

Special Inquiry

into

St Andrew's Hostel, Katanning  
(including St Christopher's Hostel, Northam)

Held at: Courtroom 4, Level 18,  
111 St Georges Terrace, Perth

Friday, 22 June 2012 at 10.06am  
(Day 37)

Before: The Hon Peter Blaxell

1 HIS HONOUR: Yes, Mr Urquhart.

2  
3 MR URQUHART: I thank you very much, sir. We have now  
4 almost reached the stage of closing submissions with  
5 respect to the public hearings of this Special Inquiry. I  
6 say, "almost" because there are three further witness  
7 statements I am now going to read into evidence. All have  
8 been obtained in the last 48 hours.

9  
10 The first statement is from a witness who is yet  
11 another ex-student at Northam hostel, who has stated that  
12 he was subjected to Roy Wenlock's wrestling sessions. He  
13 has provided his full name to the Inquiry, but there is a  
14 request that he not be publicly identified. Of course the  
15 Inquiry will honour that request and he will simply be  
16 referred to as "A". "A" states:

17  
18 I am 55 years old and reside in the Perth  
19 metropolitan area. I am self-employed.

20  
21 I attended Northam High School and boarded  
22 at St Christopher's Hostel for two years in  
23 1973 and 1974. These were the last two  
24 years of my schooling (Years 4 and 5).

25  
26 I was aged 16 and 17 during my time at  
27 St Christopher's Hostel.

28  
29 My family lived in Pingelly however  
30 Narrogin hostel had no vacancies hence my  
31 placement at St Christopher's Hostel.

32  
33 Roy Wenlock was the warden at the hostel.  
34 His nickname was Snoz.

35  
36 I will describe the hostel as a "very  
37 brutal place" and that the abuse of  
38 boarders at the hands of Wenlock and other  
39 hostel staff "very real". Wenlock's  
40 wrestling sessions as humiliating and  
41 awful. During my time at the hostel,  
42 Wenlock invited only one boarder at a time  
43 to his flat of an evening. There were  
44 never group wrestles.

45  
46  
47 Wenlock supplied the chosen boarder with

1 alcohol, either port or red wine then after  
2 about half an hour (once the alcohol had  
3 time to take effect) would start the  
4 "wrestling". This was a long, slow,  
5 grooming process.

6  
7 I don't recall being asked to remove my  
8 clothing but recall Wenlock wearing only a  
9 pair of tracksuit pants and no underwear -  
10 you could see and feel his erection through  
11 the tracksuit pants.

12  
13 Wenlock instructed me to straddle him and  
14 tuck my legs beneath Wenlock's bottom.  
15 From this position, Wenlock thrust his  
16 groin into me and instructed me to squeeze  
17 his armpits. I could feel Wenlock's  
18 erection pressing into my anal area through  
19 the duration of the "wrestling".

20  
21 The wrestling stopped when I got up and  
22 left Wenlock's flat. I was a very naive  
23 farm kid who didn't feel I had any option  
24 but to go along with Wenlock's orders. I  
25 was subjected to numerous (six or seven) of  
26 these "wrestling" sessions with Wenlock.

27  
28 Year 5 students were targeted less by  
29 Wenlock and I experienced only a few  
30 "wrestling" sessions during my final year  
31 at the hostel. Wenlock generally targeted  
32 the younger boarders.

33  
34 Wenlock watched all the boarders shower  
35 each morning this is how Wenlock chose  
36 his prey. (The more physically developed a  
37 boarder was, the greater their chance of  
38 being selected by Wenlock). Birthdays also  
39 saw an invitation to his unit.

40  
41 I will describe the House Masters Prefects  
42 as physically brutal. Both inflicted  
43 extreme physical violence on boarders with  
44 the use of the cane.  
45 I do not recall the names of the House  
46 Masters or Prefects during my two years at  
47 the hostel but their faces are etched in my

1 mind.

2

3 I would "cry and bawl" on breaks from the  
4 hostel but never told my parents about the  
5 physical and sexual abuse I endured at the  
6 hostel.

7

8 I am sad that I didn't report Wenlock's  
9 behaviour to police and the education  
10 department as I became an adult so as to  
11 prevent further abuse of other young men  
12 who came under Wenlock's care and  
13 influence.

14

15 This statement is true to the best of my  
16 knowledge and belief. I have made this  
17 statement knowing that, if it is tendered  
18 in evidence I will be guilty of a crime if  
19 I have wilfully included in the statement  
20 anything that I know to be false or that I  
21 do not believe is true.

22

23 It then has been signed by "A" and witnessed. That was on  
24 19 June of this year.

25

26 The second statement I propose reading this morning,  
27 sir, is from Hellen - that is spelt with a double L -  
28 Chamberlain. Mrs Chamberlain is the mother of Deborah  
29 Wallwork, who gave evidence before the Inquiry on Monday of  
30 this week.

31

32 Ms Wallwork's evidence detailed her experiences as a  
33 student at the Katanning hostel in 1985 and 1986, and in  
34 particular she recounted an occasion in 1986 when she was  
35 summonsed by Dennis McKenna to meet with a Len Wilkinson,  
36 who she recalled was a hostel board member, and a woman,  
37 whose name she cannot now recall. During that meeting she  
38 told Mr Wilkinson and the lady, with Dennis McKenna  
39 present, how she'd witnessed Dennis McKenna behaving  
40 inappropriately towards boys.

41

42 So Helen Joyce Chamberlain states:

43

44 I am 63 years of age and currently reside  
45 in regional Western Australia.

46

47 I am the natural mother of Deborah

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Wallwork.

I am aware that Debbie gave evidence at the St Andrews Hostel Inquiry on Monday 18th June 2012.

I wish to make the following comments about Debbie's time at St Andrew's hostel during 1985 and 1986 and the treatment she received from Dennis McKenna.

I would describe Debbie as being a person who is very strong willed and she was like that as a young girl too.

As parents, we always very strongly supported our children in their endeavours and that included Debbie whilst she was at the hostel.

I have vivid recollections of Debbie coming home from the hostel and telling myself and husband about what she was seeing Dennis do to the boys.

I cannot remember Debbie ever telling us specifically that Dennis was molesting the boys it was more about his inappropriate touching and petting of the boys.

I remember having to go up to the hostel a number of times to speak with Dennis because he had tried to discipline Debbie.

For my husband whom I have since divorced and me we never ever thought of pulling Debbie out of the hostel regardless of the amount of times Dennis was having a go at her.

We have always taught our children that when you have a problem in life you stand and face it not run away and I don't believe Debbie would have wanted to leave the hostel just because Dennis was treating her badly.

1 The way Dennis used to behave with the boys  
2 really affected Debbie because she felt  
3 that it was just "so wrong" and no-one  
4 would do anything about it.

5  
6 Debbie has suffered serious health issues  
7 whilst she was at the hostel and I firmly  
8 believe it was mostly all linked to how  
9 Dennis was treating her and I even told him  
10 that I blamed him for her poor health.

11  
12 I remember that the situation got so bad  
13 for Debbie and her views about Dennis's  
14 behaviour that I was called up to the  
15 hostel where I met the staff, they wanted  
16 to talk to me about how they thought there  
17 was something more going on as to "why"  
18 Debbie was so antagonistic towards Dennis.

19  
20 At that meeting, I think there may have  
21 been some board members but I cannot recall  
22 who they were, however I do remember that  
23 Dennis had his brother there, I think it  
24 was probably Neil McKenna.

25  
26 I remember that sometime in 1986, probably  
27 just before Debbie finished her schooling,  
28 she told me about a meeting which she had  
29 been called to.

30  
31 Debbie told me that present at that meeting  
32 was Dennis, Len Wilkinson and a lady, they  
33 all asked her to apologise to Dennis for  
34 the way she was treating him or they would  
35 expel her.

36  
37 I used to always tell Debbie that if Dennis  
38 ever threatened her with expulsion that she  
39 was to tell him that a member of our family  
40 was the Minister of Education and that I  
41 would have her personally intervene.  
42 Dennis never did expel Debbie.

43  
44 To this day I can still see just how  
45 emotionally and deeply affected Debbie is  
46 by her experiences with Dennis McKenna.

47

1 This statement is true to the best of my  
2 knowledge and belief. I have made this  
3 statement knowing that, if it is tendered  
4 in evidence, I will be guilty of a crime if  
5 I have wilfully included in the statement  
6 anything I know to be false or that I do  
7 not believe is true.

8  
9 It is then being signed by a Mrs Chamberlain. It has been  
10 witnessed on 20 June. There is no year but  
11 obviously, sir, that is 2012.

12  
13 The third and final statement that I am reading out  
14 this morning is from Barry Walsh. This relates to the  
15 evidence of Alan Parks regarding a telephone call he says  
16 he received from a Barry Walsh, who he described was the  
17 chairman of the ICPA, which is the Isolated Child's Parents  
18 Association.

19  
20 Barry Walsh states:

21  
22 I am 69 years old and retired. I live in  
23 Margaret River with my wife.

24  
25 I grew up in Northam where my late father  
26 was the local doctor. I was familiar with  
27 Roy Wenlock who was the warden of the  
28 hostel there and remember hearing that he  
29 left the hostel after some troubles. I did  
30 not hear the detail of what those troubles  
31 were.

32  
33 I have heard of Dennis McKenna who was the  
34 warden of St Andrew's Hostel in Katanning.  
35 Having read the reports in relation to the  
36 Inquiry I was struck by the similarities  
37 between both men. They were both thought  
38 of very highly in the local community and  
39 it seemed that people were unaware of what  
40 was really going on.

41  
42 I previously lived in Lake Grace and was a  
43 farmer there.

44  
45 I became involved in the Isolated Child's  
46 Parents Association (ICPA) in around 1980.  
47 This was partially due to my wife's

1 mother's involvement with the association.

2

3 My wife and I lived in a rural area and our  
4 children were only able to attend the local  
5 district high school. This meant that they  
6 had to go elsewhere to complete their  
7 education and they attended Aquinas  
8 College.

9

10 I recall that some time in around 1982 or  
11 1983 that Dennis McKenna, the former warden  
12 of St Andrew's hostel in Katanning, came to  
13 the Lake Districts Branch of ICPA at  
14 Newdegate to address the members there.

15

16 I do not recall if we invited him or he  
17 invited himself. I think that he came to  
18 try and boost numbers for the hostel which  
19 at the time was not running at full  
20 capacity. I recall that I found him to be  
21 a bit smooth in the way he talked to  
22 people.

