was Sorensen. In his statutory declaration dated 22 July 1993 to the Commission he stated that he could not recall any allegations of assault being made by Saunders, nor any evidence of injury on her. He stated that he had a vague recollection of an incident concerning a broom but he was unsure whether or not this involved Saunders. Saunders gave no indication that an incident had occurred concerning a broom.

There was no medical evidence placed before me which showed that Saunders had been subjected to any assault. Furthermore there was no medical evidence to suggest that her cartilage operation was required because of an assault in prison.

Saunders claimed to have received harassment from prisoners who were on the cleaning gangs. She believed they were aboriginal prisoners who used to come past her cell and urinate on her shoes and food. She stated they also spat on her food.

Her solicitor, Sorensen, recalled an incident which had been related to him by Saunders that some glad wrap had been placed over the toilet bowl.

None of the prison officers who furnished statutory declarations to the Commission stated that they were aware of any such incidents involving Saunders. It was claimed that all food taken by prisoners to other prisoners would have been covered. Those delivering the food were always accompanied by a prison officer. In her statutory declaration Godrich stated that she could recall complaints of this nature from Saunders but not specific incidents. In evidence before me Godrich testified that she could recall Saunders making some complaints about prisoners interfering with her food but she was unable to say whether this was an actual complaint or a statement by Saunders that she feared that this might happen in the future.

With the exception of the complaint involving the glad wrap I could find no record of any complaints of this nature having been made in writing by Saunders. Furthermore there is no reference in the Senior Prison Officer Logs or Chief Prison Officer Journals to incidents of this nature involving Saunders or complaints by Saunders in relation to such incidents.

17.6 Refusal to grant leave to visit her ill mother

Saunders stated that when she was in prison her mother had a major

operation at the Mater Hospital. She was eventually transferred to Mount Olivet. Saunders made application to visit her under escort but the application was refused. She claimed that Godrich told her that nothing could be done for her as it was just not possible. Godrich stated that such an application was made by Saunders and confirmed that it was unsuccessful. She stated that such applications had to go through the Chief Superintendent to the Comptroller General, who was the civilian head of the prison service. She stated that she did not know why it had been refused although she suggested that in those days the prison service was a strict disciplinary service and it was only after a change of executive personnel that it became more liberal.

17.7 The "Wolston Park" incident

In Saunders's statement to the Commission she made the following claim:

Just before my trial they made an attempt to put me into Wolston Park. It was late one Saturday night at about 9 o'clock. Prison officer Jean Beitz [Beerts] said she had to take me up to Godrich's office where there was a van to take me to the prison hospital and my medical record was endorsed to be admitted to the prison hospital and referred to Dr Youngman for 'special treatment'. Dr Youngman was the Government Psychiatrist. Before they could get me to Wolston Park one of the prison officers rang Hooper and Hooper rang the Minister. They backed off and took me back to my cell. Beitz was pretty upset as she did not want me to be taken over there. I later spoke to Hooper who said that he had received the phone call and as a result made representations late that night to the Minister. He did not tell me from whom the phone call had come.

When Saunders first testified before me she repeated the claim. She did not explain who had made the attempt. She stated that the senior prison officer who was on duty on that evening, Beerts, had been known to her prior to her being arrested and was still known to her. According to Saunders Beerts had never been able to throw any light on why the incident occurred.

In Godrich's statutory declaration to the Commission she said she had no recollection of the incident. When she testified before me she said she only had a vague recollection. She stated that the incident had not

occurred when she was in the prison but on the weekend, which was her rostered time off. She told me that when she returned to the prison on the Monday she was advised of the incident by the Chief Prison Officer. She denied that Saunders had told her about it. She could not recall anything further about the matter.

Beerts in her statutory declaration stated that upon Saunders's release from prison she saw her again for about five minutes when she and Hallett visited her at Jimboomba. She subsequently saw Saunders's at Hallett's funeral and perhaps at another funeral. She stated that she had no other contact with Saunders since then. She stated that she could not remember the incident happening. She added that she may have taken Saunders to hospital on one occasion but that occasion did not relate to the incident described by Saunders. She stated further that she did not remember being upset over such a matter and believed that she would have remembered it if it had occurred. She did not suggest that they had discussed the incident subsequently as Saunders had claimed.

There is no acceptable evidence that Saunders was to be taken to Wolston Park to prevent her from going to trial. There is no evidence that the Crown or any police officer attempted to have the trial abandoned because of Saunders's mental condition.

In one of the letters found in the Susan Whitehall material there is reference to Saunders's prison medical records. Unfortunately the prison medical records for that period were lawfully destroyed some time ago by prison authorities after receiving legal advice. In the letter typed by Saunders and forwarded to Lobbegeiger sometime in 1985 the following passage appears:

Whilst I was there (prison) I experienced trouble with my right cartledge and went to the GMO. He directed that I be referred to the Government Psych. Dr. Youngman and prior to seeing him I be admitted to the prison hospital for 'special treatment'. Strange treatment for a cartledge. The idea was to get me to Wolston Park so I would never go to trial. I was told about it in time for Kev to intervene. From that day on I refused all medical treatment. I managed to get a copy of my medical record (prior to its destruction) with this clearly written on it ... if you don't believe me you can see it. This matter isn't over yet ... I have since had to have my cartledge removed.

Saunders forwarded a photocopy of one page of her prison medical record to Lobegeiger. In that document appears an entry for 22/3/83. It says:

Dr Youngman re further "management". Admit BPH - Side Ward, mattress on floor (u/i) diet.

Next to this entry is a handwritten note in Saunders's handwriting:

Strange treatment for an injured cartledge.

This entry from the prison medical record is similar to that described in Saunders's statement with the obvious differences being that there is no reference to her being admitted to Wolston Park and the words "special treatment" have been substituted for the words "further management."

There are some entries in the Chief Prison Officer Journal for that time which explain the circumstances surrounding the visit to the prison doctor:

9.25 am	20/3/83	<i>Mrs Rae advised that Pris Saunders has stated to Mrs Coombes that she can not get down on her knees to clean her cell as her knees lock. The Dr here don't know about this problem as she will only see her own Dr which she is not allowed to do. Mrs Coombes is to submit a report in writing about this matter. Pris Saunders is to clean her cell no matter what.</i>
9.35 am	22/3/83	<i>Pris Saunders refused to see Dr.</i>
10.10 am	22/3/83	<i>Pris Saunders refused exercise.</i>
10.30 am	22/3/83	<i>Dr Metcalfe has ordered Pris Saunders to Prison Hospital after reading reports by SPO Rae & FPO Coombes re medical condition of knees.</i>

		<i>Disorders. Side ward & mattress on floor - normal diet - to see Dr Youngman. Miss Godrich rang Dr but order to stand.</i>
11.20 am	22/3/83	<i>Prisoner Saunders seen by Superintendent.</i>
11.25 am	22/3/83	<i>Dr Metcalfe has cancelled order re Pris Saunders.</i>
1.15 pm	22/3/93	<i>Superintendent Godrich has spoken to Prisoner Saunders re exercise. Prisoner is going to have exercise in Max Yard now.</i>
1.35 pm	22/3/83	<i>Prisoner Saunders exercised today from 1.20 pm - 2.20 pm.</i>

Saunders denied that the entry recorded in the page of her prison medical record was the one to which she was referring. She also denied that the journal entries were the ones relevant to the incident.

Although this may not be the Saturday night incident to which Saunders referred in her statement I have no doubt that the photocopy of the prison medical record which was forwarded to Lobegeiger and marked by Saunders is the one referred to in her account. When it was pointed out to Saunders that this was the only page that she had sent to Lobegeiger to prove the point she replied that maybe she had sent him another page. This was not the case. The one page document was part of a brief which Saunders had prepared and forwarded to Lobegeiger. The brief was indexed. In relation to medical records it listed:

Page of medical record.

I should add that that page of Saunders's prison medical record covers the period from 21 December 1982 to 7 May 1983. There is no reference to Saunders having been directed to go to Wolston Park anywhere in that record. There is no reference to such an order or direction in the Senior Prison Officer Logs or the Chief Prison Officer Journals.

If any further support is required for the view that there was only the one page of the prison medical record to which Saunders referred it can be found in Hallett's statement of 12 July 1984 which was drafted by

Saunders. In it the following passage appeared:

Lorrelle refused all medical attention. She had been told by another female officer that if she sought same she would be referred to a psychiatrist as it was intended to get her to Wolston Park so she would never go to trial. She was told by the same officer that a check of her medical record would confirm this as when she complained of a sore knee the GMO had referred her to Dr Youngman, Govt. Psychiatrist. She then endured severe pain in her knee and on return to police duty had to have her cartledge removed.

I have little doubt that the Government Medical Officer's referral of Saunders to Dr Youngman has been elevated by Saunders to a claim that she was to be admitted as a psychiatric patient to Wolston Park to ensure that "they" would prevent her from standing trial.

It is interesting to note that on Saturday, 7 May 1983 at 7.55 p.m., half way through her District Court trial, Saunders was directed to go to the prison hospital but refused to go. This was recorded on the copy of the prison medical record that was forwarded to Lobegeiger and in the Chief Prison Officer Journals. On the back of the copy sent to Lobegeiger appeared the following in Saunders's handwriting:

Tried to admit me to prison hosp. late on Sat. pm - saying if I didn't go couldn't see GMO following day - knowing of the "mattress on the floor" treatment. and how they were trying to do something to stop the trial naturally I refused.

I suggest this is the Saturday night incident that Saunders had alluded to in her statement. Like the extract from Hallett's statement there was no reference to intervention by Hooper.

17.8 Damp accommodation

Saunders stated that during winter the cells were cold and damp. In her statement to the Commission she claimed that other prisoners were allowed to take the mattresses out during the day to dry them but she had to constantly lie on a damp mattress. She suggested that this "may have contributed" to the bronchial problems that she currently has as well as other long term health problems.

There was an abundance of evidence before me that the mattresses in the cells did regularly become damp. The dampness resulted from condensation which formed in the cells and particularly after the shower facilities were used. Prisoners were told to stand their mattresses on their side up against the wall in the cell for them to dry out. This they often did. On occasions they were permitted to stand them outside their cells. Saunders stated in evidence that as she was in a cold cell for so many hours in the day, she had to lie on the mattress to keep warm. She also testified that the chair in the cell was very uncomfortable. She stated that for these reasons she did not have the opportunity to stand her mattress against the wall.

There was no medical evidence tendered before me which supported Saunders's suggestion that the dampness in the cells may have contributed to any ailments Saunders currently suffers. In any event it would now be very difficult to assess to what extent any problems may have been ameliorated by the regular act of standing the mattress up against the cell wall as apparently had been the practice of her fellow prisoners.

17.9 Conclusion

There is little doubt that Saunders's stay in prison was far from pleasurable for her. Having been a police officer it would have been more difficult for her than most. No doubt the personal traits to which I have previously referred in this chapter also contributed to making the period of remand more difficult than it otherwise would have been. However I am satisfied that Saunders has exaggerated her experiences and there is little or no support for some of the claims she has made.

CHAPTER 18

THE DESTRUCTION OF COURT RECORDS

When I was first asked to consider what issues it was necessary to address in this investigation to enable a full investigation of the allegations made by Saunders, I was supplied with all relevant transcripts of evidence of trials and depositions from committal hearings concerning the charges against Saunders with the exception of the first three days of the committal hearings in August 1982. Despite attempts to that time by the Commission and Saunders's solicitors depositions from those committal hearings and the master tapes of those proceedings could not be located. In her statement to the Commission Saunders stated that she believed the matter should be investigated. Her statement continued:

If it can be established, for example, who removed the master tapes from the Court Reporting Bureau (one would think that they would have a system whereby in order for a master tape to be removed, someone has to sign for it), this may lead to further evidence which would assist in uncovering those responsible for framing me and/or giving perjured evidence against me.

Investigators from the Commission carried out a number of inquiries concerning the whereabouts of the master tapes of the first three days evidence of the committal hearings. As part of the inquiries they interviewed and obtained from Thomas Keith Grieveson a statutory declaration dated 1 July 1993. Grieveson had been employed as a technician at the Court Recording Section, Department of Justice from 1982 until his retirement in 1991. His duties included the issuing of master tapes used for recording Magistrates Courts committal hearings. He was also responsible for the storing and cataloguing of these master tapes.

Grieveson stated that prior to 1985 a master tape was liable to be re-used providing everything on that tape had been transcribed. He explained that this was done for reasons of economy. In this way a tape was used several times. A tape could be re-used only after a transcript had been prepared by staff and certified by the Chief Clerk.

Grieveson attended at the State Recording Bureau with investigators from the Commission. He examined records and registers relating to the allocation of master tapes to court proceedings. He was able to ascertain from records which he himself had largely maintained that the master tapes on which had been recorded the first three days of the committal hearings had been erased and re-allocated to

another court hearing. This process was authorised by the *Recording of Evidence Act*. He was able to ascertain the precise date at which this occurred in relation to each master tape. In the case of each of the master tapes it had been erased and re-allocated prior to November 1984. Each tape had been re-used.

Grieverson stated that at no time had any person given him any instruction as to which tape should be erased and re-used. He specifically denied that he had ever been instructed to erase these particular master tapes. He explained that the selection of tapes to be erased and re-used was made on a random basis approximately once per month. He stated that to his knowledge no police officer or any legal officer had ever handled the master tapes of the first three days of Saunders's committal hearings.

Prior to establishing that the master tapes had been erased a number of boxes of material was forwarded by the Queensland Police Service to the Commission. These boxes contained, amongst other things, the depositions of the first three days of the committal hearings in 9 August 1982. I should add that there were a number of other items in these boxes forwarded by the Queensland Police Service which proved useful to my investigation and I am indebted to those in the Queensland Police Service who located this material and voluntarily forwarded it to the Commission.

I am satisfied that there was no unlawful destruction of the master tapes. I have no doubt that if there had been a conspiracy to destroy the records relating to the first three days of the committal hearings the depositions at Police Headquarters would also have been destroyed.

CHAPTER 19

THE WITHDRAWAL OF POLICE UNION FUNDING AND THE POSSIBLE MISLEADING OF THE QUEENSLAND GOVERNMENT

The evidence relating to this issue and the allied issue of whether any person knowingly gave false, misleading or unsubstantiated information to the Queensland Government or its advisers when advice was sought on the question of granting compensation to Saunders comprises a relatively discrete area and seems to be directed towards the conduct of one person, namely Garry John Hannigan. Saunders stated that at about the time of her first arrest Hannigan's brother, Bernie, had been arrested on a drink driving charge and that Garry Hannigan's father, Bill, had said Garry thought Saunders was responsible for Bernie having been charged. She thought that Garry Hannigan consequently may have been hostile to her and therefore acted improperly against her interests in a number of ways. She stated that if this were not the case it may have been the involvement of his brother Bernie with Dodd and the fact that Bernie was a Crown witness against her which influenced his actions. First, she suggested that Garry Hannigan had in fact abused his position as a member of the Police Union Executive by voting in favour of withdrawal of legal and other funds from her. Secondly, she suggested that he had spread a rumour that her solicitors had refused to represent her further because one of them, Herbert QC, had obtained from her a confession of her guilt and so influenced the Police Union Executive to withdraw Union funding. More importantly, she states her concern that Garry Hannigan had improperly influenced the then Police Minister, Terry Mackenroth MLA, who was dealing with a claim for compensation by her; by inference she attributes impropriety in 1990 to Garry Hannigan as a Special Policy Adviser to the Minister in the tendering of advice to the Minister and also by the suggestion that information had been given to the Minister which Hannigan well knew to be wrong.

