



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 know, 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 Wynnun, 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 Spires 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 Spires'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, Spires 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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Criminal Justice Commission**

<u>Date of Issue</u>	<u>Title</u>	<u>Availability</u>	<u>Price</u>
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May 1990	Report on Gaming Machine Concerns and Regulations	In stock as at time of printing of this report	\$12.40
Sept 1990	Criminal Justice Commission Queensland Annual Report 1989-1990	Out of Print	-
Nov 1990	SP Bookmaking and Other Aspects of Criminal Activity in the Racing Industry - an Issues Paper	Out of Print	-
Feb 1991	Directory of Researchers of Crime and Criminal Justice - <i>Prepared in conjunction with the Australian Institute of Criminology</i>	In stock as at time of printing of this report	No charge
March 1991	Review of Prostitution - Related Laws in Queensland - an Information and Issues Paper	Out of Print	-
March 1991	The Jury System in Criminal Trials in Queensland - an Issues Paper	Out of Print	-
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May 1991	Report on the Investigation into the Complaints of James Gerrard Soorley against the Brisbane City Council	Out of Print	-
May 1991	Attitudes Toward Queensland Police Service - A Report (Survey by REARK)	Out of Print	-
June 1991	The Police and the Community, Conference Proceedings - <i>Prepared in conjunction with the Australian Institute of Criminology following the conference held 23-25 October, 1990 in Brisbane</i>	Out of Print	-

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<u>Date of Issue</u>	<u>Title</u>	<u>Availability</u>	<u>Price</u>
July 1991	Report on a Public Inquiry into Certain Allegations against Employees of the Queensland Prison Service and its Successor, the Queensland Corrective Services Commission	In stock as at time of printing of this report	\$12.00
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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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