23

24 The children from the Lake Grace area  
25 mainly went to Narrogin hostel and the  
26 children from Newdegate went to the hostel  
27 in Albany. Therefore children whose  
28 parents resided in these areas would be  
29 unlikely to attend the St Andrews hostel.

30

31 This is the only time that I recall ever  
32 meeting or having contact with Dennis  
33 McKenna.

34

35 I was elected to take the position of the  
36 Vice President the Federal Executive of the  
37 ICPA in 1985 and had that role until 1987.

38

39 My role was at a federal level so it did  
40 not involve me having contact with the  
41 hostels or the staff that worked there. I  
42 never had occasion to visit the St Andrews  
43 Hostel in Katanning. It would have been  
44 the role of the State Executive of the ICPA  
45 to ensure that the hostels were providing a  
46 reasonable level of care.

47

1 I would have had occasion to travel to  
2 Katanning when I was the Shire President of  
3 Lake Grace but I never visited the hostel  
4 there. I was on the Shire from 1971 until  
5 1983 and had the role of Shire President  
6 from 1977 until 1983.

7  
8 I do recall hearing about a family from  
9 Lake Grace who removed their son from St  
10 Andrews Hostel as he was not happy there  
11 and they moved him to Hale School. I did  
12 not hear specific details of why he was not  
13 happy there.

14  
15 When I was contacted by an investigator  
16 from the St Andrew's Hostel Inquiry  
17 recently the name Alan Parks was mentioned  
18 to me. Initially the name was familiar to  
19 me. Having thought about this further I  
20 now realise that I met Mr Parks through  
21 Landcare meetings.

22  
23 I have discussed this with some other  
24 people that were involved with Landcare. I  
25 am now aware that Alan Parks lived in the  
26 Pingrup area. I now know that I met  
27 Mr Parks through Landcare meetings.

28  
29 I set up a Landcare group in around  
30 1989-1990 and Alan Parks' farm was in the  
31 catchment area for that group. I resigned  
32 from the group in 1994 when I was diagnosed  
33 with cancer. I sold my farm and moved to  
34 Margaret River.

35  
36 I do not recall every --

37  
38 It says "every" but it should read "ever", I think --

39  
40 I do not recall ever having a conversation  
41 or disagreement with him in relation to  
42 matters relating to the St Andrew's Hostel  
43 during the time we were on the Landcare  
44 group together. I was not aware that he  
45 ever had any involvement with the  
46 St Andrew's Hostel.

47

1 I have read the evidence given by Alan  
2 Parks to the Inquiry. I believe he must  
3 have been mistaken as I do not recall any  
4 such conversation with him. I do not  
5 believe I would have known him until our  
6 involvement in the Landcare group in around  
7 1989/1990.

8  
9 I do not know of any parents that had twin  
10 boys that attended the St Andrew's hostel  
11 as described by Mr Parks.

12  
13 In his evidence he referred to me as the  
14 "Chairman of the ICPA". This title is  
15 incorrect, there is no such role, only that  
16 of President or Vice-President.

17  
18 If Alan Parks or any other person had ever  
19 raised concerns with me about the St  
20 Andrew's hostel I believe I would have  
21 reported these straight to Colin Philpott.  
22 I knew Colin Philpott from Wesfarmers and  
23 had also met him at state conferences of  
24 the ICPA from time to time.

25  
26 This statement is true to the best of my  
27 knowledge and belief. I have made this  
28 statement knowing that, if it is tendered  
29 in evidence, I will be guilty of a crime if  
30 I have wilfully included in the statement  
31 anything that I know to be false or that I  
32 do not believe to be true.

33  
34 Being signed by Mr Walsh and witnessed at Margaret River on  
35 21 June 2012, which was of course this morning. That  
36 statement has been faxed to the Inquiry.

37  
38 Turning now to the stage of closing addresses of this  
39 Inquiry. I do not propose this morning to provide a  
40 general closing address regarding the evidence that the  
41 Inquiry has heard over 35 days since it began its public  
42 hearings on 20 February of this year. I shall do that next  
43 Friday, 29 June, when I anticipate that the closing  
44 submissions phase of the Inquiry will take most of that  
45 day, if not all of that day. The hearing today will be  
46 relatively short by comparison.

1 I am in a position today to state to the Inquiry those  
2 witnesses who I had advised in writing two or more weeks  
3 ago whether I proposed making or not making adverse finding  
4 recommendations against them to your Honour.  
5

6 The total number of persons who received my written  
7 advice in that timeframe was 21. I must emphasise that  
8 that is not the complete list. Other persons have been  
9 advised since 8 June, and others are in the process of  
10 being advised.  
11

12 HIS HONOUR: Do you have a total number of the people  
13 subject to possible adverse findings or not?  
14

15 MR URQUHART: My letters as to whether there will or not  
16 be adverse finding recommendations would number about 40 -  
17 about 20 more. Sorry, sir, I do not have the precise  
18 number.  
19

20 I should also state, now that your Honour has raised  
21 that, and it may well be obvious, but I do not propose  
22 making any recommendations with regard to persons who are  
23 deceased and who may well have, had they been alive, been  
24 the subject matter of adverse finding recommendations.  
25

26 HIS HONOUR: Nevertheless, I might have to make findings  
27 with respect to such people.  
28

29 MR URQUHART: You may well do, sir, yes. As we have heard  
30 throughout the Inquiry, a number of people have died.  
31

32 HIS HONOUR: It is worth putting on record this point too:  
33 In making your recommendations you have operated totally  
34 independently of me. There has been no consultation  
35 between us as to what your recommendation should be.  
36

37 MR URQUHART: That is correct, sir, yes.  
38

39 Those witnesses who have received advice at or prior  
40 to 8 June that I propose making adverse finding  
41 recommendations against them were invited to respond in  
42 writing by Friday 15 June.  
43

44 HIS HONOUR: That is last Friday?  
45

46 MR URQUHART: That is last Friday, sir, yes. They were  
47 also invited to make an oral submission supporting their

1 written request at the hearing today, either themselves or  
2 have a legal representative make a submission on their  
3 behalf. For those persons who have had legal  
4 representation at the public hearings, they too were also  
5 provided with these letters. Parties were also advised  
6 that a written address could be provided in advance, which  
7 would be read out to the Inquiry today.  
8

9 Persons who had received any proposed adverse finding  
10 recommendations from me at, on 8 June or before, were also  
11 advised that following today's hearing your Honour, the  
12 Special Inquirer, will consider the evidence and prepare  
13 your report. They were told that your Honour could accept  
14 or reject my recommended findings and that your Honour  
15 could also independently make your own findings.  
16

17 Finally, sir, notification was also given that if your  
18 Honour proposed to make an adverse finding against an  
19 individual which was inconsistent with my recommendations,  
20 then that person would be advised of the proposed finding  
21 and the reasons for it and be given the opportunity to make  
22 a written submission in response prior to the report being  
23 finalised.  
24

25 I will now identify those persons who received on or  
26 about 8 June my proposed recommendations to your Honour  
27 regarding adverse findings. Having considered responses to  
28 those proposed recommendations, I am now in a position to  
29 state what recommendations I will make to your Honour  
30 regarding adverse findings.  
31

32 The first person I propose dealing with is Leslie  
33 Oliver Keith Stephens. I recommend three adverse findings  
34 against Mr Stephens. What I propose to do, sir, is read  
35 out what each of those recommended findings are and then  
36 give an overview of the evidence in support of that  
37 particular recommendation.  
38

39 HIS HONOUR: Are you going to provide me with anything in  
40 writing on this or not?  
41

42 MR URQUHART: Yes, I can do that as well, sir.  
43

44 HIS HONOUR: All right. Very good.  
45

46 MR URQUHART: The first recommendation is this: In May  
47 1977, when he was the chairman of the Katanning hostel

1 board his son Kerryyn Stephens, who was then a student at  
2 the hostel, told him he was being sexually abused by Dennis  
3 McKenna. Mr Stephens did not refer his son's complaint to  
4 the appropriate authorities. In so doing he failed in his  
5 role as the chairman of the board to ensure the safety and  
6 well-being of those children under Dennis McKenna's care.  
7

8 With respect to the evidence in support of that  
9 recommendation I say as follows: An examination of the  
10 relevant records by the Inquiry shows that Mr Stephens  
11 became a member of the board in September of 1974. Those  
12 records also show that he remained a member of the board  
13 until August 1981. It is also apparent during that time  
14 that Mr Stephens became acting chairman of the board and  
15 then chairman from 1976 to 1978.  
16

17 His son, Kerryyn Stephens, gave evidence to the Inquiry  
18 on the first day, 20 February, of this year. He said that  
19 Dennis McKenna began sexually interfering with him around  
20 April 1976, when he was in year 11. That sexual  
21 interference continued until he left in year 12 in 1977.  
22

23 He recalled that in the May school holidays of 1977 he  
24 returned home to work on the family farm. Towards the end  
25 of those school holidays Mr Stephens asked Kerryyn what was  
26 wrong and why he was so useless. And Kerryyn responded,  
27 "Wouldn't you be useless if Dennis McKenna was fucking you  
28 up the arse all the time". Mr Stephens replied that he'd  
29 have to talk to Dennis McKenna about it.  
30

31 At the beginning of the next term of school Kerryyn  
32 recalls his father taking him and his younger brother  
33 Darryl back to the hostel. He stated that his father went  
34 into Dennis McKenna's office and that when he came out he  
35 told Kerryyn, "Stop telling lies and get on with it. You've  
36 got to be at school".  
37

38 Now, Mr Stephens gave evidence at a private hearing on  
39 the 9th of May 2012. When the above account by his son was  
40 read out to him Mr Stephens emphatically denied hearing or  
41 remembering anything like that. He added that if he had  
42 been told that by his son he would have gone straight to  
43 the cops. He further denied that he would have spoken to  
44 Dennis McKenna first.  
45

46 Now, in my submission, sir, it is open for your Honour  
47 to accept the evidence of Kerryyn and find that Mr Stephens

1 ought to have reported the matter to the police, not just  
2 in his capacity as a parent but as the chairman of the  
3 hostel board. An inescapable inference can be drawn from  
4 the account given by his son that Mr Stephens simply spoke  
5 to Dennis McKenna about it. Mr Stephens's statement to his  
6 son that he was to "stop telling lies" confirms that had  
7 Mr Stephens raised this matter with Dennis McKenna he  
8 simply accepted Dennis McKenna's word when he said that he  
9 had not sexually abused Kerryn.