In her statement to the Commission Saunders speaks at paragraph 41.2 of the participation of Garry Hannigan in the decision to terminate legal defence and suspension pay to which I have referred. She goes on:

41.2 I am concerned that Garry Hannigan may have influenced Mackenroth improperly and caused the Government to break the pre-election promises of the Labor party to compensate me. This concern is fortified by the fact that in July 1990, after my submission for compensation had been delivered to Mackenroth, my solicitor, Mr Carew, contacted Mackenroth and asked him for an undertaking that Hannigan would no longer be involved in the application for compensation. A similar undertaking was sought

from Mr Goss but no response was received. Mr Carew also had a meeting with Mackenroth in September 1990, where he was assured there was nothing further that needed to be addressed, and then all of a sudden these issues, to which I had no opportunity to respond, crop up in Parliament.

41.3 My solicitors have a statement dated 3 October 1992 from David Robertson Smith (Smith), who is a reporter now for The Gold Coast Bulletin but previously worked for The Sun. He had previously written some articles about me. He claims to have spoken to another reporter named Neil Doorley (Doorley), who allegedly told him words to the effect that I was supposed to have confessed to my guilt and that was the reason why Herbert withdrew. He goes on to say that he believes that the information came from a source within Mackenroth's office but he does not name that source. He did, however, tell me that Doorley was a personal friend of Garry Hannigan.

The question of withdrawal of legal assistance by the Police Union was quite easily answered when the facts were examined. Garry Hannigan testified before me that despite his doubts whether Union rules enabled the granting of funds to Saunders in the first place, he had with all other members of the Union Executive agreed that funds should be granted. In relation to his considerations concerning this matter Garry Hannigan was questioned by Counsel Assisting:

Very well. Then the next step that you had to deal with anything, really, is 11 May there was a normal executive meeting of the Queensland Police Union of Employees, when it was proposed by Mr Bainbridge that Lorrelle Anne Saunders be given legal assistance and suspension fund assistance?---Yes, that's correct.

Perhaps without going through the rules, you might just acquaint us with what the, your understanding of the rules and the practice of the union were, about the funding of police officers against whom charges were brought, both in respect of the conduct of their defence and their sustenance in the way of suspension pay to make up for the pay that they were not getting because they were on suspension?---Well, the written rules of the Queensland Police Union Employees then, and still are now, I believe, required that the person applying for legal assistance had to be acting lawfully in the execution of their duty and in good faith. And so that then entitled them, if they could fit within those parameters, acting lawfully in the execution of duty and in good faith, they were

granted legal assistance. But the matter was from time to time reviewed by the union executive. But if the person were suspended they could also apply for sustenance from the Queensland Police Union and they would be paid a wage equal to, I think, a constable first class. And I think then it was an unlimited amount, but then subsequent to that, I think the rules were changed to only provide a maximum amount of one year's salary or \$5000. I am not really sure exactly of the requirement. But in this instance as a result of the unanimous motion of the executive meeting, which I was present at, and which I argued for and supported, Lorrelle was granted legal assistance, and she was also granted assistance - suspension - from the assistance - from the suspension - but it means that she - while she wasn't receiving any income from her suspension she was receiving an income being paid to her on a fortnightly basis from the Queensland Police Union general funds.

I can see quite readily how a police officer who was charged with, say, assault, and the police officer's contention was that he was lawfully arresting somebody, and the other - the somebody said, no, he was not lawfully arresting me, and he just assaulted me and caused me bodily harm, I could see how the union could apply the rule to say, well there the officer was acting in good faith and acting in the execution of his duty, and that fell within the rules?--Yes.

Now, how did it apply, from your description of the rule, to a case where somebody was charged with trying to bring about the murder of a person to try to bring about a payroll robbery, and to assist in the stealing of property from a parked car?--Well, the situation in this instance, and it had been applied on a number of other occasions, and I must say that I had actually opposed the union supporting him on previous occasions, but on this occasion I had actually supported. One of the explanations put forward by people coming forward for legal assistance, you didn't fit strictly within the rules on first view, in other words they weren't working, so they were at home or were on holidays, was that they put themselves back on duty. And so in this instance Lorrelle Saunders may have put herself back on duty, or may have been dealing with an informant, or may have been dealing with a person to gain information from them, so she, in effect, put herself back on duty and brought herself within the parameters of the rules. And that is how I can recall I argued - - -

Yes?---In support of her getting legal defence on the first instance, before the executive. The executive had done it on a number of occasions. I can recall a very famous incident, or case, which was being prosecuted in the seventies, where the rules were sort of not so much bent but perhaps looked at from a different direction. I had previously opposed that view, but in this instance I had actually supported it.

All right. So in other words, although the rules really said that you looked at the charges?---Yes.

To work out whether the police officer was in the course, acting in the course of duty and bona fides?---Yes.

And that sort of thing?---Yes.

In this case, anyway, you looked at the explanation of the defendant, or something coming from the defendant to say that, in fact, she had been on duty, and informant was involved and so forth?---Yes, that's the situation.

All right?---And I think there was a lot of goodwill on the part of the executive towards people who were charged. I mean that was the reason why the fund was there. It didn't travel very well financially because of that reason.

Garry Hannigan stated that he saw no attempts by senior police officers to manipulate the vote so that she would not get legal assistance.

He stated that after Saunders had been arrested and charged with the fourth charge, having regard to the rules of the Union, he voted with other members of the Executive to pass a motion withdrawing further funds. When this motion was put at the Executive meeting there was only one member who dissented. In relation to this second vote Counsel Assisting had the following exchange with Garry Hannigan:

And you say the reason was because on this occasion she was not - she could not be seen as having been on duty, because she had been suspended?---That's correct.

So there was no way, as you put it before, that she could bring herself back on duty, as she could in relation to the first three charges?---Yes, that's correct.

All right. And was that the reason that people gave, in the course of the debate?---Yes, simply - simply that; that was the - - -

That was the - - -?--- - - - explanation; that was it, as I understand it.

Okay. Again, was there any perception on your part that there was any external influence being brought to bear on the executive to deprive her of legal aid, from some superior police officers - - -?---No.

- - - or from some other source?---No, not at all.

The minutes of the Union corroborate Garry Hannigan's account.

From the evidence before me it appeared that Garry Hannigan was not unduly concerned about the charging of his brother Bernie who, at the relevant time, apparently was more often than not driving his car whilst under the influence of alcohol and at risk of being apprehended on such a charge as was brought against him. The suggestion that Garry Hannigan had spread the rumour of a confession of guilt by Saunders was denied by him and the evidence brought forward in support of it does little to suggest that his denial was untrue. He said that at no stage had he been aware of any apparent confession of guilt and he certainly had not said to anybody that there had been such a confession.

In paragraph 41.3 quoted above Saunders refers to a statement of 3 October 1992 by one Smith who was then a reporter with the Gold Coast Bulletin and who had previously written articles about her. In the statement Smith claimed to have been told by another reporter named Doorley that Saunders had confessed guilt and that that was why Herbert QC had withdrawn from her representation. He goes on in the statement to say that he telephoned Carew about this conversation and believes that at that time he also told Carew that the source of the information was, according to his belief, from within the Police Minister's office, "although Neil Doorley did not confirm this." In the relevant statement Smith does not say that Doorley was a personal friend of Garry Hannigan, although it is to be noted that Saunders, in paragraph 41.3, says that she had been told of such a fact by Smith. In his relevant statutory declarations to this investigation Garry Hannigan denies having given any such information to Doorley. He further says that he had never been told or understood that Herbert QC had withdrawn from representing Saunders because of a confession of guilt by her. He also declares that he had had a recent conversation with Doorley, who he says is not a friend of his, and that he had put to Doorley his denial of having said to Doorley anything of the nature alleged. Doorley in turn was questioned per telephone by an investigator assigned

to this investigation, Gerard William Walton. Doorley at time resided in Cairns. Walton says that Doorley informed him that, although he had been told at some stage that Herbert had withdrawn from the case because Saunders had confessed her guilt to Herbert, he could not remember the source of this information, although he thought it would have come to him as part of his work as a journalist. Indeed, he said that he could not remember at any time passing on to Smith the particular information, but did say that he would not dispute the fact that at some time he may have mentioned it to Smith.

Herbert QC in his statutory declaration dated 6 May 1993 confirmed he had never advised Garry Hannigan that Saunders had confessed her guilt to him and added that Saunders had always maintained her innocence to him.

It would be unreasonable to draw an adverse inference against Garry Hannigan on account either of his conduct in the Police Union Executive proceedings or because of the alleged spreading of the rumour.

Examination of the evidence which dealt with the serious suggestion that Garry Hannigan had improperly sought to influence the Police Minister shows how shadowy the suggestion really is. It is patent, not only from Garry Hannigan's evidence, but also from the evidence of Gary George Kenning, who was Mackenroth's private secretary at the time and whose statutory declaration is not disputed in any way, that Hannigan gave no relevant advice to the Minister and had nothing to do with the Cabinet submission which dealt with the question of compensation. This submission was prepared by Kenning after he had taken extensive advice from the Crown Law Office. I should add that in my mind there is nothing in the Cabinet submission with which one can take exception.

Fleming QC raised the question of a statement in Parliament by the Minister in the course of his examination of Garry Hannigan. He asked Hannigan about questions which had been addressed to the Minister in Parliament and the answers which the Minister gave to those questions. The relevant questions concerned the relationship of Garry Hannigan and Bernie Hannigan, the fact that Bernie Hannigan had introduced Saunders to Dodd, and the fact that Bernie Hannigan had given evidence against Saunders. They then went on:

Is the Minister also aware that, when Garry Hannigan was an executive of the police union, he took the unusual step of voting to refuse Sergeant Saunders legal aid from the union thereby forcing her to apply for aid through the Public Defender's Office? If the above relationships are correct, I ask why did the Minister put this matter of compensation into the hands of Mr Hannigan when it was obvious that he has a massive conflict of interest on the issue

of Sergeant Saunders?

As part of his answer to these questions the Minister said that Garry Hannigan was one of Saunders's "best friends." Hannigan in his evidence had never claimed a relationship as close as this and indeed said to Fleming QC as part of one of his answers:

She was - she was there; I would - I would come home and - it was that sort of - I never - I don't think I ever ever socialised with her, but I certainly would regard her as someone who - probably more than an acquaintance, someone who - who I suppose I was friendly with, who was - good terms with, perhaps is the better way of putting it.

The question which followed from Fleming QC was:

Mr Mackenroth appears to put it a bit higher there?

Garry Hannigan answered as follows:

Well, Mr Mackenroth is a politician.

The answer was, it seems, expected by Fleming QC and there the matter rested. Whether there is any substance in Saunders's suggestions or fears is a question which may be answered by the exchange in evidence to which I have been referring. It occurred at the conclusion of an innocuous examination by Saunders's counsel and was the closest approach during that examination to a testing of Garry Hannigan's credibility.

There is not the slightest evidence that Mackenroth acted improperly in the matter.

I should add that in Herbert's QC statutory declaration dated 6 May 1993 the following passage appears:

In his discussions with me, Hannigan demonstrated extreme sympathy with Saunders' position. He told me that he believed that she was the victim of competing factions within the Police Force, and asked me to do everything I could for her. ... At no time in my dealings with Hannigan in relation to the representation of Saunders by Alex Mackay & Co. was there any change in Hannigan's sympathetic and supportive attitude in relation to Saunders.

In conclusion I am satisfied that Garry Hannigan acted properly in relation to the Union vote and that he did not give false, misleading or unsubstantiated information to the Queensland Government or its advisers. When one looks at the Cabinet submission concerning the question of compensation one can conclude that no person gave false, misleading or unsubstantiated information to the Queensland Government in relation to it.

CHAPTER 20

THE REQUEST BY MR JUSTICE SHEPHERDSON TO CONDUCT "A FULL AND DETAILED INVESTIGATION"

When the Crown conceded to the court that the Dodd tape was a fabrication Mr Justice Shepherdson directed that a verdict of not guilty be entered in relation to the charge concerning the killing of Lobegeiger. The transcript shows that His Honour subsequently made the following comment:

... I intend to direct that this trial, the exhibits and all the evidence and, indeed, the evidence in the two earlier trials be referred to the Crown Law authorities for a full and detailed investigation to try to get to the bottom of this whole rather unsatisfactory sort of affair.

Pointing and Menary were eventually appointed to investigate the matter.

Saunders in her statement to the Commission and in a previous claim for compensation stated the following:

To my knowledge, no full and detailed investigation has ever been carried out to get to the bottom of this rather unsatisfactory affair.

Before going to the merits of the investigation I wish to refer to one further matter concerning the comments made by Shepherdson J. In a submission forwarded to the Parliamentary Criminal Justice Committee with a letter dated 28 May 1991 addressed to the Chairman of the Committee, Carew and Company revived, by reference to what happened at the trial before Shepherdson J., allegations of police involvement. In that submission Carew stated, among other things:

The Judge also stated that he made no finding in relation to the police who brought the charges against Lorrelle Saunders and stated that there was no material before him to suggest that the police officers were, prior to the previous day's proceedings aware of the fact that the recording was a fabrication.

The proceedings before Mr Justice Shepherdson however were very short and apart from the fabricated tape recording itself, none of the evidence which appears in this submission was known to Mr Justice Shepherdson. Nevertheless Mr Justice Shepherdson directed the Crown Law Authorities to carry out -

'... a full and detailed investigation to try to get to the bottom of this whole rather unsatisfactory sordid affair ...'
(at page 187 of the Supreme Court trial transcript)

At the same page he said -

'... someone somewhere has apparently arranged for this man to fabricate a tape recording. Perhaps he has done it himself voluntarily, we don't know ...'

If what Shepherdson J. said was relevant to the issue of whether an inquiry should be held I think that the passages quoted in the submission should not have been taken out of their context. What Shepherdson J. in fact said at the particular time was:

His Honour: I thought I made it clear that I am not criticising you or the police officers, but some-one somewhere has apparently arranged for this man to fabricate a tape recording. Perhaps he has done it himself voluntarily, we don't know.

Mr Glynn: It may well be that he did do it himself, and in my submission there is no evidence to the contrary.

His Honour: That is quite true. I should say that I intend to direct that this trial, the exhibits and all the evidence and, indeed, the evidence in the two earlier trials be referred to the Crown Law authorities for a full and detailed investigation to try to get to the bottom of this whole rather unsatisfactory sort of affair.

The evidence produced during this investigation to justify the quoted statement of Saunders is, to say the least, meagre. Indeed the evidence given by Saunders makes it plain that she had a very limited knowledge of the investigation which was carried out. She was interviewed by Menary and Pointing but otherwise she knew nothing of the extent of what was done by those two persons. In one passage in her evidence she said:

I do not know how far the investigation went though whether it went beyond Dodd or it was just an investigation into Dodd. That is I mean, I am not able to say.