10  
11 My second recommendation regarding an adverse finding  
12 against Mr Stephens is as follows: In 1976 or 1977, when  
13 chairman of the board, he witnessed Kerryn, who at the time  
14 was 16 or 17 years old, in bed with Dennis McKenna in  
15 Dennis McKenna's unit at the hostel. Mr Stephens failed to  
16 notify the relevant authorities of what he had seen, and in  
17 so doing failed in his role as the chairman of the board to  
18 ensure the safety and well-being of those students under  
19 Dennis McKenna's care.

20  
21 HIS HONOUR: Can I just ask you, is that finding preferred  
22 in the alternative or in addition to the first one?  
23

24 MR URQUHART: That would be in addition, sir.  
25

26 HIS HONOUR: According to Keith Stephens, Kerryn was well  
27 aware of being seen in bed with McKenna.  
28

29 MR URQUHART: Yes.  
30

31 HIS HONOUR: And Kerryn denies that happened.  
32

33 MR URQUHART: He has. I will be going through that in my  
34 summary now, sir. Yes, although that was not Kerryn's  
35 evidence at the hearing, he has since confirmed that with  
36 the Inquiry. So, yes, sir, with respect to this finding it  
37 essentially relies on the evidence given by Keith Stephens.  
38

39 HIS HONOUR: You say that the first finding was an event  
40 in May '77 --  
41

42 MR URQUHART: No.  
43

44 HIS HONOUR: -- and it --  
45

46 MR URQUHART: Yes, sir.  
47

1 HIS HONOUR: -- wouldn't make - my understanding of Keith  
2 Stephens' evidence is that seeing his son in bed with  
3 McKenna, how it happened at some earlier time, there was  
4 no, as I understand it --  
5  
6 MR URQUHART: It was either 1976 or --  
7  
8 HIS HONOUR: Yes.  
9  
10 MR URQUHART: -- '1977.  
11  
12 HIS HONOUR: Most probably '76, I think.  
13  
14 MR URQUHART: Yes.  
15  
16 HIS HONOUR: And, therefore, if he had, and that had  
17 occurred, it wouldn't have made much sense for them to have  
18 that conversation in May '77.  
19  
20 MR URQUHART: Well, it may or may not have. Certainly  
21 it's a matter that your Honour might have to consider.  
22  
23 HIS HONOUR: Unless for some reason Kerryn had forgotten  
24 about it.  
25  
26 MR URQUHART: Or, yes; or if, in fact, Kerryn hadn't seen  
27 his father.  
28  
29 HIS HONOUR: That's another possible explanation, and it  
30 could be that Keith Stephens is lying about the  
31 circumstances in which he saw his son in bed.  
32  
33 MR URQUHART: Well, yes. Although it would be unusual for  
34 him to make up something like that.  
35  
36 HIS HONOUR: I mean, it may be he did see his son in bed,  
37 but he was asleep, or something like that. That's what  
38 I'm --  
39  
40 MR URQUHART: Yes.  
41  
42 HIS HONOUR: It's a possible finding.  
43  
44 MR URQUHART: There is certainly an inconsistency --  
45  
46 HIS HONOUR: Yes.  
47

1 MR URQUHART: -- in the recollection of the father and his  
2 son. There's no doubt about that.  
3  
4 HIS HONOUR: I interrupted you.  
5  
6 MR URQUHART: Yes, sir.  
7  
8 HIS HONOUR: Yes.  
9  
10 MR URQUHART: I was going to indicate the evidence that  
11 would support that recommendation. Yes, and, as I said  
12 just a moment ago to your Honour though, this incident was  
13 not raised during the course of his evidence. Kerry  
14 Stephens has told the Inquiry that he was never in Dennis  
15 McKenna's bed with Dennis McKenna when his father walked  
16 into the room. Nevertheless, Mr Keith Stephens gave  
17 evidence before the Inquiry of that incident.  
18  
19 HIS HONOUR: And I'm inclined to think that must have  
20 happened because no man would admit to doing - having that  
21 happen unless it had happened, I would have thought.  
22  
23 MR URQUHART: Yes, precisely.  
24  
25 HIS HONOUR: And we wouldn't have known about it at all  
26 unless he had come forward to Peter Watson, the Albany  
27 Member of Parliament.  
28  
29 MR URQUHART: That's correct, sir.  
30  
31 HIS HONOUR: Yes.  
32  
33 MR URQUHART: And we heard evidence from Mr Watson  
34 regarding that. Though his evidence wasn't always  
35 consistent, it seems that Mr Stephens didn't advise anybody  
36 in authority about what he had seen because: one, Dennis  
37 McKenna had threatened him; and, two, his late wife told  
38 him at the time not to worry about it. Mr Stephens denied  
39 the suggestion that he did not raise this matter with  
40 anyone apart from his wife, because he believed that it  
41 could damage his aspirations to become a politician if what  
42 he saw went public. And that question was asked of him,  
43 because it was Mr Steven's evidence that he did have  
44 political aspirations at this time.  
45  
46 Mr Stephens had difficulty explaining exactly what  
47 type of threats Dennis McKenna could make to him that

1 would, to use his own words, "destroy his life". Whether  
2 or not Dennis McKenna made any threats to Mr Stephens was  
3 incumbent, in my submission, upon him to, the very least,  
4 raise the matter with the Board. His failing to do so  
5 constituted a grave breach of his responsibility as a Board  
6 member to ensure children at the hostel were not subjected  
7 to any improper conduct by hostel staff.  
8

9 And I would also add, sir, that once Mr Stephens  
10 became aware of both this incident and the one described by  
11 his son during the May school holidays of 1977, there can  
12 be no basis, in my submission, for Mr Stephens doing  
13 anything other than reporting both matters to the police.  
14

15 The third recommended adverse finding is this, sir:  
16 that in 1980 Mr Stephens failed to undertake a proper  
17 Inquiry as a member of the Board when advised in that  
18 capacity by Noel Parkin that he thought - that is Noel  
19 Parkin - Dennis McKenna was interfering with boys.  
20

21 Now, the evidence in support of that recommendation,  
22 in my submission, is as follows: by way of background, Noel  
23 Parkin was a parent who had children attending the hostel.  
24 He gave evidence before the Inquiry on 28 February of this  
25 year. He testified that in 1980 he had formed the view  
26 that Dennis McKenna was sexually interfering with boys at  
27 the hostel.  
28

29 He gave evidence that in that year he made oral  
30 complaints to the Country High School Hostels Authority,  
31 the police and members of the Board. He asserted that he  
32 rang Mr Stephens and told him that he thought Dennis  
33 McKenna was interfering with boys. He said that Mr  
34 Stephens said that he was telling lies and hung up.  
35

36 When questioned about Mr Parkin's evidence, Mr  
37 Stephens stated, at 2874:  
38

39 Well, if that's what he said. I don't  
40 recall it, but if that's what he said, he  
41 said it, and I don't know. I don't recall  
42 it, and once again, here, you know, I am on  
43 oath here. I don't have to tell lies, I  
44 can't tell lies. I said to you I don't  
45 recall, and I don't recall that. That's a  
46 vicious statement to make about me.  
47

1 He also said that if such a complaint was made to him, he  
2 would have expected to be able to recall it now.

3  
4 When initially asked at his testimony what he would  
5 have done if Mr Parkin had said that to him, he responded  
6 that he didn't know what he would have done, though he  
7 would have done something, but he didn't know what it would  
8 be. Now, when I pressed him on this point with a  
9 suggestion that he would have wanted more information from  
10 Mr Parkin, Mr Stephens said at transcript 2875 and 2876:

11  
12 Look, that Bible is looking me in the eye,  
13 you know. I don't want to tell a lie. It  
14 is only what I would do now. What I would  
15 do now, of course, is invite - I would get  
16 hold of the chairman of the board at the  
17 time and ask them or him, or her, to invite  
18 Mr Parkin to a meeting and discuss it.  
19 That is what I would do. And that's what I  
20 would have done then, I'm sure of that.

21  
22 Now, sir, I would submit that the appropriate course of  
23 action to take by Mr Stephens would have been to refer the  
24 matter to the Chairman of the Board. Mr Parkin's account,  
25 however, is that his complaint was simply ignored. Now,  
26 should Mr Parkin's evidence be accepted by your Honour -  
27 and to, of course, the required standard - then I would  
28 submit Mr Stephens' response demonstrated a fundamental  
29 failure in his responsibilities as a board member to ensure  
30 that any alleged inappropriate behaviour by a warden  
31 towards children in his care was properly investigated.

32  
33 HIS HONOUR: Go back to your first and second recommended  
34 findings. The first one, if I find that happened, then  
35 what Kerryn told his father, to use his words, "that he was  
36 being fucked up the arse", was clearing advising the start  
37 of what was then an offence known as carnal knowledge  
38 against the order of nature.

39  
40 MR URQUHART: That would be right, sir, yes.

41  
42 HIS HONOUR: And, therefore, there was clearly information  
43 that the father would have had which in his situation as  
44 Chairman of the Board obliged him to take the matter to the  
45 police, which is what your recommended finding is.

46  
47 MR URQUHART: Yes.

1  
2 HIS HONOUR: Now, with regard to the second finding, an  
3 important aspect might be how old Kerryn was at the time,  
4 because as we know there was a hole in the law at the time  
5 because the offence of indecent dealing with a male was  
6 only in respect of a male 14 years or under, I think, or  
7 was it under 14?  
8  
9 MR URQUHART: No, it was under 14.  
10  
11 HIS HONOUR: Under 14.  
12  
13 MR URQUHART: Under 14 you had that.  
14  
15 HIS HONOUR: So from 14 up to, I think it might have been  
16 21 in those days, or 18, whatever it was --  
17  
18 MR URQUHART: Yes.  
19  
20 HIS HONOUR: -- then there was no offence of indecent  
21 dealing, it could only be an offence if it was an indecent  
22 assault.  
23  
24 MR URQUHART: That's correct, sir, yes; so when --  
25  
26 HIS HONOUR: So how old do you say Kerryn was at the time  
27 that his father saw him in bed with McKenna?  
28  
29 MR URQUHART: Well, that would be when he was either 16 or  
30 17.  
31  
32 HIS HONOUR: Right.  
33  
34 MR URQUHART: Yes. It would --  
35  
36 HIS HONOUR: If the position is that there was nothing to  
37 indicate what at law was an offence, obviously it's a moral  
38 problem --  
39  
40 MR URQUHART: Yes.  
41  
42 HIS HONOUR: -- but if there's no offence, what do you say  
43 was his obligation to go to the police in those  
44 circumstances?  
45  
46 MR URQUHART: I actually said, sir, he failed to notify  
47 the relevant --

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HIS HONOUR: Notify the Board.

MR URQUHART: The relevant authorities and, in my submission, at the very least what he should have done is to notify the board.

HIS HONOUR: Yes.

MR URQUHART: Now, had he done that, then, in my submission, he had taken appropriate action because he would advise the board of what he would see, which would be regarded no more as suspicious behaviour, rather than actual offending, although an inference could be drawn regarding that, but it was behaviour that was of such a suspect nature that at the very least he ought to have raised it with the board.

HIS HONOUR: Well, it gave rise to the possibility that it might be happening with other boys, and things of that nature.

MR URQUHART: Precisely, sir, yes.

HIS HONOUR: Yes.

MR URQUHART: Yes, because it is extremely unusual situation to see a boy of that age in bed under the bedclothes of his warden.

HIS HONOUR: And on his own evidence it was in the middle of an afternoon?

MR URQUHART: That's right, sir, yes.

HIS HONOUR: Right.

MR URQUHART: So that's all I propose to say regarding Mr Keith Stephens.

The second person, sir, that I am recommending adverse findings against is Ian Wallace Murray. Sir, there are four recommendations I am making there.

The first is that in 1988, as principal of the Katanning Senior High School, he directed the then high school's guidance officer, Nikola MacLennan, that she need

1 not offer her services to any Katanning Hostel students.

2

3 HIS HONOUR: Can you just pause there. I think you said  
4 not that she need not, that she should not?

5

6 MR URQUHART: That she --

7

8 HIS HONOUR: That's my understanding of her evidence, that  
9 she wasn't to.

10

11 MR URQUHART: Yes, sir.

12

13 HIS HONOUR: Am I right about that?

14

15 MR URQUHART: Yes, sir, you would be correct. Should read  
16 better than me, yes. So I'll repeat that again. In 1988,  
17 as principal of the Katanning Senior High School, he  
18 directed the then high school's guidance officer, Nikola  
19 MacLennan that she should not offer her services to any  
20 Katanning Hostel students, and if those students wanted to  
21 use her services, then she should let the hostel warden,  
22 Dennis McKenna, know first.

23

24 And the evidence in support of that particular  
25 recommendation is this: Nikola MacLennan gave evidence at  
26 the public hearings of the Inquiry on 27 February of this  
27 year. She was appointed the guidance officer, also known  
28 as the school psychologist, for the Katanning Senior High  
29 School in 1988, working three days a week. And she was at  
30 the time on probation.

31

32 She recalled an occasion about a month into the first  
33 term of school when a Year 8 student from the hostel came  
34 to her in considerable distress. This student stated that  
35 he wanted to ring his mother, and Mrs MacLennan allowed him  
36 to do so in her office while she stepped outside to allow  
37 him some privacy.

38

39 Her evidence was that either later that day or the  
40 following day she was asked to see Mr Murray, who was at  
41 the time the principal of the high school. At that meeting  
42 Mr Murray told her, "You don't need to have anything to do  
43 with the hostel students", and that, "It's the best run  
44 hostel in the state." Mr Murray went on to say that Mr  
45 McKenna was a "very good amateur psychologist." When  
46 Mrs MacLennan asked Mr Murray what would happen if hostel  
47 students came to use her services, Mr Murray told her that

1 she should let Mr McKenna know first.

2  
3 Mrs MacLennan also testified that shortly after that  
4 meeting, Mr McKenna came to her office and repeated that  
5 she didn't need to have anything to do with the hostel  
6 students, and that if they were homesick or something like  
7 that, he would counsel them, as that was his job.

8  
9 When Mr Murray testified at the Inquiry on 20 April  
10 this year, his account of what he advised Mrs MacLennan was  
11 that behavioural matters involving hostel students - such  
12 as homework, homesickness and disobeying hostel rules -  
13 were not part of her duties. When Mr Murray was questioned  
14 about a hostel student complaining of being bullied - which  
15 he accepted was a behavioural problem - Mr Murray stated  
16 that he would have advised Mrs MacLennan that that child  
17 should be referred on to him.

18  
19 If a hostel student was being intimidated, Mr Murray  
20 stated that they could see the school nurse, rather than Ms  
21 MacLennan. If a hostel student was being subjected to  
22 psychological abuse and the child went to Mrs MacLennan, Mr  
23 Murray stated that in that circumstance she would have to  
24 refer the child back to the hostel and that she would have  
25 to work with Dennis McKenna.

26  
27 I also posed the scenario of a hostel student having a  
28 behavioural problem on the basis that they were being  
29 sexually abused at the hostel. Mr Murray's evidence was  
30 that Mrs MacLennan should let him know what was going on,  
31 and she should go back to the hostel, but that she was not  
32 to take any peremptory action in such a circumstance. Mr  
33 Murray also gave evidence that he probably would have  
34 advised Dennis McKenna if he was aware of any behavioural  
35 problems that hostel students had.

36  
37 As to this procedure of having the hostel deal with  
38 behavioural problems of its students, Mr Murray stated that  
39 these were oral instructions given to him by the Country  
40 High School Hostels' Authority, and the district guidance  
41 officer. At page 2254 of the transcript, Mr Murray agreed  
42 that he said in his interview with Inquiry Investigators on  
43 28 March, at page 34 this:

44  
45 If you have a hostel, if a child is upset  
46 at the school and the schoolteacher finds  
47 out about it, their job was to go to the

1 hostel and say, "Look, we've got this child  
2 that's upset, can we - can you look after  
3 it? Can we sort it out?" They don't take  
4 action on their own accord before they see  
5 what the hostel's doing about the matter.  
6

7 Now, Mr Murray confirmed in his evidence that when he said  
8 "schoolteacher" in that answer, he included Mrs MacLennan,  
9 or rather, I suppose, the role of the guidance officer - a  
10 guidance officer would be included in that definition of  
11 schoolteacher.  
12

13 At 2255 and 2256, Mr Murray was asked the following  
14 questions by me:  
15

16 Q. When you say "contact the hostel", you  
17 are referring to Dennis McKenna, aren't  
18 you?

19 A. In the first instance but sometimes  
20 not. Sometimes it was Wendy McKenna,  
21 sometimes it was Neil McKenna.  
22

23 Q. It was always a McKenna, wasn't it?  
24 You see, Mr Murray, what I'm getting at --  
25

26 Mr Murray then intervened and said:  
27

28 I understand what you are getting at.  
29

30 And I continue:  
31

32 Q. What I am getting at, if a child has  
33 come to Nikola MacLennan and they are upset  
34 because of something Dennis McKenna or  
35 another McKenna is doing to them, it just  
36 cannot work. It would be inappropriate for  
37 that guidance officer to then go back and  
38 ask to the hostel what they are doing about  
39 it. Because wouldn't the response by the  
40 hostel be "Everything's okay, Nikola.  
41 Don't worry about a thing, it's just a bit  
42 of homesickness. We'll handle it."  
43

44 And then I asked:  
45

46 Can you see the problem there?  
47

1 Mr Murray answered:

2  
3 I can see the problem there.

4  
5 And then I asked:

6  
7 Leaving aside the serious subject matter of  
8 child sexual abuse, but if there is  
9 intimidation or bullying going on at the  
10 hostel by hostel staff, then that's not the  
11 right way of dealing with that, is it?

12 A. If you knew that the hostel bullying  
13 and intimidation was going on, yes, that is  
14 not the right way to do it.  
15

16 Mr Murray also testified that he thought it was  
17 inappropriate at the time that he was high school principal  
18 that there was so many relatives of Dennis McKenna working  
19 at the hostel. He stated that he actually mentioned that  
20 to the Hostel Authority and the Board.  
21

22 Now, sir, examination of the records that the Inquiry  
23 had been able to obtain from the Authority and the  
24 Katanning Hostel Board don't find any evidence in support  
25 that that matter was raised by Mr Murray before either the  
26 Authority or the Board. That's not to say he didn't, it's  
27 just that there is no written documentation found that can  
28 support that account.  
29

30 I'm submitting, sir, that your Honour should accept  
31 the evidence of Mrs MacLennan over and above that of Mr  
32 Murray's, and that is that she was given a blanket ban from  
33 providing any counselling to a hostel student unless she  
34 notified the hostel first.  
35

36 If your Honour was to accept that submission, it would  
37 then be open for your Honour to make an adverse finding  
38 against Mr Murray, as such a procedure would be detrimental  
39 to any student who had a complaint regarding Dennis  
40 McKenna's or any other hostel staff member's behaviour  
41 towards them, because in that instance it could potential  
42 lead to a cover-up of mistreatment - be it physical, sexual  
43 or psychological.  
44

45 I'm going to say, sir, that even if Mr Murray's  
46 account is accepted - and that is that he only acted in  
47 accordance with verbal instructions from the Authority and

1 the district guidance officer - I would submit that an  
2 adverse finding can still be made as it would lead to the  
3 same result because according to his account all  
4 behavioural problems had to be brought to the attention of  
5 the hostel first.

6  
7 In addition, whether or not that direction had come  
8 from the Authority or the district guidance officer matters  
9 not, because in the circumstances where there are or were  
10 so many of Dennis McKenna's relatives working at the  
11 hostel, it was a policy that was clearly inappropriate and  
12 unworkable in that particular and peculiar environment that  
13 existed for so many years at the Katanning Hostel.

14  
15 Sir, that's the submissions I propose to make  
16 regarding that first recommended adverse finding.

17  
18 The second is that Mr Murray failed in his  
19 responsibilities as the Katanning Senior High School  
20 principal to protect the interests of a student, Todd  
21 Jefferis, who had made a complaint to him of sexual  
22 misconduct by Dennis McKenna in August 1990.

23  
24 The evidence, sir, in support of this finding comes  
25 from the testimony of Todd Jefferis, his mother Lynley Day,  
26 and his stepmother Catherine Jefferis. They all gave  
27 evidence on 1 March this year to the Inquiry.

28  
29 These three witnesses all gave accounts of Mr Murray's  
30 reaction to Todd Jefferis' complaint that Dennis McKenna  
31 had sexually abused him in August 1990. Mr Jefferis  
32 testified that when he and his mother spoke to Mr Murray on  
33 6 August 1990, he was "aggressively defensive", that "he  
34 didn't want to know about it", and that he didn't believe  
35 it.