When at a later stage in her evidence she was criticising what had been done by Webb in respect of the charges brought against her, she also said:

It is quite amazing that in 1984 Mr Menary and Mr Pointing could do an investigation if it is old and they could come close to identifying the female on the tape, and in fact if they had the power of this inquiry, would no doubt have identified that female.

Some degree of support for the proposition that the investigation conducted by Menary and Pointing was not "full and detailed" is said to be found in the statutory declaration of Peter Goodwin who has repeated therein a conversation which he says he had with Pointing in 1984 after Pointing and Menary had just interviewed Saunders. The relevance of that particular evidence coming from Goodwin has been dealt with elsewhere in this report and I have explained why I could give no probative value to facts said to have been mentioned in that conversation. Goodwin was repeating something which he knew to have been no more than gossip and one can not translate that hearsay upon hearsay into a direct statement of knowledge.

Although the matter could well be left at that, the reputations of others are involved in the question. I will therefore briefly describe the course of the enquiries made by Menary and Pointing. Those enquiries were comprehensive and led to the prosecution and conviction of Dodd.

When Shepherdson J. on 8 August 1983 requested of the Crown Law Office "a full and detailed investigation" of the bringing of the charges against Saunders he was in the course of a discussion of the fabricated tape. There was no question raised by His Honour concerning the adequacy of the police investigation. He would have known that the Crown Law Office had no facilities or staff to itself carry out such an investigation and had he directed his attention to the question no doubt he would have accepted that two senior police officers not previously associated in any way with the proceedings would be appropriate persons to deal with the matter. This of course is what happened but there was some delay in the commencement of the investigation. On 23 September 1983 Hooper MLA had alleged that the relevant investigation was being deliberately delayed to protect former senior police officers. On that day and after a telephone conversation between the then Solicitor-General and Deputy Commissioner T S C Atkinson the Solicitor-General wrote to the Commissioner of Police requesting that the investigation proceed. In that letter he acknowledged that he had apparently overlooked the matter up to that day. On the same day the investigation was assigned to the Internal Investigation Section of the Police Force for urgent attention. It was forwarded by the Detective Superintendent in Charge of Internals to the Metropolitan CIB for its investigation, where it was assigned to Detective Inspector Duncan. The latter it would seem from Pointing's statutory declaration and supporting documentary evidence had a heavy workload and on 25 January 1984 Atkinson, who was then acting as Commissioner of Police, gave a direction

that the investigation was to be handed over to Menary and Pointing for urgent attention. Duncan had carried out some inquiries. Atkinson's direction was incorporated in a memorandum of 26 January 1984 from Detective Superintendent H C Roberts who was in charge of the Metropolitan CIB at that time and Menary and Pointing had a conference with him. They were instructed to investigate the origins of and the authors of the alleged fabricated tape and they were specifically asked to explore whether there was any possible involvement of police in the alleged fabricated tape. Thereafter they, as has been said, interviewed Saunders when Goodwin was present and she handed to them a lengthy statement which was supplemented at a later stage by a further short statement. These statements became exhibits in this investigation. Thereafter they conducted a series of interviews with Dodd, Spire, Thompson, Cotton, Alan Glanville and Valma Knight. After Dodd's trial they conducted records of interview with Webb, Flanagan and Williams. In the case of Webb the record of interview was conducted by Superintendent Wilson because Pointing was junior in rank to Webb. Voice prints were taken from a number of Dodd's female associates. Pointing and Menary according to their statutory declarations did all that could be done to try to establish the authors of the tape recording and whether there were any police officers involved in the creation of it or whether police officers had been involved in any other unlawful associated matter. They thought, although they had no direct evidence to support this, that the tape had been made by Dodd with the assistance of Thompson who provided the female voice on it. On the evidence before me of course this was established by the admissions of the parties concerned. Dodd was prosecuted and convicted on the evidence Pointing and Menary had obtained. There was insufficient evidence to charge Thompson. She had made no admissions and although she gave a voice print to the detectives the expert was unable to conclude it was her voice on the fabricated tape.

Some of the details of the investigation by Menary and Pointing were not available because Menary had in fact retired in December 1984 and he had made, on foolscap, notes of the various conversations which had been had with persons interviewed. His recollection was that when he retired he gave those notes in a cardboard box to Pointing but they had obviously not been retained. Both Menary and Pointing expressed a degree of dissatisfaction with the extent or depth of the enquiries which had been made by Webb back in 1982. In the course of the examination of the two inspectors by Fleming QC there was no criticism of them expressed except by way of suggestion that the granting of bail to Dodd when he was released to go to Stanthorpe and the deliberate refraining from serving him with the summons in the unlawful carnal knowledge charge at the relevant time should have been considered to be critical parts of the investigation. Otherwise Fleming QC was prepared to concentrate his attentions on what were perceived to be failings of Webb in the original investigation.

The adequacy of the investigation by Menary and Pointing is I think substantiated by the findings made as a result of my investigation. I have no doubt that the "full and detailed investigation" sought by Shepherdson J. was carried out.

CHAPTER 21

PSYCHIATRIC AND PSYCHOLOGICAL PROBLEMS

Dr Peter Mulholland, a Specialist Psychiatrist, forwarded to Saunders's solicitors a report concerning her dated 19 February 1990. The doctor furnished a further report to this investigation on 15 June 1993, and also gave oral evidence before me. The solicitors had also obtained a report dated 12 February 1990 from Dr C J Russell, who was and had been a general practitioner treating Saunders from 1973 onwards. Russell had also from January 1973 been the usual medical attendant of Saunders's mother who over the years and up to her death in September 1987 developed numerous complaints and illnesses, some of which are set out in her affidavit which was filed in the Supreme Court on 30 June 1983.

In his report Russell says that Saunders first attended him as a result of emotional disturbances on 28 April 1982 and that on 22 January 1986 she attended with a severe depressive illness which had been causing "sleep disturbance, lethargy, loss of interest, excessive crying, etc., to such a degree that she really did not care if she lived or died."

From that time until 12 February 1990 Russell saw her on twenty five occasions and on 4 September 1989 he referred her to Mulholland. Russell refers in his report to the continuing adverse effect upon her well-being of publicity. He mentions that she suffered anxiety following threats made against her life and after expressing the view that "her mother's death was hastened by actions perpetrated against Lorrelle Saunders," says that the loss of her mother had increased her depression.

Mulholland has diagnosed Saunders as suffering from a chronic post-traumatic stress disorder which, although varying in degrees of its debilitating effects, is likely to affect her ability to attend to and concentrate on the task in hand; to remember things as she should and "to make reasonable and rash decisions in the heat of the moment." Mulholland also says that Saunders has said to him:

that at times she has noted that her memory functioning is impaired and her ability to attend and concentrate on the task in hand as she needs to be able to do is impaired from time to time. At other times she is simply too anxious or too depressive to be able to go to work.

The doctor is of the opinion that the outcome of this investigation may affect in future the degree of disability which she will suffer. A favourable outcome will be

expected to lessen her symptoms but adverse findings could well increase the degree of her symptomatology to such an extent that the doctor doubts if further employability in the Police Service would be an option. I have taken these statements from the doctor's second report in which he also comments that the severity of her post-traumatic stress disorder has increased as a result of the stresses imposed upon her by issues related to this investigation. In his earlier report Mulholland said that at the time of her referral (2 September 1989) Saunders

was in a fairly distressed state with a mixture of anxiety and depressive features. What seemed to be the immediate trigger for her recent decompensation was that her "case" had attracted recent publicity and that her colleagues in the Police Force were making more than usual comments about her. Last, but not least, some practical joker at work had made up a file which looked like an official file which indicated that she was going to be charged with something or other. Miss Saunders, unfortunately, believed this practical joke and was, understandably enough, considerably upset by it.

Part of the history included the following remarks, some of which amount to statements of fact with which at the conclusion of my investigation I disagree.

The background to all this is unfortunately only too well known to nearly every citizen in Queensland, if not Australia. Miss Saunders was framed in 1982 and spent nearly two years in prison under, predictably, horrific circumstances. One of the persons involved in the frame up was subsequently charged and convicted, however, the other perpetrators of this offence have not been uncovered and there has been some doubts as to the energy in which enquiries have been pursued.

I assume the reference to "other perpetrators" comprehends police officers who were conspirators with Dodd in the framing of the patient by fabrication of the now infamous tape.

What strikes me as more important is that obviously the history, as given to the doctor, had significant gaps in it. For example, references to Lobegeiger and Saunders's relationship with him were regarded as being of no more than of passing interest and did not include any reference to Bull. Apparently fabrication of the "Cooper tape" was not worthy of discussion and there was no suggestion that her 10 months (rather than 2 years) in prison was related in any way to her own conduct rather than to that of "other perpetrators."

In that particular report the doctor describes the main symptoms associated with the disorder as being:

anxiety, depression, recurrent nightmares, some phobic features, and some entirely justified and healthy paranoia.

The doctor gives a prognosis to the effect that:

these symptoms will more or less continue indefinitely, although with the passage of time, and if there were a cessation of publicity concerning the case, and if the perpetrators were brought to justice, and if her police colleagues and the general public ceased to remind her of it, then her symptoms would become very much less, although I do not think they would ever disappear entirely.

In the course of his evidence the doctor explained the reference to "phobic features" as being related to her imprisonment and added that, although Saunders was not in his view phobic about particular persons, she had been "rather negative" about some persons and the doctor recalled the names of Lewis, Murphy and he thought someone called "Webb." He recalled that in some combination those particular persons were responsible for Saunders's misfortunes and imprisonment. He stated that her "justified and healthy paranoia" arose from her fear of being framed and her fear of possible assault or even being killed.

Fleming QC, in the course of his examination of Mulholland, asked questions and received answers as follows:

All right. Now, from the history that you have taken from her and from your observations of her, what you know of her, are you in any position to make any comment on what her mental state would have been back in 1982?---Well, I'm - she uses terms about herself as being emotionally devastated and feeling extremely frightened and stressed and insecure and not trusting of, well, of anything or anybody, and she's described a situation to me where it sounds like her world was suddenly completely turned upside down and she didn't know who to believe - who to believe, what to believe. I think she experienced herself as not having any support at all except her mother. That - that sort of picture.

Add to that a perception - and I will not put it any higher than that - that her lawyers, to her mind, did not seem to accept what she was saying, that is, that there was some fabricated evidence: does that add another dimension to it?---Yes. Her - her

understanding of the situation was that her legal team didn't believe her, weren't trying. Her experience was that she was let down by her legal team at that time and she regarded that as the sort of, like, the final blow, but that was - that was another significant impact upon her. Apparently, the police - when somebody in the police force is charged with these sorts of things, the normal police friends tend to - tend to disappear, type of thing.

Yes?--So she was, sort of, left without support from her police - normal, sort of, police support system and she had expected that her legal team would be helpful and supportive of her and her experience is that they were not and this was another, sort of, psychological blow to her.

At that point in time what is her capacity to perceive what is true and what is not?--Well, I think she was going through a situation where she was feeling terribly insecure and her whole basis for evaluating herself and evaluating the world around her was - was taken away from her and, from my talking with her about that time and what I generally appreciate what might've been happening, I suspect that her basic reality testing would've - would have, at least partially, been compromised during that period of time. In other words, she would've been experiencing some distortions of reality during that time. I would expect that to happen.

Well, now, can that manifest itself in different versions of the same fact?--Well, that can happen in the best of times, let alone when a person - when a person is under severe stress and in the sort of situation that we're talking about, yes, certainly.

Can it give rise to the creation of facts?--Well, to a certain extent. Yes, to a certain extent.

...

THE WITNESS: Well, I think people - think she would have been able to recall minute detail about certain very important events or conversations. But unless they were, well, quite recent and - and very important, then I wouldn't think so.

MR FLEMING: Well, the other side of the question is - his

Honour has said; the inclusion of facts - or inclusion of material which may not be factual?---Yes. Well, I'm thinking that - you know, there's a certain psychological understanding for this sort of process; that she's in that state of mind that we were talking about - I was talking about before, and her reality testing, her - is compromised; to a certain extent she is distorting reality at that time. In other words, I could easily understand that she's - she's partially out of touch with reality, I would suspect.

Actually distorting what happened?---It wouldn't surprise me.

Right, now, we are now - - - ?---Not in - not in the total sense.

No?---But in some elements of it.

Taking some facts that might have happened and distorting them?---Yes, transposing events, getting people mixed up, these - these sorts of issues are possible. And it's an old issue that if we - if we think hard enough about something that happened some time ago, we can easily, as it were, delude ourselves that something happened when something didn't happen. Then after a while we start to believe that it's true. And these sorts - that sort of behaviour is particularly so if we are - are under - the more stress we are under.

The views which Mulholland expressed in the course of this evidence provides one in part with an innocent explanation for what on the face of it amounts to extraordinary effort at deception by Saunders. For the purpose of her defence she manufactured statements which were to be bases for cross-examination of Crown witnesses and for evidence not only from herself but also from other persons. These statements were discovered in material which was received by investigators from the Legal Aid Office after it had been thought that no further material was available from that source. I am inclined to doubt whether legal privilege in respect of the Legal Aid Office would have been disclaimed by Saunders had she realised that the material was to become available. The statements to which I have referred were not only indicative of her attempts at self justification but in many respects were factually untrue. The proposed witnesses when giving evidence before me knew nothing of matters which by Saunders's so-called notebooks and other "contemporaneous notes" were attributed to them as facts or statements which were respectively represented as being within their knowledge or made by them.

Fleming QC in the course of his examination of Mulholland referred to Saunders

as being "proactive in her defence." No doubt he used these words with the Legal Aid material and her attempts to manufacture evidence in mind but if one lays aside questions of motive for or explanation of those matters they must be seen, apart from what I have said, as showing the extent to which her industry and ability were concentrated on deception.

I have already examined in this context the attitude and statements of Saunders which bear on her obsession (and again I use the word advisedly) in respect of Lobegeiger - an obsession which was coupled with an intense hatred of Bull. The Saunders's letter, which was delivered to Lobegeiger on 7 September 1982, standing alone was not thought by Mulholland to be necessarily psychopathological; but it did not stand alone. It should be considered with a number of features and her relevant conduct which included the trips to Gatton in February with Dodd and even with the much later Mt Berryman excursion when Coomer was present; her attempts to utterly discredit Bull, her unrestrained abusive and false accusations made personally to Bull at Mt Berryman and otherwise manufactured and published by Saunders. How does one explain what to me is unexplained, namely the morbid investigation of earlier tragedies in Bull's life, including a visit by Saunders to the Hemmant cemetery and her drawing in one of her notebooks of what she thought were relevant tombstones? One should also give thought to the mass of correspondence forwarded to Lobegeiger and produced to the investigation by Lobegeiger's daughter, Whitehall. The latter did not give oral evidence but confirmed that Lobegeiger during 1982 lived in fear of Saunders and Whitehall's statement in this behalf was not questioned.