36  
37 Mr Jefferis's recollection was that as far as Mr  
38 Murray was concerned "it wasn't going to leave his office,  
39 and it was up to us to think very carefully about what we  
40 were going to do". He was firm in his evidence that Mr  
41 Murray didn't offer any sort of guidance as to what he and  
42 his mother should do next.

43  
44 Mr Jefferis' account of the second meeting with Mr  
45 Murray, in the presence of his father, stepmother and Garth  
46 Addis, was along similar lines, but he recalled that both  
47 Mr Murray and Mr Addis stated that if he made these sorts

1 of allegations that are unfounded, he was going to be  
2 liable for defamation.

3  
4 Just as a footnote, sir, Garth Addis, is, indeed, one  
5 of those persons who is now deceased.

6  
7 Mrs Day's recollection of the first meeting she  
8 attended with her son was very similar to the account given  
9 by Todd Jefferis. Mrs Day also recalled an occasion after  
10 the parent meeting regarding Dennis McKenna on 15 October  
11 1990, which the Inquiry has heard some considerable  
12 evidence about. She recalls an occasion which she and her  
13 husband confronted Mr Murray over the stories that had been  
14 disseminated around the hostel and the high school that  
15 Todd had been expelled from the hostel because he had  
16 stolen from the canteen, and that he had lied about the  
17 sexual abuse from Dennis McKenna.

18  
19 She wanted to know what Mr Murray was going to do in  
20 his capacity as the high school principal, and that she  
21 expected an apology to be publicly made to her son by him.  
22 She says that Mr Murray's reaction, however, was very  
23 aggressive and to the effect of "don't want to know any  
24 more about it, I'm not discussing it, now leave my office".

25  
26 Mrs Jefferis' account regarding the meeting with Mr  
27 Murray and Mr Addis, she attended with her husband and  
28 stepson, was similar to the account given by Todd Jefferis.  
29 So this is the second meeting that Todd Jefferis had with  
30 Mr Murray. She recalled that both Mr Murray and Mr Addis  
31 spoke about defamation, and that Mr Murray said that he  
32 didn't believe it and it can't be true because Dennis was  
33 an upstanding citizen.

34  
35 Now, Mrs Jefferis testified that she expected that in  
36 their roles as Chairman of the Board and principal of the  
37 school, that they would say that the matter should be  
38 investigated. Instead, she testified they just wanted to  
39 push it under the carpet and they didn't want to find any  
40 evidence themselves.

41  
42 After Todd Jefferis had left the hostel and returned  
43 to school in the last term of 1988, he complained to  
44 Mrs Jefferis that most of the teachers were giving him a  
45 hard time. As a result, Mrs Jefferis says she rang Mr  
46 Murray and told him about Todd's victimisation by his  
47 teachers.

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Mr Murray was dismissive again, stating, according to Mrs Jefferis, "The boy's lying." I would submit, sir, that it's readily apparent from this evidence that Mr Murray had concluded right from the outset that the allegations made by the student Todd Jefferis were totally false. Instead of keeping those views to himself, he openly expressed them to the student and his parents, and then attempted to discourage the student from taking the matter further.

I submit that your Honour should accept the evidence of these three witnesses, and find that Mr Murray's behaviour and responses fell well short of that expected of the high school principal responsible for that student.

HIS HONOUR: Now, when you say that he discouraged him from taking the matter further, are you relying - he, himself, says that he urged him or suggested he go to the police, and he said that he checked with the police himself that this had happened.

MR URQUHART: Yes, sir, yes.

HIS HONOUR: Are you saying that I should reject that evidence?

MR URQUHART: Well, I'm actually going to say that your Honour should make another adverse finding regarding that evidence from --

HIS HONOUR: You're coming to that then.

MR URQUHART: -- Mr Murray about him going to the police. Now --

HIS HONOUR: All right. Well, I'll wait for you to hear what you have to say.

MR URQUHART: Yes, I do accept that Mr Murray's account was that he had told them to go to the police. He maintains that he had raised that at the first meeting between Mr Jefferis and his mother and himself.

HIS HONOUR: He says he did it repeatedly at the second meeting.

MR URQUHART: Yes. But with respect to the first one both

1 Todd Jefferis and Mrs Day's recollections was that that was  
2 not said. Then with respect to the second meeting it is  
3 conceded by them that that may well have been said, but it  
4 was in the context of a sarcastic way of saying, "Oh,  
5 well" --

6  
7 HIS HONOUR: In a dismissive fashion.

8  
9 MR URQUHART: Yes, exactly. Saying, "Oh, yes, you go to  
10 the police then", whilst at the same time emphasising that  
11 "if this is false then you are going to be sued for  
12 defamation".

13  
14 HIS HONOUR: What I am not clear on, you said that I  
15 should find that he discouraged him from doing anything by  
16 the complaint. Are you saying that was because of anything  
17 he said to him or because of his general demeanour towards  
18 the boy?

19  
20 MR URQUHART: That. I am also saying that he openly  
21 discouraged his parents as well from taking the matter any  
22 further by stating, for example, when either Mrs Day or  
23 Mrs Jefferis would contact him, he would dismiss them by  
24 saying, "the boy's lying". That sort of matter, and in  
25 which I would submit by his conduct he is not encouraging.

26  
27 HIS HONOUR: He is discouraging them from doing anything.

28  
29 MR URQUHART: Exactly. Of course mentioning "defamation".  
30 Indeed, we did not hear from Todd Jefferis' father because  
31 he too has died, but there was evidence led that he was  
32 concerned about defamation proceedings and that he actually  
33 questioned his son very closely about the accuracy of his  
34 son's allegations. Of course, sir, we heard other evidence  
35 about threats of defamation to witnesses.

36  
37 The third adverse finding I am recommending against  
38 Mr Murray is this: By demonstrating overt public displays  
39 of support for Dennis McKenna after he was charged with  
40 sexual abuse of hostel students, those charges being in  
41 1990 and 1991, Mr Murray ignored his responsibilities  
42 toward the hostel students in his capacity as principal of  
43 the Katanning Senior High School and a member of the hostel  
44 board.

45  
46 The evidence in support of that recommendation covers  
47 a number of areas. I am not just relying on a particular

1 incident. There are, in fact, in my submission, a number.  
2 They are as follows: Tania Edwards gave evidence at the  
3 public hearing to the Inquiry on 1 March 2012. She  
4 recalled that immediately after Dennis McKenna had been  
5 charged in 1990 all the hostel students were asked to  
6 return back to the hostel from school by Mr Murray. A  
7 meeting was held in the dining room of the hostel where she  
8 stated Mr Murray addressed the students. Her evidence at  
9 page 689 of the transcript was this, regarding the address:

10  
11 I don't recall his exact words but my  
12 interpretation of it, I guess, was  
13 basically he said that Dennis had been  
14 falsely accused, that we were to throw our  
15 support behind him. We were encouraged to  
16 write letters of support for Dennis.  
17

18 Ms Edwards also recalled that Mr Murray said that the  
19 letters were to be placed in unsealed envelopes.  
20

21 Ms Edwards stated that if she had a choice she would  
22 not have written a letter of support, however, she did so  
23 because - at page 691:

24  
25 I felt I had absolutely no choice because I  
26 was terrified of the man, and terrified  
27 that he was coming back and he would know  
28 who had written letters and who hadn't, and  
29 there could be consequences.  
30

31 Now, of course, when she refers to "the man", it is not  
32 Mr Murray, it is Dennis McKenna.  
33

34 As to her reaction when Mr Murray stated that Dennis  
35 McKenna had been falsely accused, she stated at page 693:

36  
37 We believe Mr Murray because he was the  
38 principal and, you know, that's what you  
39 do.  
40

41 Now, Mr Murray denies that he would have used words to the  
42 effect of that Dennis McKenna had been falsely accused at  
43 this meeting. But there is other evidence, sir, that  
44 demonstrates that is what he actually believed. Exhibit 61  
45 is a copy of an unsigned letter dated 29 October 1990.  
46 This is just a little over one month after Dennis McKenna  
47 was initially charged with offences against Mr Hilder.

1 There were two sets - although there was one trial, there  
2 were actually two stages in which Dennis McKenna was  
3 charged, or arrested, in relation to those matters. First  
4 was in late September 1990, and the second would seem to  
5 have been early January of 1991, or possibly late December  
6 1990, so around that time frame. This is in between those  
7 two sets of charges.

8  
9 Exhibit 61 is a copy of an unsigned letter dated  
10 29 October 1990, addressed to Dennis McKenna and  
11 purportedly written by Mr Murray in his capacity as  
12 secretary of the hostel board. That letter states that the  
13 board expressed, "Its complete support for you in your  
14 current personal situation". It also said:

15  
16 The board has full confidence in you and  
17 trusts that you will be able to clear your  
18 name in the very near future before  
19 returning to your position as warden of the  
20 college.

21  
22 It concluded with a line:

23  
24 Have courage, Dennis. Clear your name and  
25 then get on with your life.

26  
27 Though Mr Murray stated in his evidence that he has a real  
28 doubt whether he wrote this letter or not, in my  
29 submission, sir, I would invite that your Honour can find  
30 so, that he did write this letter because, firstly, it is  
31 in his name, and the minutes of the board meeting on  
32 25 October 1990, which was four days before the date on the  
33 letter, records - exhibit 65 - that: "Letter to Dennis from  
34 board outlining support to be written by secretary." Of  
35 course it is not disputed that Mr Murray was secretary of  
36 the board at that time.

37  
38 Further evidence in support of this recommendation is  
39 the fact that it is apparent that Mr Murray wrote a  
40 newsletter on 28 September 1990. This is the day after  
41 Dennis McKenna was initially charged. It seems that this  
42 newsletter was distributed to parents of students who  
43 resided at the hostel. Though the Inquiry has not been  
44 able to obtain a copy of this newsletter, it was quoted  
45 extensively in an article that appeared in the Great  
46 Southern Herald newspaper on 7 August 1991, which was  
47 exhibit 63. The reason why it was quoted extensively in an

1 article in August of 1991 is because it was just after  
2 Dennis McKenna had been sentenced for his first lot of  
3 crimes of sexual abuse.

4  
5 That article says that Mr Murray informed parents in  
6 that newsletter that Dennis McKenna had been charged with  
7 "obscene behaviour". The article also quotes the  
8 newsletter as stating:

9  
10 He intends to vigorously defend the charges  
11 and I, the board and the chairman of the  
12 hostel authority are certain as we can be  
13 that Dennis will be found innocent. You  
14 can show Dennis you care by making this  
15 hostel work as well in fourth term. You  
16 can take other action. You can give Dennis  
17 your support.