It is my view that even before the investigation and charging of her in March/April 1982 Saunders was already exhibiting symptoms of psychiatric disabilities caused by the failure of her relationship with Lobegeiger. Only in this way is one able to understand the extent of her association with Dodd, her trips to Gatton in February and the later extraordinary attempts to destroy Bull's friendship with Lobegeiger and her credit as a possible witness. I set this out against the background that Bull in giving evidence was perceived by me to be an intelligent and level-headed sort of person whose evidence is to be accepted where there is any conflict between it and that given by Saunders.

Without suggesting in any way that Saunders's arrest and subsequent imprisonment did not grossly affect her emotional and psychological well-being I would say that her failed relationship with her lover was a cause of continuing depression and behavioural problems for her. In view of what I have said her conduct could not be classified in those respects which I have discussed as being "healthy paranoia."

There were other matters, unrelated except as illustrations of the way Saunders thinks, which I found intriguing; first there was her perception of police officers

and the ways in which she described particular ones. In her original statement for the purposes of this investigation (a statement approved by her solicitor) she was not averse to alleging, either directly or by suggestion, that some police officers were corrupt but she seems to have been careful to draw a distinction between "corruption" and "verballing." Of one police officer she says for example:

I had formed the view that he had a reputation of being a verballer and a basher but not that he was corrupt.

Clearly, there has been and there still is in her mind an odd but disturbing conception (which I hope is not shared by other police officers) that "verballing" is not to be confused with "corruption." I assume that the first (even considered with the perjury which forms part of it) does not attract the stigma of the second. Then there is her continuing contempt for the bail conditions imposed on her allied with her refusal to accept that she had been properly and correctly advised in respect of what was meant by those conditions. Clearly she did not wish to test the accuracy of Herbert's QC account by cross-examination of him but in the concluding stages of her evidence continued to assert that her interpretation of what she had been told was correct. The evidence suggests to me that Saunders has continued to harbour unwarranted suspicions, to be consumed by jealousy and envy and to display an extraordinary tendency to ascribe improper and even evil motives to others.

When Mulholland was giving evidence the question whether the psychiatric well-being of Saunders would be affected by the outcome of this investigation was canvassed. The doctor's opinion was to the effect that symptoms of her illness would decrease or increase in accord with the degree of satisfaction which she derived from my report. I have mentioned this because I now know what my findings are and I have turned to what was a side issue raised at the close of evidence by Counsel Assisting; whether Saunders's possession of a firearm was a cause of concern. In his evidence Mulholland had the following to say concerning Saunders carrying a firearm:

See that? What do you mean by 'safely be at work?' For her safety, or the public safety? What do you exactly mean, doctor?---Well, these are times where she has told me that she becomes distracted, where she can't - where she can't - where she's not able to attend and concentrate upon her duties, as she - as she feels she should be able to; and is worried about making a - a wrong decision in the heat of the moment. So, it's a safety issue for her and for others.

And for other people?---Yes.

That would be her colleagues in the police force, I suppose, and members of the public?---That's correct.

Do you know whether she is armed?---Not - she - not recently I don't think. She - she has been in traffic for some time now.

Yes, but - - - ?---I don't think she's armed in traffic.

You don't think she carries a firearm as a matter of course? Well, let us assume she does; I mean, she can easily tell us just what the practice is. But let us assume she does?---Yes.

What would be the significance of that? Of being armed, with this particular condition?---Well, if she was going through a - if she was going through what, I'll say - call a 'bad spell', bad period, then that would be a potential hazard.

Yes. To herself and the public and perhaps other colleagues, is that what you mean?---Yes.

And therefore, I mean, it would be wise that she should not be armed if she continues in the police force; that she should not have a side arm, or a hand gun or something?---That would - that would be the view I'd have to take.

Yes. Because unfortunately you do not know when these stress situations are going to come on, do you?---That's true.

When the question was raised by Counsel Assisting Saunders voluntarily surrendered her police issue handgun but has since by her solicitor asked that, because the hearing has been completed and as the stress occasioned to her by it has abated, the gun be returned to her. It is an unfortunate consequence of my findings that there could be on the doctor's evidence aggravation of the symptoms of her psychiatric condition and I think therefore that for the time being she should not persist with her request for the firearm.

I have not changed my conclusion on this subject as a result of altered opinions now expressed by the doctor in a letter dated 4 February 1994 and forwarded to me by Carew and Company on 9 February 1994. The doctor's letter reads:

Re: Lorrelle Saunders

1. *When, on 6 August 1993, I was giving evidence before the*

Criminal Justice Commission of Inquiry into the allegations of Lorrelle Anne Saunders concerning the circumstances surrounding her being charged with criminal offences in 1982 and related matters, the following interchange between myself and Mr Hampson took place:

"Mr Hampson: And you talked about how matters fluctuated:

The inquiry had increased the severity of her post-traumatic stress disorder, unable to continue at work. There are times when she is simply too stressed to safely be at work.

See that? What do you mean by 'Safely be at work?' For her safety, or the public safety? What do you exactly mean, doctor? --- Well there are times where she has told me that she becomes distracted, where she can't - where she can't - where she's not able to attend and concentrate upon her duties, as she - as she feels she should be able to; and is worried about making a - a wrong decision in the heat of the moment. So, it's a safety issue for her and for others.

And for other people? --- Yes.

That would be her colleagues in the police force, I suppose, and members of the public? --- That's correct.

Do you know whether she is armed? --- Not - she - not recently I don't think. She - she has been in traffic for some time now.

Yes, but ---? --- I don't think she's armed in traffic.

You don't think she carries a firearm as a matter of course? Well, let us assume she does; I mean, she can easily tell us just what the practice is. But let us assume she does? --- Yes.

What would be the significance of that? Of being armed, with this particular condition? --- Well, if she was going through a - if she was going through what, I'll say - call

a "bad spell", bad period, then that would be a potential hazard.

Yes. To herself and the public and perhaps other colleagues, is that what you mean? --- Yes.

And therefore, I mean, it would be wise that she should not be armed if she continues in the police force; that she should not have a side arm, or a hand gun or something? --- That would - that would be the view I'd have to take.

Yes. Because unfortunately, you do not know when these stress situations are going to come on, do you? --- That's true.

You cannot say it is going to be next Monday. I mean, it is just something going to happen - it could happen today - which brings the condition on. That right? --- That's true."

2. I understand that this has led to Sgt Saunders voluntarily surrendering her firearm as her understanding was that if she had not done so it was possible that she would be forced to surrender it. To avoid any potential unpleasantness and problems associated with such an issue she voluntarily surrendered her firearm.
3. I do have a measure of concern that this has been the outcome and, naturally enough, Sgt Saunders is concerned regarding her not having a firearm as, during the course of her work in the police force, it is not possible to predict what situations may occur. Her not having a firearm puts her and members of the public at a disadvantage and, of itself, poses a potential risk to herself, her fellow police officers and the general public.
4. Since giving evidence I have had an opportunity to reflect on the matter and offer the following comments:
 - (a) It is not possible to absolutely eliminate the dangers to the police officers, fellow police officers and members of the general public, when a police

officer has a firearm.

- (b) *I consider that an appropriate test would be to consider whether she is of any greater danger to herself, her colleagues or the public than any other "average" member of the police force when she has a firearm.*
- (c) *I consider that an important issue is how she has conducted herself in potentially hazardous situations and, in particular, how she has functioned in respect of her use of firearms during her many years in the police force, and particularly since 1982 when the period of unusual stress have been present for her.*
- (d) *She has served under stress for many years and, to the best of my knowledge, she has not done anything amiss on the job in respect to violence or firearms. I imagine that this can be readily ascertained one way or the other.*
- (e) *It would be important as to whether there was any evidence of any loss of control on her part whilst on duty since 1982. She has informed me that there are no such incidents and I imagine that this can be readily checked.*
- (f) *It is so that she does become stressed at times whilst on duty because of the problem of post-traumatic stress disorder. However it is my experience that she has been careful to take herself off work during these times.*
- (g) *In my evidence the following interchange occurred:*

"Mr Hampson: What would be the significance of that? Of being armed, with this particular condition?

Dr Mulholland: Well, if she was going through a - if she was going through what, I'll say - call a "bad spell", bad period, then that would

be a potential hazard.

Mr Hampson: Yes. To herself and the public and perhaps other colleagues, is that what you mean?

Dr Mulholland: Yes."

- (h) What I gave were answers as best I could given those particular questions. Upon reflection it would have been wise for me to add that when she was going through a "bad spell" then she does take herself off duty.*
- (i) Throughout my association with Sgt Saunders the issues that induce the post-traumatic stress syndrome have, to the best of my knowledge, never been issues caused by direct association with the public. The issues that cause her most distress have been generated by various matters within the police force itself as opposed to crisis type situations that have arisen in her dealing with the police force.*
- (j) She does have to deal with members of the public recognising her and referring to her case. Whilst she does not enjoy this attention her experience has been that the reactions of general members of the public to her have been positive and this does not pose any psycho-pathological stress to her.*
- (k) It is, of course, always possible that emergency situations do arise. However my experience with Sgt Saunders lead me to believe that she handles these sort of emergency situations well. I imagine that this can be readily demonstrated.*
- (l) Her not having access to a firearm, of itself, places her in an unusual situation. Whilst not posing a "stress" that is of any psycho-pathological degree it is a source of concern for her. I suspect it would be a source of concern to her immediate work colleagues. I can imagine an emergency situation suddenly developing and she is with an*

young and inexperienced police officer who has a firearm and she does not. In this situation the potential hazards to herself, her fellow police officers(s) and the members of the general public would be increased.

5. *Speaking as a psychiatrist and carefully considering the matter with due reflection I am of the view that her psychological conditions, whilst they do exist, do not pose any potential problem with her having a firearm.*
6. *It is, of course, not always possible to predict when issues may emerge which cause her to become stressed. However, I must point out that my experience with her is that she has always been totally responsible in this matter and she has always taken herself off duty.*

As I have said the doctor throughout has laboured under misapprehension as to the relevant history and conduct of his patient and it is regrettable that Saunders will necessarily be further stressed by my report and the publicity engendered by it. I think that she should seriously consider whether the Police Service is appropriate as a continuing career.

PART E - CONCLUSIONS AND THE ISSUE OF COMPENSATION

CHAPTER 22

COMPENSATION

22.1 A foundation for claims for compensation

There is little doubt that the references to Saunders in the Fitzgerald Report and statements of innocence by a former Attorney-General provided a foundation for claims by her for compensation and impetus to media support. Before I consider the question of compensation I think it appropriate that I make some comment concerning the Fitzgerald Report and the announcement made by the then Attorney-General after it had been determined that a nolle prosequi would be entered on the final charge against Saunders.

22.2 References to Saunders in the Fitzgerald Report

Previously in this report I have referred to the circumstances surrounding Saunders visiting the Brisbane Prison with Hicks to interview Katherine James. In the Fitzgerald Report, reference is made to this visit and it is said:

Saunders was to pay a very heavy price for becoming involved. She was later to be held in jail on remand on fabricated charges. Her former superior officer was the complainant in relation to the major charge against her which alleged that she had threatened and conspired to murder him. In the course of her trial, it was demonstrated beyond a shadow of a doubt that the principal witness against her, who produced a tape recording which purported to contain evidence against her, had fabricated the tape. The witness was subsequently charged with and convicted of perjury in relation to the evidence which he gave at her trial. Between the time when she was charged and the time she was exonerated, Saunders spent almost 10 months in prison, most of it in solitary confinement in order to ensure her physical safety from fellow prisoners.

The first sentence of the words quoted, appearing in the Report as a finding of fact, not only provided Saunders with a foundation on which to base further claims for compensation from the Government but also gave impetus to sections of the media which were promoting her case of further corruption claims and as one deserving of general public backing.

I have caused a diligent and exhaustive search to be made of the transcript, statements, memoranda and other documentary holdings of the Fitzgerald Inquiry which are of course now in the custody of the Criminal Justice Commission. The object was to find the evidence upon which the finding of fact just mentioned was made. Unfortunately the Fitzgerald Inquiry had insufficient evidence to support the relevant finding. It is quite true that Dodd was the principal witness produced by the Crown to support the three charges initially brought against Saunders but there was no evidence before the Fitzgerald Inquiry that fabrication of that tape by Dodd had resulted in any way from her involvement with Hicks or the visit with him to the jail in September 1978; and there is no doubt that the period spent in prison by her was not a consequence of her association with Hicks. From the time that she was first arrested on 29 April 1982 up to 9 September 1982 when she was arrested on the Cooper charge, she had seemingly flouted conditions of her bail and had apparently been the prime mover in the attempted conspiracy with Cooper. During her imprisonment applications for bail were refused in the Supreme Court by Macrossan J. on 16 September 1982, D M Campbell J. on 2 December 1982 and Andrews J. on 7 April 1983. After Saunders was acquitted on the first two charges which were tried on 25 May 1983, Pratt D.C.J. again refused bail in respect of the two outstanding charges. Bail was eventually granted by McPherson J. on 4 July 1983, subject to particular conditions, one of which forbade communication with Crown witnesses. Throughout the applications reference was made to the difficulties which Saunders's mother was experiencing and indeed before McPherson J. her mother submitted an affidavit of the difficulties which she was enduring because of her daughter's absence. I think it fair to assume that lapse of time since the start of the period of imprisonment coupled with the hardships of Saunders's mother played their part in her eventually being granted bail. I have read the affidavits relied upon in these applications for bail and Hicks's name is not mentioned.

The Fitzgerald Inquiry did not pursue an investigation of the circumstances which may have led to the prosecution of the various charges brought against Saunders. From the material available to my investigation a deliberate decision was made not to pursue investigation of those circumstances. Counsel Assisting the Fitzgerald Inquiry in written opinions

considered whether the charges and the circumstances of them were relevant for the purposes of the Fitzgerald Inquiry and, after setting out certain hypotheses and suggestions that police misconduct was involved in those charges, concluded that what was known did not warrant further investigation by that Inquiry. Ross Martin of Counsel, in describing two possible hypotheses which would have involved Murphy, or other police officers, said:

The two hypotheses sometimes put forward are that Murphy or others arranged the whole prosecution from the start, or that Murphy or others did not arrange it from the start but opportunistically took advantage of the situation and arranged for the tape to be fabricated to "gild the lily." Either of these views requires a strained view of the facts, the former more so than the latter.

Andrew Philp of Counsel, in a written memorandum after referring to Saunders's evidence given at the Inquiry, her association with Lobegeiger, the charges brought against her and conversations he had had with certain police officers, said:

The real question is whether a police officer was involved in assisting or instructing Dodd to compile the false tape recording. It is interesting to note that in the letter that Dodd wrote on 14 July 1982 he implicates Webb and Williams as the police officers that were offering him deals if he sunk Saunders. It is unlikely that Williams was involved in any machinations on behalf of Murphy. However, Webb is considered to be friendly with Murphy. But it is unlikely that if Webb was involved in the fabrication of the tape recording with Dodd, that he would produce Dodd's statement implicating him to the Crown Prosecutor.

There would not be much joy in calling Dodd for his version of events as he is a convicted perjurer with a terrible criminal record.

My main concern though is with the reliability of Saunders. The charge that is of most concern is the charge of conspiracy to pervert the course of justice. Saunders' co-accused, one Cooper, was convicted of this charge and sentenced to imprisonment. Although a nolle prosequi was

entered in relation to this charge against Saunders, it does not appear to have been based on very sound advice. It does appear that Saunders may have been prepared to conspire to pervert the course of justice in bringing false evidence to the court. It must also be noted that Saunders' bail was revoked when she breached her condition in approaching Crown witnesses.

My conclusion expressed above in respect of the Fitzgerald Inquiry finding is based on independent assessment, but I cannot claim originality for it. Conrad Wilhem Lohe, the Deputy Director, Civil and Commercial Law Branch, Crown Law Division, Department of Justice and Attorney-General, who gave evidence during the course of my investigation, had advanced a similar view in a document drafted by him and forwarded as advice to the Government in May 1990 which, as he said in the course of examination by Fleming QC, was based on the transcripts of evidence taken at the Fitzgerald Inquiry. Those transcripts included evidence of the visit by Hicks and Saunders to the prison and the subsequent statement alleged to have been made to Hicks by Murphy, that he would "settle with Saunders in the future." As I have already said my investigation of the Fitzgerald Inquiry evidence and material was not limited to transcripts of evidence but there was nothing in the material other than the transcripts which would have affected Mr Lohe's opinion.

Even earlier, in a memorandum of advice dated 6 September 1989, Mr K M O'Shea (then Acting Solicitor-General) to the Attorney-General said:

What is particularly significant about this passage is that the inference is clear that there was some connection between the charges against Saunders and her visit with Hicks to the woman 'James' at Brisbane Prison in 1978.

As one can see in the light of the account of events which I have already given this passage from the Royal Commission's report is a very great oversimplification of the facts and in particular the assertion that Saunders was held in jail on remand on fabricated charges is in my opinion plainly incorrect. There is nothing to suggest that the charge upon which she was actually held in custody, namely the charge of conspiracy to pervert the course of justice, was based on fabricated evidence, although the charges which she attempted to influence through her attempt to fabricate evidence were ultimately shown to

have been fabricated.

I have had a computer search made of the transcript of evidence from the Royal Commission and it appears that the only basis upon which it could have been suggested that there was some connection between the prison visit in 1978 and the charges against Saunders in 1982 was evidence given firstly by Inspector Hicks. At page 7919 of the Royal Commission transcript Hicks gave evidence that at some stage shortly after his visit to the prison with Saunders in 1978 he received a telephone call from Inspector Murphy who asked him what he had been doing taking a policewoman to the prison. Hicks says that he told Murphy that it was his business and Murphy said he would settle with her in future, 'I'll deal with her in future.' Hicks says that he told Saunders of what Murphy had said and told her that she should be very, very careful.

Saunders also gave evidence to the Royal Commission and at page 8146 she said that during the course of the Royal Commission she had received several threatening phone calls which were to the effect, 'The last time you only went to jail. This time you will be dead,' or words to that effect, and at page 8154 Mr Callinan QC asked her in cross-examination 'Did you relate the charges against you to what had happened on this occasion?' to which she answered 'I thought it may be connected.'

I am not aware of any other evidence which suggests that there was any connection between the 1978 prison visit and the fabrication by Dodd of the tape recording which was used as evidence against her or that there was any connection between the 1978 events and the claim by Cooper that Saunders had attempted to get him to give perjured evidence. Indeed, on the contrary, it seems to me that the events which resulted in Saunders going to prison, which I have described in some detail in this memorandum, indicate that it was highly unlikely that the imprisonment of Saunders had anything whatever to do with the events of 1978. It is plain to me that on the evidence available at present she brought her imprisonment upon herself and that she was not in that respect the victim of a conspiracy.

It seems to me therefore, with the greatest of respect to the Royal Commissioner, that the assertion that Saunders paid a heavy price for becoming involved with Hicks is highly speculative and is not supported by the evidence which I have examined.

At this stage I will make reference to one document that was located in the Fitzgerald Commission holdings. Attached to the document was some correspondence which established that the document had been found in the records of the late Kevin Hooper MLA and passed on to the Fitzgerald Commission in 1987. It is a typed document headed "Strictest Confidence." It was clearly prepared for Hooper. The first sentence of the fifteen pages commences "It is our belief" no doubt to give the impression that there were a number of persons responsible for the document. There is no internal reference to the author of the document. It is clear from the content of the document and its form that it was a document that had been typed and drafted by Saunders. It was very similar to many of the statements in her Legal Aid material. If there had been any doubt as to the author that doubt was dispelled by the fact that Saunders's handwriting appeared on the document.

The document purports to provide truthful information to establish that a number of corrupt police officers were responsible for her predicament in 1982 and 1983. In reality the document evidences Saunders's vivid imagination and capacity to re-write history. It is replete with false claims and assertions. An example can be seen in the following passage of the document:

During the period from her arrest until the commencement of her committal proceeding Coomer was also advised by the arresting officer, Det. Insp. Brian Patrick Webb, known as "Hotbricks" within the Police Department due to his consistent practice of giving false evidence to courts, that he could contact Saunders.

There was never any suggestion that Webb had advised Coomer that he could do this. It was clearly false. A further example can be seen in the following passages of the document:

It is believed that Bull and Lobegeiger are involved with unlawful pursuits both in this State and Melbourne. Prior to her present occupation Bull was an Ansett hostess.

Preliminary investigation has shown that Bull and Lobegeiger 'had nothing' until they formed a liaison in about 1967. Their "rags to riches" story from this time on basic police pay and airline pay is quite amazing.

...

It is believed that Lobegeiger arranged a number of armed hold-ups at the Australian National, East Brisbane through knowledge of its operations gained by Bull from Howell.

This and other references to Howell and Bull to my mind are as good as Saunders's signature on the document.

An even more extraordinary statement is the following:

Subsequent information by Dodd to Saunders involved police corruption in the Valley.

There was no evidence of Dodd furnishing information on police corruption in the Valley to Saunders.

What is of great significance is not the truth of the contents of the document, because it can be largely dismissed as an erroneous account by Saunders, but the circumstances in which the document was typed. From the document one can establish that at the time the document was typed Saunders had been acquitted of her first two charges but was still in prison facing the charge concerning the attempt to procure the unlawful killing of Lobegeiger and the fourth charge. For it to have been of any use to Saunders it had to have been smuggled out from prison to Hooper in some way. One can assume that it was. If I am wrong in this regard then it can be safely concluded that the document was prepared on the basis that it could be smuggled out and forwarded to Hooper. In any event it is consistent with my previous conclusion that the Spirax Notebooks were written by Saunders in prison and smuggled out.

22.3 The statement of innocence by the then Attorney-General

It is of interest that the first claim for compensation made by Saunders followed within a short time of 23 January 1984 when the Crown entered a nolle prosequi on the Cooper charge. Immediately prior to that the then

Minister for Justice and Attorney-General had issued a press release to the following effect:

The termination of prosecution action against Miss Lorrelle Anne Saunders has been approved by the Minister for Justice, Mr Neville Harper, M.L.A.

Mr Harper said that various charges against Miss Saunders had been the subject of criminal legal proceedings over a lengthy period but up to the present time she had been found 'not guilty' in all concluded proceedings.

'My earlier instruction that the remaining charge against Miss Saunders should be determined by the Courts resulted in a trial in respect of that charge commencing but, because of the unavailability of vital witnesses, it was unable to proceed,' Mr Harper said.

Mr Harper said that he had now received from Counsel for Miss Saunders a detailed submission that the outstanding matter should not proceed further.

'As a result of that submission, having regard to the history of the matters generally and the relationship of the present charge to those on which Miss Saunders has been acquitted, I have decided that no further prosecution should take place,' Mr Harper said.

'The legal consequences of my decision and the verdicts in favour of Miss Saunders are such that she is to be regarded as completely innocent of all charges,' Mr Harper said.

Mr Harper said that, while he understood Miss Saunders no longer wished to continue in the Police Force, that was a matter between herself and the Commissioner of Police.

'Any such decision by Miss Saunders was not a factor in reaching my conclusion that the prosecution be terminated,' Mr Harper said.

Fleming QC in the course of his examination of Lohe not unnaturally drew

attention to the memorandum of advice dated 17 January 1984 which had been given to the then Minister for Justice and Attorney-General by the then Solicitor-General. This advice was furnished after receipt of the submission by Jerrard and Dick, Counsel for Saunders, which was dated 28 November 1983 and which sought discontinuance of outstanding proceedings against Saunders (the fourth charge). It is significant that in this submission there was no suggestion by her Counsel that the outstanding charges should be withdrawn by the Crown because corrupt police had been responsible for Saunders's predicament. The memorandum of advice was expressed as follows:

Re: Lorrelle Anne Saunders

The abovenamed is presently due to stand trial on 31 January 1984 on charges related to attempting to procure false testimony in respect of a charge which was pending against Miss Saunders. There are three charges and all revolve around the one central theme and are each alternative to the other. In essence, it must be established that Miss Saunders procured one Colin Stanley Cooper to give evidence on behalf of Miss Saunders and which evidence would substantially affect the outcome of a charge pending against Miss Saunders of attempting to procure one Dodd to murder Superintendent Lobegeiger.

The charges are ones which are difficult to establish and are in a context where the facts and law are both exceedingly complex.

As is well known Miss Saunders has been acquitted already of various charges including a charge of attempting to procure one Dodd to murder Lobegeiger. This acquittal has a very great significance and no doubt would have a very substantial impact on the outcome of the present charges since the alleged false evidence was to be in respect of the alleged attempt to arrange the killing.

You decided some time ago that the matter should proceed to the Court so that finality could be reached and Miss Saunders given an opportunity to finally establish her innocence.

Since that time there was an abortive trial because

witnesses failed to turn up and now detailed submissions have been made by Counsel for Miss Saunders.

It was expected previously that submissions would be made following the acquittal of Miss Saunders in the Supreme Court in August, 1983. However, this is the first occasion on which detailed submissions regarding the facts and the law have been made.

There are various legal submissions made, the effect of which is that the alleged attempt to procure false evidence is no longer relevant or material having regard to the acquittal of Miss Saunders on the substantive charge. By virtue of her acquittal, she must be regarded as being innocent of that offence.

I do not propose to canvass in detail the legal submissions except to indicate that they do have force and are clearly valid arguments. Substantially what the Crown will have to show beyond reasonable doubt is that Miss Saunders has endeavoured to pervert the course of justice in a clear and unequivocal manner with the object of altering the outcome of proceedings which were then pending against her. Of course, such proceedings have now terminated in her favour.

At the trial in August, 1983 before Mr Justice Shepherdson, the Crown was intending to lead the evidence in the present case to show motive and to corroborate the evidence of Dodd who was the person allegedly procured to arrange the killing of Lobegeiger.

Dodd, of course, is a person of no credibility whatsoever and, as events turned out the taperecording upon which the crown was relying to corroborate Dodd was proved to have been made at a time completely different from when Dodd claimed that it had been made.

Mr Justice Shepherdson refused to allow the charges to be heard together and regarded the evidence relating to Cooper as only peripheral, that is to say, of no strong probative value in relation to the charge of attempting to procure the murder of Lobegeiger.

In the present matter, the Crown will have to rely heavily on Cooper who has been convicted of conspiring with Miss Saunders. However, he was tried on his own and was represented by Counsel other than those who have appeared for Miss Saunders. His trial took place before any of the trials of Miss Saunders and before she had been acquitted of the various charges.

Cooper swore on oath during the trial that, whilst he had purported to agree with Miss Saunders that he give false evidence, he did not intend to carry out the agreement but merely 'went along with her.'

Cooper was an informer who had been used by Miss Saunders as, of course, was Dodd. Cooper's credibility must be gravely suspect since he has now given a statement that what he said in the previous trial was not correct and that he did in fact agree with Miss Saunders to do as she suggested and had that intention.

In the present case, a taperecording is again a very significant piece of evidence provided, of course, its authenticity can be established. The taperecording has Miss Saunders' voice on it and there is no doubt that it is genuine. However, its cogency depends upon whether Miss Saunders did in fact rehearse Cooper in the matter which is on the tape, that is to say, whether she was responsible for the detail of the evidence which Miss Saunders is relating in a statement. Of itself, the taperecording is neutral.

Cooper is corroborated by his girlfriend, Susan Gray, who was present when the taperecording was made at Miss Saunders' home. However, subsequent actions by Gray would strongly lead to the view that she also is an accomplice.

The criminal law requires that evidence of accomplices in which category Cooper clearly is and in which Miss Gray probably is should be corroborated by evidence other than that from the accomplices and which would tend to support their evidence as being credible. As I have said, the taperecording is, for practical purposes, neutral. There are considerable grounds for suspicion but suspicion is not

proof.

In the light of the submissions made by Counsel for Miss Saunders, I have had the matter reviewed. I am now advised by Mr Callanan, Crown Prosecutor, that, whilst a prima facie case probably exists, it is by no means strong and unlikely to succeed.

Events, of course, have undermined the Crown case to a large extent and we are now dependent upon witnesses whose credibility must be at least suspect. There are some features which do tend to corroborate their stories but having regard to the history of the matter it is unlikely that any result other than an acquittal could ensue.

Counsel in their submission indicate that Miss Saunders does not wish to pursue her career in the Police Force but intends to obtain her legal entitlements in relation to pay and superannuation. In the event of an acquittal or in the event of the case not proceeding she is clearly entitled to be reinstated as a Policewoman.

Having given the matter most anxious consideration it is my recommendation now that the matter not proceed. In the light of the submissions made by Counsel for the accused and the history of the matter, I do not think that justice would be served by proceeding. Miss Saunders may or may not be guilty of the activities which have resulted in the charges. However, looking at the matter realistically, legally she is innocent and I doubt whether the mantle of innocence can be taken away from her.

I have not been influenced by the statement that she no longer wishes to be a Policewoman. That is a matter for herself and the Commissioner of Police. However, I consider there is merit in the submissions made by Counsel for the accused both in relation to the facts and as to the law. Miss Saunders has been before the Court on numerous occasions and has been acquitted of substantial charges. The evidence against her now is somewhat tainted because of the sources from which it comes. She has spent quite a deal of time in prison largely as a result of her own foolishness in disobeying the terms of her bail

undertakings. The acquittal of the major charge of attempting to have Lobbeiger killed does destroy quite a deal of the effectiveness and materiality of what is now left. All in all, I consider that the best course for all concerned is to discontinue the prosecution.

Undoubtedly there may be criticisms from various sources and the Crown must accept, myself included, some measure of the blame. However, the fear of criticism is not a factor to be considered in relation to doing what is thought to be right in the circumstances.

Philp, in that passage of his discussion which I have previously quoted, expressed the view that:

Although a nolle prosequi was entered in relation to this charge against Saunders, it does not appear to have been based on very sound advice.

The advice of the then Solicitor-General was given after consideration of two memoranda which had been prepared by the Crown Prosecutor, Callanan, and one by the Crown Prosecutor, Glynn, in relation to the strength of the case against Saunders on the final charge. Callanan had expressed on 17 November 1983 in a written opinion that the case which could be made against Saunders was a strong one and his recommendation was that the case should proceed. In respect of both of these matters Callanan said that he had the agreement of Glynn who had led him in the earlier trials of Saunders, agreement which would only have been confirmation of the written opinion which Glynn himself had given on 9 August 1983 that the case against Saunders was strong.