18  
19 There was also this passage that appears in this newspaper  
20 article:

21  
22 In another letter to parents dated October  
23 30 --

24  
25 That must have been October 30, 1990 --

26  
27 Mr Murray called on parents to 'devote your  
28 energy into providing character references  
29 et cetera from current and past students  
30 and parents.'

31  
32 In his evidence Mr Murray stated that he had no  
33 recollection of writing this newsletter dated 28 September  
34 1990, but he could have.

35  
36 HIS HONOUR: That is 29 October?

37  
38 MR URQUHART: That is right, 29 October 1990.

39  
40 HIS HONOUR: Was it September?

41  
42 MR URQUHART: The 28th of September 1990.

43  
44 HIS HONOUR: That is exhibit 61?

45  
46 MR URQUHART: That is exhibit 63. We do not have the  
47 actual newsletter. We have the extracts from it in

1 exhibit 63.

2

3 HIS HONOUR: The newsletter to the parents which is quoted  
4 in the newspaper article, what was the date said about that  
5 letter?

6

7 MR URQUHART: The other letter to the parents was dated  
8 30 October. The newspaper article does not give the year,  
9 but logically it had to be 1990. Mr Jenkin has everything  
10 at his fingertips and has handed to me exhibit 63, if I  
11 want to refer to it. I am very grateful to him. Thank  
12 you.

13

14 HIS HONOUR: Have you said all you want to on that  
15 finding?

16

17 MR URQUHART: No, I have not, sir. I have a little bit  
18 more to go on that one. I am also going to refer to an  
19 open letter that was titled "Dear friends", written by  
20 Dennis McKenna some time in December 1990. We do have a  
21 copy of that. It is exhibit 64. Mr Murray was  
22 specifically named as supporting him.

23

24 In my submission, it should be found from this  
25 evidence that Mr Murray - when I say "this evidence", I  
26 mean all those examples that I have given - engaged in a  
27 very pro-active campaign to galvanise support for Dennis  
28 McKenna in the months leading up to his trial. In so doing  
29 he had pre-judged that Dennis McKenna would be acquitted of  
30 the charges that he was facing.

31

32 I draw the distinction between privately held views  
33 and publicly stated views. In my submission, in making  
34 these public statements demonstrating unconditional support  
35 for Dennis McKenna. And doing so in his capacity as the  
36 high school principal, Mr Murray would have made it even  
37 harder for a student who had been sexually abused by Dennis  
38 McKenna from coming forward. Indeed, the Inquiry has  
39 repeatedly heard evidence where victims of this man have  
40 stated they did not come forward because of a fear they  
41 would not be believed. To hear and see the principal of  
42 the high school speaking out in favour of Dennis McKenna  
43 would have simply confirmed those beliefs.

44

45 In my submission it was incumbent upon Mr Murray to  
46 maintain, at the very least, a neutral position in public -  
47 I emphasise "in public" - with respect to this matter until

1 such time as it had been determined by the findings of a  
2 jury. He clearly did not, and an adverse finding, in my  
3 submission, should therefore be made regarding this  
4 recommendation.

5

6 HIS HONOUR: You presumably say that same obligation  
7 extended to the hostel board members as well?

8

9 MR URQUHART: Yes, I would, sir.

10

11 HIS HONOUR: Now, are you asking me to make findings  
12 against the hostel board members?

13

14 MR URQUHART: There is not the same degree of evidence of  
15 such public stated support of Dennis McKenna as there  
16 was --

17

18 HIS HONOUR: They resolved on 25 October that a letter of  
19 support be sent to Dennis. I suppose that is a private  
20 thing.

21

22 MR URQUHART: It is, sir. That is why I am drawing the  
23 distinction between the two. The reason why I am relying  
24 on that letter that was drafted by Mr Murray is that it  
25 actually supported the contentions made by Mrs Edwards as  
26 to what she recalls Mr Murray saying at that meeting before  
27 the hostel students the day after Dennis McKenna was first  
28 charged.

29

30 HIS HONOUR: What you are saying is that by the standards  
31 of the time - we have to look at the standards of the time  
32 rather than what people should do today, I suppose - there  
33 is an obligation on a principal or a board member not to  
34 take a public point of view in support of a warden who has  
35 been charged with serious offences --

36

37 MR URQUHART: Against students.

38

39 HIS HONOUR: Against students, of course.

40

41 MR URQUHART: I emphasise that.

42

43 HIS HONOUR: Because that would discourage any other  
44 students alleging offences from coming forward.

45

46 MR URQUHART: It would.

47

1 HIS HONOUR: In any event, the subject of alleging the  
2 offence needed support.

3  
4 MR URQUHART: Yes. Yes. His very own principal --

5  
6 HIS HONOUR: It certainly did not happen with  
7 Todd Jefferis.

8  
9 MR URQUHART: No, it didn't. In fairness to Mr Murray, he  
10 acknowledged that, as I recall, in his evidence. He  
11 apologised for that.

12  
13 Turning now to the final recommendation of an adverse  
14 finding against this particular person - and I alluded to  
15 this a little earlier - when testifying before the Inquiry  
16 on 19 April 2012 Mr Murray stated that after Todd Jefferis  
17 complained to him about Dennis McKenna he, that is  
18 Mr Murray, had checked with the police about a week or so  
19 later to see if a complaint had been made and was told that  
20 there had been.

21  
22 HIS HONOUR: Was that a complaint by Todd Jefferis  
23 specifically?

24  
25 MR URQUHART: He was specifically looking to see whether a  
26 complaint had been made by Todd Jefferis, yes. At that  
27 point in time Mr Hilder hadn't come forward. In any event,  
28 Mr Hilder was a past student as well.

29  
30 I would submit that there is the following evidence in  
31 support of that recommendation --

32  
33 HIS HONOUR: I am not clear of the finding you are asking  
34 me to make there. What are you saying, that the adverse  
35 finding should be that he didn't do that or --

36  
37 MR URQUHART: The adverse finding is that, yes, he did not  
38 do that.

39  
40 HIS HONOUR: Contrary to his evidence he didn't do that,  
41 that is what --

42  
43 MR URQUHART: In my submission, there is evidence for your  
44 Honour to make a finding that that version given by  
45 Mr Murray is not supported by the evidence and that would  
46 suggest that, therefore, he has at best been mistaken about  
47 that or, at worst, has given evidence of a misleading

1 nature. At worst that would support his account now that  
2 he was actually more concerned about Mr Jefferis than the  
3 evidence of Mr Jefferis and his mother and step-mother  
4 suggests.  
5

6 HIS HONOUR: I just want to put this proposed adverse  
7 finding in context. In the course of determining what the  
8 facts were in relation to conflicting accounts, whether  
9 disbelieving witness and/or finding they are mistaken or  
10 whatever, it is one thing to decide I do not accept that he  
11 went to the police but you seem to put some extra  
12 significance on the fact that he didn't, is that what you  
13 are saying?  
14

15 MR URQUHART: No. I am placing significance on the fact  
16 that he says that he did when in fact the evidence, in my  
17 submission, supports the fact that he didn't, and that  
18 there was a possible motive for Mr Murray to give that  
19 evidence. I accept that we are talking about events that  
20 happened a considerable time ago but, in my submission,  
21 when looking at the evidence in its entirety it would  
22 support an inference to be drawn that in fact Mr Murray (a)  
23 would not have gone to the police; and (b) had been told what  
24 he said he had been told; that is, that Mr Jefferis made a  
25 complaint.  
26

27 This requires an examination initially of the evidence  
28 of Mr Murray. At 2106 and 2107 Mr Murray gave evidence  
29 that after Todd Jefferis had made the complaint to him he  
30 checked up with the police about a week or so later to see  
31 whether Mr Jefferis had gone to them. He said that that  
32 contact was by phone call, and that he believed he spoke to  
33 the sergeant at the Katanning Police Station. Though he  
34 says he wasn't given any details, he was satisfied that  
35 Mr Jefferis had gone and made a complaint about a "physical  
36 assault". Of course your Honour can recall the distinction  
37 that Mr Murray made between what he thought was a physical  
38 assault as against what was a sexual assault.  
39

40 Mr Murray estimated that he would have made this  
41 telephone call between three to eight days later,  
42 "something like that".  
43

44 HIS HONOUR: What page is that, again?  
45

46 MR URQUHART: That is pages 2106 and 2107. Of course we  
47 can put a time frame on when these meetings Mr Murray

1 had --

2

3 HIS HONOUR: It was 4 August.

4

5 MR URQUHART: The first was 4 August, yes. The following  
6 was a day or two later. I accept this evidence that was  
7 given by Mr Jefferis this year, because when examined by  
8 Mr Murray's counsel Mr Jefferis gave evidence that he went  
9 to the police regarding this matter very shortly after his  
10 second meeting with Mr Murray, though he couldn't specify  
11 exactly how many days after that meeting. He could only  
12 say, "it was very shortly after". That is at page 732.

13

14 I accept, sir, that that account is consistent with  
15 Mr Murray's evidence. Without more I would not necessarily  
16 be making this recommendation. However, that version given  
17 by Mr Jefferis is inconsistent with his testimony at Dennis  
18 McKenna's District Court trial in Albany in June 1991. The  
19 Inquiry has obtained the transcript of that trial and,  
20 indeed, excerpts of that transcript have been read out to  
21 witnesses during the course of this public hearing.  
22 Relevant to this particular matter at transcript page 136  
23 on 18 June 1991 Mr Jefferis, under cross-examination, gave  
24 these answers to the following questions:

25

26 Q. When did you speak to the police?

27 A. I didn't speak to the police until a  
28 few weeks after that.

29

30 And "that" is a reference to the first meeting he had with  
31 Mr Murray. That can be gleaned from earlier answers. I  
32 will read that answer again:

33

34 I didn't speak to the police until a few  
35 weeks after that when I gave a statement to  
36 a policeman from down here.

37

38 Because the trial is in Albany it can be readily inferred  
39 that he was referring to giving a statement to a policeman  
40 down in Albany. It continues:

41

42 Q. When? How long after?

43 A. I cannot put a time on it. It was  
44 when I was living at my private board  
45 place.

46

47 Q. It was some two or three months after?

1 A. Yeah. I don't know. About that long,  
2 but it was a fair while after.

3  
4 Q. Quite a fair while after?

5 A. Yes.

6  
7 Now, I would invite your Honour to find that Mr Jefferis'  
8 recollection as to when he saw the police regarding this  
9 matter would be much better in June of 1991 than it would  
10 be in April 2012. In 1991 he was able to relate it to when  
11 he was living at his "private board place". Information  
12 that is available to the Inquiry indicates that that  
13 actually took some time to arrange and certainly did not  
14 take place within eight days of the meeting Mr Jefferis had  
15 with Mr Murray.

16  
17 In addition, an examination of the occurrence book  
18 entries at the Katanning Police Station do not support the  
19 contention that Mr Jefferis had complained to them in the  
20 first half of August 1990 or, indeed, at all.

21  
22 HIS HONOUR: So are you saying there is no entry of a  
23 complaint in the occurrence book?

24  
25 MR URQUHART: No, sir.

26  
27 HIS HONOUR: As we know, where a complaint was made it had  
28 to be entered in the occurrence book; a complaint of a  
29 offence.

30  
31 MR URQUHART: It should have, if police were following  
32 protocol.

33  
34 HIS HONOUR: Is Jefferis' evidence to the effect that the  
35 complaint was made down at Albany?

36  
37 MR URQUHART: Yes, sir, because - the last point I was  
38 going to make - the Inquiry's investigations have also  
39 found that detectives from the Child Abuse Squad took  
40 Mr Jefferis' statement in Albany in November of 1990.

41  
42 HIS HONOUR: Is there some written material to confirm  
43 that fact?

44  
45 MR URQUHART: Yes, sir. We do not glean it from  
46 Mr Jefferis' typed statement. One went to that straight  
47 away because that would certainly, in this day and age,

1 have the dates. His statement did not have a date on it.  
2 That has been gleaned from police records.

3  
4 I will submit, sir, it is open to make a finding  
5 against Mr Murray that his evidence relating to him  
6 contacting the Katanning Police Station in the days after  
7 his meetings with Mr Jefferis was incorrect, and was stated  
8 for the purpose of bolstering his account that he did not  
9 behave in those meetings in the manner alleged by Todd  
10 Jefferis and his mother and stepmother.

11  
12 Finally, with respect to Mr Murray, I can advise that  
13 counsel for Mr Murray has provided a written response to  
14 these four recommendations. I have considered that  
15 response, however, I maintain my recommendation with  
16 respect to all four.

17  
18 Now, of course your Honour will consider that written  
19 submission by Mr Murray's counsel and your Honour may reach  
20 a different view to mine. I can certainly advise that  
21 counsel for Mr Murray has provided a detailed submission  
22 with respect to all four matters, but in particular that  
23 one relating to Mr Murray's contact with police.

24  
25 HIS HONOUR: I have not seen that, of course.

26  
27 MR URQUHART: No, sir.

28  
29 HIS HONOUR: Does Mr Murray's counsel require it to be  
30 read out?

31  
32 MR URQUHART: No. We have made inquiries there and we  
33 have been advised by Mr Manera's secretary that reliance  
34 will be placed on his written submissions without making  
35 any oral submissions today or, indeed, without requiring me  
36 to read those written submissions out. They are  
37 substantial and, of course, your Honour will have the  
38 opportunity of considering those.

39  
40 The third witness that I was recommending an adverse  
41 finding made against was Alan Herbert Parks. It might be  
42 an appropriate time to just have a short break, sir, if  
43 that is okay.

44  
45 HIS HONOUR: Yes. We will have a short break.

46  
47 SHORT ADJOURNMENT

1  
2 HIS HONOUR: Please be seated. Yes, Mr Urquhart.

3  
4 MR URQUHART: Yes, I thank you, sir. I just announced  
5 just before that break, as I was now going to turn my  
6 attention to Alan Herbert Parks, and there is just one  
7 adverse finding that I'm recommending that your Honour  
8 ought make in relation to Mr Parks. And it is this one: in  
9 light of being advised of the following information in his  
10 capacity as either a member or the Chairman of the  
11 Katanning Hostel Board, Mr Parks failed to take any action  
12 regarding allegations that Dennis McKenna was having  
13 inappropriate contact with boys at the Katanning Hostel.

14  
15 Now, sir, there is six pieces of information that in  
16 my submission Mr Parks received over a number of years  
17 that, in my submission, meant that he ought to have done  
18 something in relation to this information he was receiving.  
19 I have wrapped all of that information up in the one  
20 adverse finding, sir, rather than six separate ones; but,  
21 in my submission, it is appropriate to deal with it that  
22 way.

23  
24 So I will read through each of the six, and then I  
25 will go back and deal with the evidence in support of each  
26 one. So the first is that he received information that  
27 Dennis McKenna in or about 1979 relayed to him an incident  
28 where a boy tried to place his hands under Dennis McKenna's  
29 trousers on two occasions whilst they were both at Dennis  
30 McKenna's unit; two, that he received information through  
31 Noel Parkin ringing him up in 1982 and telling him that  
32 Dennis McKenna was interfering with boys; three, that he  
33 received information from Dennis McKenna himself when he  
34 advised Mr Parks at a Board meeting in 1982 that Noel  
35 Parkin had raised "a stink" at the Authority; four, that he  
36 was advised at a Board meeting in or around 1982 that Noel  
37 Parkin had been telling people that Dennis McKenna was  
38 interfering with boys; five, that in the early 1980s Wayne  
39 McKenna, the brother of Dennis, had told him that Dennis  
40 McKenna was not treating a student with a learning  
41 disability as well as he should have been; and, six, and  
42 finally, that in April 1986, David Trezise told him that  
43 Dennis McKenna was fiddling with boys.

44  
45 Before I address the evidence with respect to each of  
46 those six matters, just by way of summary, I indicate that  
47 Mr Parks gave evidence at the Inquiry on 10 April this year

1 and he was examined with respect to each of these six  
2 matters. The Board's minutes show that Mr Parks was a  
3 member of the Board from June 1979 to March 1982.  
4

5 They also show that he was Deputy Chairman from June  
6 to December 1980, and that he served two stints as Chairman  
7 from February 1981 to March 1984, and again from May 1987  
8 to February 1990. He agreed that he gave character  
9 evidence at Dennis McKenna's 1991 District Court trial in  
10 Albany, and that he stated words to the effect of that he  
11 always found Dennis McKenna to have a very high moral  
12 standing and outlook.  
13

14 He denied the suggestion that over the years that he  
15 was Board member, he became aware that at the very least,  
16 Dennis McKenna was involved in what could best be described  
17 as "suspect behaviour". That denial, sir, was at  
18 page 1424.  
19

20 Now, I'll deal with the evidence I will submit in  
21 support of each of these six matters. The first - that is  
22 what Dennis McKenna told him in or about 1979.  
23

24 In his evidence Mr Parks recounted an occasion when  
25 Dennis McKenna told him that a lad tried to put his hand  
26 down his tracky pants and he had moved away and the student  
27 tried again. He recalled that he told Dennis McKenna's  
28 solicitor that prior to Dennis McKenna's trial in 1991.  
29

30 Mr Parks, in his evidence, stated that he wasn't sure  
31 if Dennis McKenna was "putting it over me", and that he  
32 couldn't recall what year it was, and that it was perhaps  
33 1985. That's at page 1424.  
34

35 I then read out Mr Parks' evidence at Dennis McKenna's  
36 trial from 1991. Mr Parks agreed that his memory of when  
37 this incident was would have been better back in 1991. And  
38 Mr Parks' account of this incident in the 1991 trial was as  
39 follows:  
40

41 It was in 1979, as far as I can remember.  
42 It may have been a little later. I was at  
43 the hostel early one morning and as I was  
44 leaving the hostel by the door from the rec  
45 room, Dennis came out of the normal  
46 entrance and met me and asked if he could  
47 speak to me about a delicate matter. He

1 was quite upset and he told me that a  
2 student the night before had tried to put  
3 his hand down inside his trousers. He had  
4 moved away from the student and at another  
5 point the student had come up alongside  
6 him, or moved along the settee and tried,  
7 attempted, to put his hand in his trousers  
8 a second time.  
9

10 In his evidence before the Inquiry, Mr Parks admitted that  
11 he did not know why Dennis McKenna would make something up  
12 like that, and that he did not do anything about it, other  
13 than tell his wife. Mr Parks conceded that looking back -  
14 so, therefore, with the advantage of hindsight - he ought  
15 to have raised this matter with the Board. That's at  
16 page 1427.  
17

18 Dealing now with the second matter - and that is Noel  
19 Parkin's phone call to Mr Parks in 1982.  
20

21 Mr Parkin gave evidence about a telephone conversation  
22 he had with Mr Parks in 1982 in his - that is Mr Parks'  
23 capacity - as Chairman of the Board. The conversation  
24 started out concerning the payment of fees for his son,  
25 Craig, and then he said to Mr Parks, "Listen, this McKenna  
26 is interfering with the boys." He stated that Mr Parks'  
27 response was, "No way in the world".  
28

29 Mr Parkin recalls that the conversation was a real  
30 heated one because he was "real wild about it", and that Mr  
31 Parks hung up on him. Mr Parks stated that he didn't  
32 remember such a phone call from Mr Parkin, and that he is  
33 pretty sure he never received a call like that.  
34

35 The third matter, sir, concerns what Dennis McKenna  
36 told the Board in 1982. Mr Parks recounted in his evidence  
37 an occasion in 1982 when Dennis McKenna told the Board,  
38 with him present, that Noel Parkin was supposed to have  
39 gone to the Authority and caused a "stink".  
40

41 HIS HONOUR: I must say, I thought that was in 1980 that  
42 happened.  
43

44 MR URQUHART: Yes.  
45

46 HIS HONOUR: And it was in '82 that some Board member  
47 reported what Noel Parkin was saying. It's perhaps a

1 question of interpreting the transcript - what was said.  
2  
3 MR URQUHART: Yes, sir.  
4  
5 HIS HONOUR: That was my reading of it.  
6  
7 MR URQUHART: I do remember looking at this. There was  
8 certainly, I agree with your Honour, that finding out what  
9 the complaint had been was certainly in 1982.  
10  
11 HIS HONOUR: What Mr Parks said was that there were two  
12 consecutive Board meetings and he thought around 1980, I  
13 think he said. And the first one, McKenna reported a  
14 parent, without name the parent, had caused a stink. Later  
15 at that meeting McKenna disclosed that it was Noel Parkin  
16 who had caused a stink at the Authority office - which is  
17 important corroboration of the Noel Parkin evidence that  
18 this had happened.  
19  
20 MR URQUHART: Yes.  
21  
22 HIS HONOUR: And McKenna didn't say what the stink was  
23 about. And I think Mr Parks' evidence - it was only about  
24 two years later - he said around about the time his own son  
25 was expelled from the hostel, that the Board was informed  
26 by one of the members, who he thought was Addis, which has  
27 to be wrong because Addis wasn't the Board member then.  
28  
29 MR URQUHART: Yes.  
30  
31 HIS HONOUR: He said a Board member told the Board that  
32 Noel Parks - Parkin was going around telling people that  
33 McKenna had been sexually abusing boys.  
34  
35 MR URQUHART: That's right, sir. That's the fourth matter  
36 that I was going to get to.  
37  
38 HIS HONOUR: Right.  
39  
40 MR URQUHART: Yes, but I hear what your Honour says about  
41 the third matter, as to when it was that Dennis McKenna  
42 told the Board. I will check that, sir, but I mean the  
43 transcript page is 1429. It may well be a typo.  
44  
45 HIS HONOUR: 1429.  
46  
47 MR URQUHART: 1429 should clear it.