After those advices had been given submissions were received from Jerrard and Dick on behalf of Saunders. These submissions were considered by Callanan in a further advice of 16 January 1984. In this advice Callanan concluded that the "legal and practical aspects" of the case raised seemed to form a good basis for the exercise of the discretion not to proceed. From his advice it is clear that there were a number of matters which influenced Callanan in reaching the conclusion that he did. One of the matters considered significant by Callanan was that Cooper had by the time of Callanan's second opinion given a statement in which he resiled from the evidence he had given at his trial and agreed that Saunders had asked him to give false evidence at her trial and he had agreed to do so. It was suggested that this created significant problems with respect to Cooper's

credibility. This statement to which Callanan referred appears to be the one of 17 November 1983 which had been tendered before me. It is clear from that statement that Cooper had merely accepted the truth of the contents of his original record of interview with Webb and Flanagan. What Callanan overlooks is that at Cooper's trial he was disbelieved when he said that he did not intend to give the relevant evidence at Saunders's trial and the twelve members of the jury had to be satisfied and were satisfied that Saunders had asked him to give false evidence at her trial and that he had agreed to do so. Cooper's return to his original account was not unexpected after his lies had been rejected by the jury. I consider that this would not have caused a subsequent jury much difficulty at all.

After Callanan had considered the question of Cooper's credibility and after referring to the necessity to have his evidence corroborated the following extract appeared in his memorandum:

These aspects of the case have, of course, been closely scrutinized and it had been considered they were largely met by the existence of corroboration in the form of a tape-recording of Saunders reading a statement of the false evidence it was proposed that Cooper give. Saunders has never been questioned about this tape and the circumstances in which it was made. This is quite understandable given the stage of proceedings at which it was located in her home.

What is now clearly suggested by Saunders' Counsel is that Saunders has some explanation for the existence of the tape inconsistent with the account given by Cooper. On the authorities as they presently stand, it would seem to be the position that a piece of undisputed evidence will be regarded as corroborative in such circumstances only if it points more strongly to the truth of the evidence requiring corroboration than to some other possible explanation.

Given what can now be anticipated will be the line taken by the defence, it would seem the Crown will be confronted with some explanation of the tape which may deprive it of its corroborative character.

I cannot understand the suggestion made that in some way, dependent upon evidence which Saunders might give, the tape would lose its corroborative value. The Crown case would not be destroyed by a supposed explanation

to be perhaps offered if she perhaps entered the witness box.

It is no doubt the passage above from Callanan's second advice caused the Solicitor-General to refer to the tape fabricated by Saunders as being "neutral." I do not agree. In my opinion the tape in the circumstances of it having always been accepted to have been made by Saunders, was not only evidence which could be accepted as corroboration of Cooper's evidence but was itself the strongest evidence possible against Saunders. Cooper's testimony that he was to give the evidence at Saunders's trial would have also been corroborated by Gray's evidence. She was merely a bystander and there is no evidence pointing to her as a conspirator. To decide what credence the jury would have given to the explanation for the tape which I heard from Saunders is not part of my function but I find myself in agreement with Herbert QC when he said in his statutory declaration dated 13 July 1993 that to him the explanation was "completely fanciful and unbelievable." Herbert QC, of course, who was acting for Saunders until September 1982, also said that he had no instructions whatsoever which could be taken to suggest any such explanation as was eventually offered. Although the then Solicitor-General and Callanan did not have the benefit of hearing Saunders's fatuous explanation I find it difficult to accept that the tape recording would not have been accepted as highly corroborative of Cooper's credible account. They, of course, also did not have the benefit of Coomer's account of the events.

It is clear from Callanan's advice of 16 January 1984 that there were in his mind independent of the merits of the case practical reasons for not proceeding with the prosecution. As part of Callanan's advice he said among other reasons for this view:

Saunders' Counsel have now made it clear that they are instructed that Saunders will not seek to continue her employment in the Police Force although she will seek, as she is entitled to, to collect her 'back pay' and superannuation.

It is conceded by Saunders' Counsel that her conduct has been 'very foolish' and a 'gross error of judgment.' It can be assumed Saunders now has a similar perception of her actions.

I am of the view that Callanan's first advice as supported by Glynn is, with respect, more convincing. The views expressed in Callanan's later memorandum I found no more persuasive than they had been when I first

saw them reflected in the advice of 17 January 1984 of the then Solicitor-General.

As a consequence of the advice given by the then Solicitor-General the form in which the then Attorney-General by press release announced that the Crown was not proceeding with the charge gave the impression that it had been concluded that Saunders was innocent. Certainly the advice must have helped prompt the claim for compensation made on 7 March 1984.

22.4 The first claim for compensation

The first claim for compensation in the form of a letter from her solicitors dated 7 March 1984 was written to the then Minister for Justice and Attorney-General. It was as follows:

We advise that we act on behalf of Lorrelle Anne Saunders who was recently discharged in the Brisbane District Court in relation to the final three in a series of charges brought against her as a result of allegations by one Douglas Mervyn Dodd.

At the time of being charged with the numerous offences, Miss Saunders was a serving Member of the Queensland Police Force, and as a result of her having been charged with these offences, she was suspended from duty on the 30th April 1982.

Following her discharge in relation to all charges, she was reinstated in the Queensland Police Force as a Senior Constable on the 26th January 1984.

Originally, Miss Saunders was charged with three charges described shortly as stealing, attempt to procure a person to steal and attempt to procure a person to conspire with another to unlawfully kill. On each of these charges Miss Saunders was allowed bail upon certain conditions.

On the 8th September 1982, Miss Saunders was further charged that she had conspired with one Roy Alfred Coomer and one Colin Stanley Cooper to pervert the course of justice. Miss Saunders was not allowed bail on that charge. Further applications to the Supreme Court for

bail on that charge were also dismissed. As a consequence of this, Miss Saunders was held in custody in the Brisbane Women's Prison from that date until the 4th July 1983, a period of some ten months. During that period, Miss Saunders was placed in solitary confinement from February 1983 until 4th July 1983, a period of some five months. During this time Miss Saunders was assaulted both by prisoners and prison officer on a number of occasions and on each occasion her complaints were documented and recorded in either the Superintendent or Chief's log at the Prison and details of her complaints can be found in these logs.

It is obvious that the basis of all charges brought against Miss Saunders were the allegations made by the person Dodd, which allegations included the authenticity of an alleged tape recording of a conversation between himself and Miss Saunders which tape recording was later proved to be totally false and in this regard, we refer you to the judgment of his Honour Mr Justice Shepherdson reported at 1983 (Queensland reports) at page 270. It further appears that had the allegations by Dodd been fully investigated prior to acting upon those allegations against Miss Saunders it could have been fairly easily demonstrated that these allegations were totally false and the lengthy term in custody suffered by Miss Saunders could have been avoided.

We are instructed by Miss Saunders that as a result of work she was required to perform whilst an inmate of Brisbane Women's Prison, she aggravated a knee injury to the extent that on the 6th February 1984, she underwent an arthroscopic meniscectomy at Sunnybank Private hospital performed by Doctor John Morris. Although it is not clear that the original cause of the injury was in fact her treatment whilst in prison, Doctor Morris is of the opinion that it is quite possible that the injury was caused through her treatment while in Brisbane Prison. In any event, the Doctor is of the opinion that even if the condition did exist at the time of her incarceration, there is no doubt that the condition was exaggerated by her treatment and the activities she was forced to indulge in whilst in prison.

We are instructed further by Miss Saunders that she has received from the Police Department, reimbursement of wages for the period of her suspension. The gross amount paid was \$35,121.68 with a net sum to her of \$21,892.23 for reimbursement of two years lost wages. This of course, did not include lost overtime and penalty rates.

In all the circumstances, we would therefore request on behalf of Miss Saunders that you give consideration to the payment of compensation for the period of time she was incarcerated as a result of the false allegations levelled against her by Douglas Mervyn Dodd, and further compensation for the injury caused and/or aggravated whilst so incarcerated.

It must be significant that in that letter there is no suggestion that any police officer, or police officers generally, had anything to do with the fabrication of the tape and it is also worthy of notice that whilst mention is made of the Cooper charge the "all charges" referred to in the sixth paragraph of the letter cannot comprehend the Cooper charge. It is true that Saunders had earlier and in a letter to Sir Robert Sparkes said:

In view of all the circumstances they [her counsel] feel I should talk confidentially and privately with you and place before you all the facts as it would appear the entire matter of all the charges and my treatment were instigated by Tony Murphy. Judge Shepherdson stated in confidence in chambers that he was of the opinion that ex Supt Allan Lobegeiger had arranged for me to be set up.

There is no evidence to support a suggestion that Lobegeiger had "arranged for her to be set up"; indeed, rather the contrary emerges from the evidence before me because Lobegeiger was, throughout the investigations of the charges against Saunders, keen for the "whole matter to go away." The reference to Murphy needs no further discussion at this stage; there is no evidence even of the most tenuous kind linking him with Dodd and the instigation of charges against Saunders.

22.5 The second claim for compensation

The evidence of Hicks and Saunders was given at the Fitzgerald Inquiry in March 1988. Commissioner Fitzgerald published his report in early July

1989. On 11 May 1989, a further claim for compensation by Saunders was foreshadowed in a letter addressed to the Premier by Carew and Company, who by then had become solicitors for Saunders. Her 67 page statement to her own solicitors which was provided to Pointing and Menary in January 1984 had expressed her belief that corrupt police were involved. However it was in this second claim for compensation, made five years after the first claim, that an allegation appeared that Saunders's trials and tribulations were caused by the actions of corrupt police. On the heels of the Commissioner's Report, in a further letter dated 24 July 1989 addressed to the Premier, Carew and Company were able to quote from the Report a passage which included that paragraph already discussed by me which commences, "Saunders was to pay a very heavy price ..." The significance of that paragraph for Saunders and for those in the media who were championing her cause cannot be underestimated. It has been repeated time and time again and by repetition has been given an aura of validity and certainty. To refute it, as I and others have done, may be seen to amount almost to heresy. Nevertheless there is no material in the evidence of the Fitzgerald Inquiry which supports the finding and, as can be seen from my report based on much more evidence concerning Saunders, there is no evidence available elsewhere to my knowledge which supports such a finding.

22.6 My consideration of the claim for compensation

The questions whether Saunders has or had legal right to compensation, or whether an ex gratia payment should be made to her by the Government, have been critically examined by different Solicitors-General when her previous claims for compensation were rejected. Little exception can be taken to the various advices which have been tendered in that behalf. They are in the form of memoranda of advice or letters which are annexed to the statutory declaration dated 3 June 1993 of Lohe. As a sample of the content of such advices I quote from a memorandum of 4 May 1984 addressed by the then Solicitor-General to the then Honourable the Minister for Justice and Attorney-General. This particular memorandum was in response to the first of the claims for compensation submitted on behalf of Saunders and so was closer in time to relevant events.

The first question that must be faced in this case is whether in principle the Government will accede to a request to pay compensation to a person who has been held in custody in respect of allegations of criminal offences and who has subsequently not been convicted of any of those offences.

It is plain that acceptance of a principle stated as widely as this would have extremely wide implications.

It is not uncommon for a person who has been held in custody for some period to be acquitted or at least not convicted. The actual number of cases is probably not large but, as I have said, there would probably be some such cases each year.

There is a useful review of the position in England in a Report by JUSTICE, the British Section of the International Commission of Jurists. The organisation is, of course, a private one, not a Governmental agency. A pamphlet entitled "Compensation for Wrongful Imprisonment" was published in 1982. The problem of how to deal with a case in which there has been acquittal is referred to in paragraphs 35 to 40. Although the Committee made certain recommendations with respect to reforms they declined to make any recommendation that acquittals by a jury should automatically be brought within the scope of any scheme because of the nature of the trial system under the common law. They then referred to the proposition set out above that acquittal does not necessarily indicate innocence.

In a letter dated 7th March, 1984 Saunders Solicitors requested that consideration be given to making a payment of compensation in respect of the time that Saunders spent in custody and in respect of an injury that they allege was either caused or exacerbated during her period in prison. It is convenient at this point to deal with certain aspects of these claims.

Firstly, there is a statement in the letter that Saunders was assaulted by both prisoners and prison officers on a number of occasions. It is asserted that on each occasion her complaints were documented and recorded either in the "Superintendent's or Chief's Log" at the prison. I am advised that enquiries made of the Prisons Department have revealed only one incident documented at the Woman's Prison. This was on the 7th May, 1983 when Saunders alleged that she had been assaulted by a member of the prison staff. A senior officer requested Saunders to

attend the Prison Medical Centre for examination but she refused to do so. It appears that the claim that the records would substantiate a number of other complaints of assaults is not supported by the records themselves. I am advised also that the prison authorities state that Miss Saunders was particularly well treated while in prison. It has been asserted that a representative of the Police Union extended thanks to the Women's Prison Superintendent for the treatment afforded to her. This seems to be an unusual thing to happen if in fact Miss Saunders had been complaining of maltreatment.

There is clearly a major area of potential conflict in relation to Saunders' treatment whilst in prison. On the material available to me, there is no basis for a conclusion to be drawn that she was maltreated.

...

It is not a case in which strictly she has been acquitted on all charges in respect of which she was held in custody. The question that must be answered is whether there are circumstances associated with this case that justify a departure from the long standing practice of not paying compensation.

It is interesting to note that Article 6 of the International Covenant on Civil and Political Rights does not go so far as to cover the present case. The Covenant is not yet part of the law of Australia but it is often quoted as a yardstick by which the individual's rights should be measured. It extends the right to compensation only to cases where a person has been convicted of a criminal offence and when subsequently the conviction has been reversed or a pardon has been granted on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice. Where those conditions are satisfied, the Covenant provides that the person who has suffered punishment as a result of such conviction is to be compensated according to law unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

In the United Kingdom there was no statutory right to compensation at the time when the JUSTICE Report was published and as far as I am aware the position is still the same. Paragraph 24 of the Report quotes a letter from the Home Office dated 17th March, 1978:-

"The law makes no provision for payments to persons acquitted in the ordinary process of law, whether at trial or an appeal. If someone thinks he has grounds for compensation his legal remedy is to pursue the matter in the civil courts, by way of a claim for damages. In exceptional circumstances, however, the Home Secretary may authorise an ex gratia payment from public funds, but this will not normally be done unless the circumstances are compelling and there has been default by a public authority."

The circumstances in which an ex gratia payment by the Home Office is made are where:-

- (a) a free pardon has been granted under the Royal prerogative;*
- (b) the Court of Appeal has quashed a conviction on reference from the Home Office; and*
- (c) other undefined exceptional circumstances exist.*

Paragraph 7 of the Report points out that this provision does not cover cases in which:-

- (a) a conviction carrying a sentence of imprisonment is quashed on appeal;*
- (b) a person is committed in custody for trial and the jury finds him not guilty or he is discharged by the Judge or the prosecution offers no evidence;*
- (c) a person is detained or remanded in custody and is discharged or acquitted when he appears in the*

Magistrates Court;

- (d) *a person is detained for questioning and released without being charged.*

The Report recognises that a 'statutory scheme to cover all those situations might not be regarded as practicable.' In recognition of this, the Committee did not attempt to formulate recommendations in respect of (c) and (d). Once again, in this context, the Committee draws attention to the fact that acquittal at trial or the quashing of a conviction does not necessarily indicate innocence or indicate the extent to which a person may have contributed to his misfortune.

It is important to bear in mind in the present case that of the four charges upon which Saunders was held in custody, only one was actually terminated because the evidence was found to be fabricated. The first trial on charges (1) and (2) ended in acquittal by the jury. It is impossible to draw any satisfactory conclusion as to why the jury acquitted. One possibility (and perhaps the most likely) is that the jury was not prepared to act on the evidence of the main Crown witness Dodd. However, given the privacy of the process of reasoning leading to a jury's verdict, it is impossible to say that this was necessarily so.

The fourth matter, as I have said, was terminated by an exercise of discretion. The former Solicitor General's advice was that, despite some difficulties about determining the appropriate charge and about corroboration, there was a prima facie case but the whole of the circumstances of the matter made it appropriate not to proceed further. It was on this lastmentioned matter above that she was originally held in custody from the 16th September, 1982 to the 22nd November, 1982. From the 22nd November, 1982 until the 4th July, 1983 she did not have bail on any of the charges. She was acquitted on the first two charges on the 24th May, 1983 so from then on she was in custody without bail in respect of charges (3) and (4). It was not contested on any of the bail applications that she had broken her bail conditions by contacting the witnesses Coomer and Lobbeiger.

In respect of the factual matters which the then Solicitor-General discussed, there is, in my view, one important addition which can be made to what he said about the verdicts of acquittal on the first two charges. Undoubtedly Dodd's credibility was during the course of the trial destroyed for all practical purposes. The letter of 14 July 1982, which was available to defence counsel must have been a very potent factor in this. Indeed, at the close of evidence counsel for the defence submitted that the tape which Dodd had produced and which had been admitted into evidence should be treated as inadmissible on the grounds that its authenticity or integrity had not been satisfactorily established. The basis for this submission was an attack on the credibility of Dodd but it was not suggested by counsel that a ruling in favour of the defendant would have led to a conclusion that there was no case for submission to the jury. Pratt DCJ rejected the submission and the tape remained as evidence.

I would also add to what was said by the then Solicitor-General that there now exists in Great Britain legislation (not applicable in Queensland) which enables the Secretary of State to determine whether a person has a right to compensation in effect when there has been a conviction of a criminal offence but the conviction has been reversed or the person has been pardoned on the grounds that fresh evidence shows beyond reasonable doubt that there has been a miscarriage of justice (*Criminal Justice Act 1989, section 133*); and I would also point out that in Halsbury, 4th Edition, Volume 11(2), at page 1261, paragraph 1523, it is stated, in respect of *ex gratia* payments to persons wrongly charged:

It is the practice of the Secretary of State for the Home Department, in exceptional circumstances and at his discretion, to authorise on application ex gratia payments from public funds to persons who:

- (1) *have spent a period in custody and receive a free pardon; or*
- (2) *have spent a period in custody following a wrongful charge that has resulted from serious default on the part of a member of a police force or some other public authority; or*
- (3) *in exceptional circumstances such as where facts emerge at trial or on appeal within time that completely exonerate the accused person, have spent a period in custody or have been imprisoned*

...

The tests to be applied are fairly wide and, by Queensland standards, one could say they adopt a liberal attitude in respect of persons who may qualify for payment. In the circumstances of this particular investigation I decided to follow the practice of the Secretary of State for the Home Department and to consider the tests set out in that practice as applying for the purposes of determining the question of payment of compensation in this matter.

It is clear that (1) and (3) have no application and, for reasons which I have detailed earlier in this chapter, despite what was said by the then Attorney-General at the time he announced that the Crown would not proceed with the final charge against Saunders, she was not completely exonerated from the various charges brought against her.

It might be thought however that paragraph (2) could be applied. On examination, before the paragraph could be used, one would have to adopt on behalf of Saunders a submission based on alternative propositions that she spent a period in custody because:

- (a) corrupt police had a hand in fabrication of the Dodd tape or that police were corrupt in prosecuting charges based on it, or, alternatively,
- (b) in investigation of the charges brought against Saunders, police had been guilty of "serious default."

I have already explained why on the evidence one cannot draw against any police officer a conclusion that alone or with others he was guilty of corrupt conduct in respect of Saunders's criminal charges. This leaves for consideration whether I am able to find that Saunders was the subject of a wrongful charge or charges which resulted from serious default. For reasons which I have previously advanced I have difficulty in finding that the charges were wrongful even though the tape fabricated by Dodd played an important role in some of them. Even if it be said that that particular tape resulted in wrongful charges the fabrication of it did not result from any default on the part of a police officer. For present purposes, it should be considered as the work of Dodd alone.

It is also submitted by Saunders's legal representatives, in the alternative, that there was serious default in the sense that the fabricated tape and

Dodd's assertions as to its making were not properly investigated. I have already canvassed the conduct of the police investigators. For reasons which I have previously advanced I am unable to conclude there was any "serious default" in the investigation. It should also be remembered that the only result of a poor investigation was not that only Saunders was prejudiced; there were, in my opinion, avenues which if followed may have strengthened the Crown case at least in relation to the theft of the firearms.

In case it be thought that I have too strictly construed the words "a wrongful charge that has resulted from serious default," consideration must be given to the period of custody contemplated by the provision. In respect of that I can but repeat what I have elsewhere said; apart from one night spent in the watchhouse when she was initially arrested, the time Saunders spent in prison was due to her own default in respect of bail conditions, and her attempt to have Cooper give false evidence at her trial. It had nothing to do with the fabricated tape or the investigation by Webb and Flanagan.

I should also refer to the submission made by Carew and Company that negligence on the part of the investigating police officers would justify the award of compensation. As far as I am aware there is no principle that negligence alone would justify an ex gratia payment of compensation by the Government. I think that a dangerous precedent would result if I acted in accord with the submission and I do not adopt it.

No action for damages lies against a person who negligently institutes legal proceedings against another. In *Rondel v Worsley* (1969) 1 AC 191 Lord Pearce said at page 268:

It is a hardship that a man who has done no wrong should be subjected by a plaintiff to a baseless charge, in meeting which he will incur large expense. The charge may be reported largely in the newspapers and injure his reputation. And if a plaintiff can by untruth persuade the legal aid fund that he has a good case, the public purse will back the plaintiff's unjust attack. And yet if it is finally proved baseless, the public purse will not pay the innocent defendant's expenses or recompense the injury to his reputation. The reason for this latter hardship is that it is rightly considered that when a plaintiff's case has a prima facie appearance of truth (which of course cannot be truly evaluated until there has been investigation of both sides) it is wrong that it should be stifled for lack of funds. This

latter hardship will probably be removed in time by the obvious remedy of the state regularly paying the costs in cases where it has erroneously (as the subsequent events show) backed a case. But the basic hardship is inevitable and will always remain, namely, that any plaintiff can use the legal machine as a sounding board for untruthful allegations and cause harm, trouble and expense to an innocent defendant, and yet the law holds him (and the Press who report the case) immune from paying damages for their untruth. Yet to remove this immunity would create a great injury to justice. Without it, the honest litigant might not dare to bring an honest claim for fear that if he fails he might be sued for damages.

A person who wishes to claim damages against a police officer who wrongly sets in train a criminal prosecution must prove more than negligence. It is necessary to prove:

- (i) there was no reasonable and probable cause for the prosecution;
and
- (ii) the police officer acted with malice.

The action is known as an action for damages for malicious prosecution.

There is no evidence whatsoever that such a claim by Saunders against Webb or Flanagan could have been sustained.

When I commenced this investigation I was quite unfamiliar with the witnesses to be concerned in it or the circumstances which led to it although well into the course of it it was drawn to my attention that on 26 January 1983 I had, after hearing Wills's pleas of guilty to various offences, sentenced him. I did have an understanding, probably as a result of matters I had seen in the press, that in the community a deal of sympathy was felt for Saunders. As the investigation progressed and it became more and more evident to me that this was a matter in which no reasonably thinking person could find that Saunders had been the victim of a conspiracy between police officers and Dodd, it became more and more evident that any claim for compensation by her was a bold one. I use the word "bold" because evidence to justify her many suspicions was not available when she voiced those suspicions and in the event was not forthcoming in the investigation. I also describe the application for compensation as "bold" because of her conduct in a number of respects.

The fact that this conduct occurred whilst she was a police officer sworn to uphold the law, to my mind makes the conduct more deserving of opprobrium than would otherwise be the case. I will now set out some aspects of this conduct to which I refer.

1. She established a relationship with Dodd to assist her in the harassment of Lobegeiger and Bull and sought to conceal this relationship by misrepresenting his role as her informant.
2. She sought to justify herself and to condemn others by fabricating evidence and by making vicious and untruthful allegations, for example:
 - (a) her scandalous behaviour in harassing and having Bull harassed and in making false malicious and vindictive allegations against Bull who she thought had replaced her in Lobegeiger's affections;
 - (b) her allegations that Lobegeiger was corrupt in an attempt to explain why she made her claim to have been "set-up";
 - (c) at a time when she was in custody and facing a charge of attempting to pervert the course of justice her creation in the Spirax Notebooks of false accounts of her association with Coomer, with Cooper and with Lobegeiger.
3. Her callous attitude to Cooper's conviction and imprisonment when she was the prime cause of his conviction.
4. Her willingness to use for her own ends people such as Coomer and Cooper whom she obviously thought were within her control. In particular she was quite willing to compile accounts which although false were favourable to her and expected such persons to adopt the accounts. The tape recording in her voice outlining events for Cooper to memorise was the most significant example and the basis of the fourth charge against her. The false statements prepared for Coomer's adoption whilst she waited to be tried on the charge of attempting to pervert the course of justice is a further example.
5. Her reference at Dodd's trial to events which had not taken place but had been recorded as facts by her in her Official Police Diary.

6. The flouting of her bail conditions in having contact with Coomer and with Lobegeiger whilst awaiting trial for the first three charges.

I should add that she could consider herself somewhat fortunate that Dodd had produced a fabricated tape recording and had written the letter dated 14 July 1982 exculpating her. Without this material on which to discredit Dodd the verdict on the firearm charge may not have been the same in light of the body of circumstantial evidence to which I have referred and which largely remains untarnished. Furthermore she can consider herself fortunate that she was not tried on count four in respect of which the Crown had, in my opinion, a strong case.

In light of all the circumstances I am unable to see any justification for the payment of an award of compensation by ex gratia payment or otherwise. Indeed I think it regrettable for the Queensland Police Service and her that she did not persist with the intention to resign which her counsel communicated to the Attorney-General in their written submissions of 28 November 1983.

In their written submissions dated 5 April 1984 Carew and Company sought a recommendation from me that the Government pay Saunders's costs. Such an application had been made to me by Fleming QC early in the public hearings. At that time the transcript records that I expressed the view that:

I am satisfied I have no jurisdiction to make a recommendation as such.

I am still of that view. In any event in light of all the matters to which I have referred in this report I am unable to see any justification for making a recommendation for Saunders's costs to be paid by the Government.

CHAPTER 23

CONCLUSIONS

23.1 Addressing the original issues for consideration

When I was originally asked to conduct the investigation as "an independent person" I, in consultation with Hampson QC, settled upon a series of issues which it was considered it was necessary to address in order to enable a full investigation of the allegations made by Saunders. I will now state my conclusion upon each of these issues.

1. **Whether any of the evidence against Lorrelle Anne Saunders in respect of any of the following charges was fabricated and, if so, by whom:**
 - **That on the 7th day of March 1982 at Brisbane in the State of Queensland Lorrelle Anne Saunders stole one .45 calibre colt automatic pistol, one .357 calibre magnum Smith and Wesson revolver, one .22 calibre Smith and Wesson revolver, one .44 calibre magnum Smith and Wesson revolver and one armalite semi-automatic rifle, the property of one Roy Alfred Coomer;**
 - **That on an unknown date between the 31st day of December 1981 and the 30th day of April 1982 at Brisbane in the State of Queensland Lorrelle Anne Saunders attempted to procure one Douglas Mervyn Dodd to conspire with another to unlawfully kill one Allan Lobegeiger; and**
 - **That on an unknown date between the 31st day of December 1981 and the 30th day of April 1982 at Brisbane in the State of Queensland Lorrelle Anne Saunders attempted to procure one Douglas Mervyn Dodd to steal money, the property of Jabgaru Pty Ltd trading as Tucker Furniture.**
 - **That between the 8th day of August 1982 and 10th day of September 1982 at Brisbane and elsewhere in the State of Queensland Lorrelle Anne Saunders conspired**

with one Colin Stanley Cooper and one Roy Alfred Coomer to pervert the course of justice upon the prosecution of the said Lorrelle Anne Saunders on a charge of attempting to procure one Douglas Mervyn Dodd to conspire with another to kill one Allan Lobegeiger.

A tape recording purporting to be a conversation dated 19 March 1982 between Saunders and Dodd was fabricated and used in evidence against Saunders in respect of the first three charges referred to above. The tape recording was fabricated by Dodd, Thompson and Spires. No other evidence was fabricated.

- 2. Whether if evidence referred to in the abovementioned charges was fabricated, did any persons conspire to have the evidence fabricated and, if so, who were the conspirators.**

On all the evidence I am satisfied that no other person other than the three fabricators conspired to have the evidence fabricated by Dodd, Thompson and Spires.

- 3. Whether any Police Officer (whether still a member of the Police Service or not) or other person directly or indirectly, improperly influenced or attempted to improperly influence witnesses to be called by the prosecution in the committal hearings and/or trials of Lorrelle Anne Saunders and, if so, who.**

On all the evidence I am satisfied that no person directly or indirectly, improperly influenced or attempted to improperly influence witnesses to be called by the prosecution.

- 4. Whether there is any evidence that any Police Officer (whether still a member of the Police Service or not) or any other person may have been guilty of any criminal offence, official misconduct (within the meaning of the act), or neglect or violation of duty in relation to the investigation and/or prosecution of the said Lorrelle Anne Saunders in respect to the abovementioned charges and, if so, whether any such person directly or indirectly received, agreed to receive, or was offered any benefit or favour whether financial or otherwise for or on account of that conduct.**

On all the evidence I am satisfied that no person was guilty of any criminal offence, official misconduct, or neglect or violation of duty in relation to the investigation and/or prosecution of Saunders.

5. **Whether the Crown Law Authorities carried out the investigation directed or requested by Mr Justice Shepherdson adequately. If the investigation directed or requested by Mr Justice Shepherdson was not carried out adequately, why was it not carried out adequately.**

The Crown Law Authorities sought the assistance of the Queensland Police Department to carry out the investigation sought by Mr Justice Shepherdson. I am satisfied that the investigation was adequately conducted by Pointing and Menary. It led to the prosecution of Dodd. There was insufficient evidence at that time to charge anyone else.

6. **Whether any Police Officer (whether still a member of the Police Service or not) or any other person improperly influenced or attempted to improperly influence the nature and extent of charges laid against Douglas Mervyn Dodd and/or the subsequent prosecution of Douglas Mervyn Dodd.**

On all the evidence I am satisfied that no person improperly influenced or attempted to improperly influence the nature and extent of charges laid against Dodd and/or the subsequent prosecution of him.

7. **Whether there is any evidence that any Police Officer (whether still a member of the Police Service or not) or any other person may have been guilty of any criminal offence, official misconduct (within the meaning of the Act), or neglect or violation of duty in relation to the investigation and/or prosecution of the said Douglas Mervyn Dodd in respect to the following charges and, if so, whether any such person directly or indirectly received or was offered any benefit whether financial or otherwise for or on account of that conduct and from whom or by whom was such benefit received or offered:**

- **On the 5th day of February 1985 Douglas Mervyn Dodd was convicted of three counts of perjury in relation to evidence which he had given in proceedings against Lorrelle Anne Saunders in respect of the abovementioned charges.**

On all the evidence I am satisfied that no person had been guilty of any criminal offence, official misconduct, or neglect or violation of duty in relation to the investigation and/or prosecution of Dodd in respect of three counts of perjury arising from evidence he gave against Saunders.

8. **Whether public records relating to the charges against Lorrelle Anne Saunders and Douglas Mervyn Dodd have been unlawfully disposed of and, if so, what records were disposed of, who disposed of them, and what reason was there for the disposal of them.**

On all the evidence I am satisfied that there was no unlawful disposition of public records relating to the charges against Saunders and Dodd.

9. **Whether any person knowingly gave false, misleading, or unsubstantiated information to the Queensland Government or its advisers when advice was sought on the question of granting Lorrelle Anne Saunders compensation in relation to the charges and subsequent prosecutions brought against her and, if so, what information was given, by whom was it given, and may such conduct have constituted a criminal offence or official misconduct (within the meaning of the Act).**

On all the evidence I am satisfied that no person knowingly gave false, misleading or unsubstantiated information to the Queensland Government or its advisers when advice was sought on the question of granting Saunders compensation.

10. **Whether the said Lorrelle Anne Saunders should receive compensation by way of an ex gratia payment or otherwise in respect of her being charged, kept in custody and prosecuted or for any other reason and, if so, in what amount.**

I am unable to see any justification for the payment to Saunders of compensation by way of an ex gratia payment or otherwise.

23.2 Further possible action against Spires and Thompson

At this stage I wish to make some observations concerning the role of Thompson and Spires in the making of the fabricated tape.

Although I am satisfied that Thompson and Spires were involved in the

fabrication of the tape recording with Dodd, I am of the opinion that a prosecution of them would not have a reasonable chance of success, even if a prima facie case could be established. Both Spires and Thompson had invoked the protection of the provisions of section 96 (as it now is) of the *Criminal Justice Act 1989* which meant that any evidence they gave in this investigation could not subsequently be used against them in criminal proceedings. Any prosecution of either of them would have to rely upon the evidence of Dodd. In view of Dodd's credit generally and in particular in relation to his previous accounts concerning the tape recording I believe it is quite unlikely that a jury would accept his evidence. Moreover for the reasons expressed in the next section of the report I do not believe it is in the public interest to pursue the matter further.

23.3 Possible perjury charges

Carew and Company made on behalf of Saunders a submission that evidence has shown that Dodd has again perjured himself both in his statutory declaration made for the purposes of the investigation and in evidence before me. This rather suggests that she wishes to be further revenged for the wrong he did her bearing in mind that for his gross lie in relation to the fabrication of the tape recording he has already been punished and sentenced to six years imprisonment. I do not propose to adopt the submission although I was satisfied to the requisite civil standard that Dodd gave untruthful evidence in his statutory declaration. He was not alone in this and I am also satisfied that Saunders (and probably others) gave evidence on oath which was untruthful, but I do not consider that criminal action should be instigated against any of them for a number of reasons which include:

- Recognition of the difficulty in establishing, to the criminal standard, the facts supporting an offence of perjury. In this regard special mention needs to be made of the effluxion of time from the date of the events in relation to which evidence was given and the difficulty in establishing that the witnesses had been consciously lying rather than exhibiting a recollection impaired by the effluxion of time.
- Lack of corroboration which is required by the provisions of the *Criminal Code* before a person can be found guilty of the offence.
- Lack of "materiality" which is a technical element of the offence of perjury pursuant to the provisions of the *Criminal Code*.

More importantly I think it is fair to say that the public interest would best be served by finally bringing the curtain down on the whole episode. Considerable resources over the years have been committed in respect of the matter and to pursue any further action at this time would serve no good purpose. In my opinion it would certainly be in the interests of all parties to get on with their lives and try to put the matter behind them.

**RESOLUTION BY THE CRIMINAL JUSTICE COMMISSION
TO CONDUCT AN INVESTIGATION AND APPOINT
AN INDEPENDENT PERSON**

WHEREAS:

- (a) On the 29th day of April 1982 Lorrelle Anne Saunders was arrested and charged with the following offences:-
- (i) That on the 7th day of March 1982 at Brisbane in the State of Queensland Lorrelle Anne Saunders stole one .45 calibre colt automatic pistol, one .357 calibre magnum Smith and Wesson revolver, one .22 calibre Smith and Wesson revolver, one .44 calibre magnum Smith and Wesson revolver and one armalite semi-automatic rifle, the property of one Roy Alfred Coomer;
 - (ii) That on an unknown date between the 31st day of December 1981 and the 30th day of April 1982 at Brisbane in the State of Queensland Lorrelle Anne Saunders attempted to procure one Douglas Mervyn Dodd to conspire with another to unlawfully kill one Allan Lobegeiger; and
 - (iii) That on an unknown date between the 31st day of December 1981 and the 30th day of April 1982 at Brisbane in the State of Queensland Lorrelle Anne Saunders attempted to procure one Douglas Mervyn Dodd to steal money, the property of Jabgaru Pty Ltd trading as Tucker Furniture.
- (b) On the 30th day of April 1982 Lorrelle Anne Saunders was granted bail in the Magistrates Court at Brisbane in relation to the three offences referred to in paragraph (a) above.
- (c) On the 9th day of September 1982 Lorrelle Anne Saunders was charged with the following offence:-
- That between the 8th day of August 1982 and 10th day of September 1982 at Brisbane and elsewhere in the State of Queensland Lorrelle Anne Saunders conspired with one Colin Stanley Cooper and one Roy Alfred Coomer to pervert the course of justice upon the prosecution of the said Lorrelle Anne Saunders on a charge of attempting to procure one Douglas Mervyn Dodd to conspire with another to kill one Allan Lobegeiger.
- (d) On the 9th day of September 1982 in the Magistrates Court at Brisbane Lorrelle Anne Saunders was refused bail and was remanded in custody.
- (e) Lorrelle Anne Saunders remained in custody from the 9th day of September 1982 until she was granted bail in the Supreme Court by His Honour Mr Justice McPherson on the 4th day of July 1983.

- (f) On the 24th day of May 1983 in the District Court in Brisbane Lorrelle Anne Saunders was acquitted of all charges relating to the stealing of the firearms from Roy Alfred Coomer and the attempt to procure Douglas Mervyn Dodd to steal money from Jabgaru Pty Ltd.
- (g) On the 8th day of August Mr Justice Shepherdson directed a verdict of not guilty in relation to the charge against Lorrelle Anne Saunders of attempting to procure Douglas Mervyn Dodd to kill Allan Lobegeiger.
- (h) Mr Justice Shepherdson directed or requested that the Crown Law Authorities carry out an investigation into the circumstances of the alleged falsification of the tape recording used in evidence against Lorrelle Anne Saunders.
- (i) On the 23rd day of January 1984 in the District Court in Brisbane the Crown entered a Nolle Prosequi on the outstanding charge against Lorrelle Anne Saunders relating to having conspired with Colin Stanley Cooper and Roy Alfred Coomer to pervert the court of justice.
- (j) On the 5th day of February 1985 Douglas Mervyn Dodd was convicted of three counts of perjury in relation to evidence which he had given in proceedings against Lorrelle Anne Saunders in respect of charges referred to in paragraphs (a) and (c) hereof.

AND WHEREAS:

1. Lorrelle Anne Saunders made allegations concerning the circumstances surrounding her being charged in 1982, and related matters, to the Commission of Inquiry chaired by G E Fitzgerald QC (as he then was).
2. By letter dated 2 November 1989 the Criminal Justice Commission ["the Commission"] advised Lorrelle Anne Saunders that it did not propose to undertake any investigation of the case because of the resources at its disposal and the more pressing demands upon them at the time. It also advised that it had no confidence in the ability of any inquiry to unravel the complicated circumstances of the story after such a substantial effluxion of time.
3. On 9 October 1990 the then Minister for Police and Emergency Services, the Honourable Terry Mackenroth wrote to the Commission stating that he believed a full inquiry was warranted into all matters that had been raised by Lorrelle Anne Saunders and her solicitors.
4. A letter dated 18 October 1990 was received by the Commission from Carew and Company, Solicitors, in which representations were made on behalf of Lorrelle Anne Saunders that she objected to any inquiry being conducted by the Criminal Justice Commission listing several objections to the Commission investigating the matter and stating that she did not have "complete confidence in a CJC inquiry."

5. On 1 November 1990 the Commission took advice from Mr C E K Hampson QC concerning the matter and as a result of that advice, suggestions were sought for draft terms of reference from Carew and Company for the purposes of the Commission carrying out a public hearing.
6. After lengthy correspondence between Carew and Company and the Commission concerning the settling of terms of reference and the resolution of other prerequisites sought by Lorrelle Anne Saunders, the Commission removed the matter from the Commission's public hearing list as in its view to accept the prerequisites would have resulted in a public inquiry which would not have had the confidence of the Parliament or the community.
7. In February 1991 Carew and Company approached the Parliamentary Criminal Justice Committee with a view to that Committee reviewing the Commission's decision in the matter. After consideration by that Committee the Commission was advised by letter dated 12 December 1991 that the Committee had resolved to recommend to the Commission that it (the Commission) investigate, but in a more limited fashion, the allegations of Lorrelle Anne Saunders by making enquiries only into current serving police officers who were involved in the investigation of allegations against her which led to her subsequently being charged. The Committee added that it was of the view that the Commission should treat the matter as a normal complaint against officers of the Queensland Police Service and further that the Commission should investigate the matters as it saw fit.

AND WHEREAS, as appears from the annexure titled "Investigation into the allegations of Lorrelle Anne Saunders" an independent qualified person, The Honourable Ronald Henry Matthews QC considers, after consultation with C E K Hampson QC, that to fully investigate the allegations of Lorrelle Anne Saunders concerning the circumstances surrounding her being charged with criminal offences in 1982, and related matters, it is necessary to address the following issues:

1. Whether any of the evidence against Lorrelle Anne Saunders in respect of any of the charges referred to in paragraphs (a) and (c) hereof was fabricated and, if so, by whom.
2. Whether if evidence referred to in paragraphs (a) and (c) hereof was fabricated, did any persons conspire to have the evidence fabricated and, if so, who were the conspirators.
3. Whether any Police Officer (whether still a member of the Police Service or not) or other person directly or indirectly, improperly influenced or attempted to improperly influence witnesses to be called by the prosecution in the committal hearings and/or trials of Lorrelle Anne Saunders.
4. Whether there is any evidence that any Police Officer (whether still a member of the Police Service or not) or any other person may have been guilty of any criminal offence, official misconduct (within the meaning of the Criminal Justice

- Act 1989 ["the Act"]), or neglect or violation of duty in relation to the investigation and/or prosecution of the said Lorrelle Anne Saunders in respect to the charges referred to in paragraphs (a) and (c) hereof and, if so, whether any such person directly or indirectly received, agreed to receive, or was offered any benefit or favour whether financial or otherwise for or on account of that conduct.
5. Whether the Crown Law Authorities carried out the investigation directed or requested by Mr Justice Shepherdson adequately. If the investigation directed or requested by Mr Justice Shepherdson was not carried out adequately, why was it not carried out adequately.
 6. Whether any Police Officer (whether still a member of the Police Service or not) or any other person improperly influenced or attempted to improperly influence the nature and extent of charges laid against Douglas Mervyn Dodd and/or the subsequent prosecution of Douglas Mervyn Dodd.
 7. Whether there is any evidence that any Police Officer (whether still a member of the Police Service or not) or any other person may have been guilty of any criminal offence, official misconduct (within the meaning of the Act), or neglect or violation of duty in relation to the investigation and/or prosecution of the said Douglas Mervyn Dodd in respect to the charges referred to in paragraph (j) hereof and, if so, whether any such person directly or indirectly received or was offered any benefit whether financial or otherwise for or on account of that conduct and from whom or by whom was such benefit received or offered.
 8. Whether public records relating to the charges against Lorrelle Anne Saunders and Douglas Mervyn Dodd have been unlawfully disposed of and, if so, what records were disposed of, who disposed of them, and what reason was there for the disposal of them.
 9. Whether any person knowingly gave false, misleading, or unsubstantiated information to the Queensland Government or its advisors when advice was sought on the question of granting Lorrelle Anne Saunders compensation in relation to the charges and subsequent prosecutions brought against her and, if so, what information was given, by whom was it given, and may such conduct have constituted a criminal offence or official misconduct (within the meaning of the Act).
 10. Whether the said Lorrelle Anne Saunders should receive compensation by way of an ex gratia payment or otherwise in respect of her being charged, kept in custody and prosecuted or for any other reason and, if so, in what amount.

AND WHEREAS the Commission is satisfied it has jurisdiction to investigate the allegations pursuant to the provisions of section 2.20(2)(d) of the Act.

THE COMMISSION HAS RESOLVED to conduct an investigation into the issues considered by The Honourable Ronald Henry Matthews QC, after consultation with C E K Hampson QC, to be necessary to address in order to fully investigate the allegations of


Lorrelle Anne Saunders concerning the circumstances surrounding her being charged with criminal offences in 1982, and related matters.

AND FURTHER THE COMMISSION HAS RESOLVED to engage the services of an independent qualified person pursuant to section 2.55 of the Act, that person being The Honourable Ronald Henry Matthews QC, to conduct the investigation, hold public or private hearings, as may be meet, make recommendations and report thereon to enable the Commission, the Commissioners and the officers of the Commission to discharge the functions and responsibilities imposed by the Criminal Justice Act 1989.

AND FURTHER THE COMMISSION HAS RESOLVED to engage the services of C E K Hampson QC to assist The Honourable Ronald Henry Matthews QC.

AND FURTHER THE COMMISSION HAS RESOLVED that, only in the event that The Honourable Ronald Henry Matthews QC considers it is necessary to hold public or private hearings, he be then employed pursuant to Section 2.53(1) of the Act for the sole purpose of investigating the said matters, making recommendations and reporting thereon to enable the Commission, the Commissioners and the officers of the Commission to discharge the functions and responsibilities imposed by the Criminal Justice Act 1989.

DATED at BRISBANE this 15th day of DECEMBER 1992.




Professor J Westfn
Commissioner



Dr J Irwin A.M.
Commissioner



Mr R S O'Regan QC
Chairman



Mr L Wyvill QC
Commissioner



Mr J Kelly
Commissioner

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<u>Date of Issue</u>	<u>Title</u>	<u>Availability</u>	<u>Price</u>
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<u>Date of Issue</u>	<u>Title</u>	<u>Availability</u>	<u>Price</u>
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