1  
2 HIS HONOUR: My understanding of Park's evidence was he  
3 wasn't alerted to anything of a sexual nature initially  
4 when he was told there'd been a stink at the Board. And if  
5 I accept the evidence that's what happened, that reflects  
6 on the Authority, because they obviously communicated the  
7 Parkin complaint at the Authority office to the hostel  
8 board via Dennis McKenna.  
9  
10 MR URQUHART: Yes, that could be an inference that may be  
11 drawn.  
12  
13 HIS HONOUR: And that's inviting McKenna not to disclose  
14 the details of the complaint, quite obviously; but, in any  
15 event, Parks' evidence - and it only comes from Parks what  
16 happened in that regard - there's no other evidence to  
17 confirm it, and according to Parks, the initial disclosure  
18 was in 1980, and the details weren't given, it was only  
19 two years later that, or thereabouts, that another Board  
20 member spoke about --  
21  
22 MR URQUHART: Yes.  
23  
24 HIS HONOUR: -- Parkin going around and telling everyone  
25 that McKenna had been fiddling with boys.  
26  
27 MR URQUHART: I certainly agree with you on that one, sir.  
28 I'll have to check then whether Mr Parks' evidence was that  
29 Dennis McKenna told the Board that Noel Parkin was supposed  
30 to have gone to the Authority and caused a stink - whether  
31 that was in 1980 or 1982. We know --  
32  
33 HIS HONOUR: No, I remember looking at the evidence  
34 carefully about that --  
35  
36 MR URQUHART: Yes.  
37  
38 HIS HONOUR: -- because my interpretation is that happened  
39 at around 1980.  
40  
41 MR URQUHART: Right. Okay, sir, I'll go with what your  
42 Honour says.  
43  
44 HIS HONOUR: I might be wrong, I'll look at it again.  
45  
46 MR URQUHART: Okay. So with respect to that, whether it's  
47 1980 or 1982 - and we will confirm that - yes, Mr Parks

1 said that he would have been Chairman of the Board at this  
2 time, and he said he did not know if the Board did anything  
3 about what Dennis McKenna had told them, but - and nor was  
4 he aware of what the stink was.  
5

6 So the fourth matter, sir, was, yes, finding out what  
7 Noel Parkin's complaint had been. Mr Parkin recalled that  
8 a bit later after his son was "put out", which was his  
9 description of a student being expelled, when his son,  
10 Todd, was put out of the hostel in 1982, he recalled that  
11 one of the Board members brought it up at a meeting that  
12 Noel Parkin had been going around telling people that  
13 Dennis McKenna was interfering with boys.  
14

15 Your Honour's quite right. He initially thought it  
16 was Garth Addis, but, of course, Mr Addis wasn't on the  
17 Board then. Notwithstanding this information, Mr Parks  
18 stated that he did not believe the allegation, and he  
19 didn't think the Board believed it as well. Given this  
20 belief, Mr Parks admitted it probably was the case that  
21 this matter was never referred on to the Country High  
22 School Hostels Authority. He also conceded that he  
23 wouldn't know if there was any truth to the allegation  
24 unless it was investigated.  
25

26 At page 1434 I asked Mr Parks this:  
27

28 It seems to me, Mr Parks, from what you're  
29 saying, the Board just simply --  
30

31 Mr Parks then gave an answer:  
32

33 I don't think the Board believed it.  
34

35 And I continued:  
36

37 Yes. So the Board just put its head in the  
38 sand.  
39

40 Mr Parks answered:  
41

42 Pretty well.  
43

44 Now, Mr Parks also conceded that his recollection was the  
45 Board did not ever follow up with Noel Parkin the  
46 allegations that he was making.  
47

1           The fifth matter, sir, concerns the information given  
2 to him by Wayne McKenna. Mr Parks recalled an occasion in  
3 the early 1980s when he received a late night phone call  
4 from Wayne McKenna, who was working at the hostel at the  
5 time. From what he could remember, he recalls Wayne  
6 McKenna telling him that Dennis McKenna was picking on a  
7 student who had a learning disability of some kind, and  
8 Dennis McKenna wasn't treating him as well as he should  
9 have been. This was the only time Wayne McKenna had ever  
10 rung him at home.

11  
12           In his evidence, the only inquiry Mr Parks said he  
13 made was to ask Dennis McKenna how this boy was going.  
14 Dennis McKenna then asked him, "Has someone been talking?",  
15 and Mr Parks responded that there wasn't, and he was just  
16 curious. Dennis McKenna then, according to Mr Parks, told  
17 him that the boy was "going fine." Though he knew the  
18 boy's name at the time, but he doesn't now, Mr Parks did  
19 not think to speak to the boy as it "never entered my  
20 head." He did not do that even though he did not fully  
21 accept Dennis McKenna's assurances that everything was  
22 fine, and that he still had doubts.

23  
24           From the Inquiry's investigations into Dennis McKenna,  
25 it could be inferred that this boy was, in fact, the  
26 witness who has been identified as "S".

27  
28 HIS HONOUR:   Doesn't Wayne McKenna say it was? That's my  
29 understanding of Wayne McKenna's evidence. I think the  
30 name was put to him.

31  
32 MR URQUHART:   Yes. It may not be as high as that, sir.  
33 Again, that will need to be checked.

34  
35 HIS HONOUR:   Do we know at what page of the transcript  
36 Wayne McKenna - I wonder if the associate can check the  
37 transcript.

38  
39 MR URQUHART:   Yes.

40  
41 HIS HONOUR:   Yes.

42  
43 MR URQUHART:   Yes, I was going to say that.

44  
45 HIS HONOUR:   It was firmly fixed in my mind that the  
46 evidence clearly established that the boy the subject of  
47 that call was "S", and I thought that came from Wayne

1 McKenna.  
2  
3 MR URQUHART: I see. I'll stand corrected there, sir. I  
4 was going to actually say that "S" has provided a recent  
5 statement to the Inquiry which was read into evidence this  
6 week, in which he emphatically denies that - the  
7 description of him having a learning disability.  
8  
9 HIS HONOUR: I agree.  
10  
11 MR URQUHART: Yes.  
12  
13 HIS HONOUR: And there's no question that he did, but I  
14 thought Parks' recollection as to what he was told seemed  
15 to be unreliable. That's his interpretation of what --  
16  
17 MR URQUHART: Yes.  
18  
19 HIS HONOUR: -- he was told. I don't think he actually  
20 said a learning disability, I think he indicated there was  
21 some sort of problem with the boy, he wasn't quite sure  
22 what it was.  
23  
24 MR URQUHART: All right, sir, that's the position.  
25  
26 HIS HONOUR: Yes.  
27  
28 MR URQUHART: Nothing much may turn on that. I mean, the  
29 fact is that this was just one - another piece of --  
30  
31 HIS HONOUR: In any event, he's told that there's some  
32 problem --  
33  
34 MR URQUHART: With a boy.  
35  
36 HIS HONOUR: -- in that McKenna's not doing the right  
37 thing by this boy.  
38  
39 MR URQUHART: He's picking on him.  
40  
41 HIS HONOUR: He's saying that he should have inquired of  
42 the boy himself --  
43  
44 MR URQUHART: Yes.  
45  
46 HIS HONOUR: -- rather than talking to McKenna.  
47

1 MR URQUHART: Yes, exactly. But this is just one piece of  
2 information that he received, and that in my ultimate  
3 submission, given the fact that he was receiving all this  
4 information, that it ought to have reached a point where he  
5 ought to have taken some action to have this particular  
6 warden looked at, investigated, whether it be by the Board  
7 or the Authority or another entity.

8  
9 HIS HONOUR: Now, if I recollect, that call from Wayne  
10 McKenna would have been about 1983, would that be right.

11  
12 MR URQUHART: Would be, sir, yes.

13  
14 HIS HONOUR: So it would have been around about the time  
15 that Parks had been told that Parkin was going around  
16 saying that McKenna was fiddling with boys.

17  
18 MR URQUHART: Yes, that, too, sir.

19  
20 HIS HONOUR: So it was fairly contemporaneous.

21  
22 MR URQUHART: In fact, these first five instances have all  
23 occurred from - in or about 19 - in 1979 through to - yes,  
24 around 1982, 1983.

25  
26 HIS HONOUR: So you say the accumulating effect of this  
27 information came from different sources, should have  
28 flagged to Parks that there's something here to be  
29 investigated.

30  
31 MR URQUHART: Exactly.

32  
33 HIS HONOUR: Yes.

34  
35 MR URQUHART: And then if that wasn't sufficient, then the  
36 sixth and final piece of information ought to have  
37 certainly established that. If I could turn to that now,  
38 sir, whilst your Honour's associate looks for that  
39 answer --

40  
41 HIS HONOUR: Yes.

42  
43 MR URQUHART: -- but, again, sir, I will tag that.

44  
45 There's a conversation with David Trezise in April of  
46 1986 - so about several years later. Mr Trezise's evidence  
47 at the Inquiry was that on an occasion when he was

1 assisting Mr Parks to construct a dam catchment on Mr  
2 Parks' property, he told Mr Parks that Dennis McKenna was  
3 "fiddling with boys", and that there was a mention of that  
4 in Bill McPharlin's letter. That, sir, is a reference to  
5 exhibit 8, the letter, the handwritten letter which we've  
6 heard a lot of evidence about, that Mr McPharlin and Ms  
7 Flanigan wrote in August 1985, which makes reference to  
8 Dennis McKenna making "suspicious suggestions" towards  
9 their two boys.

10  
11 HIS HONOUR: So that's when the penny dropped for Mr  
12 Trezise, when John Jolley told him that.

13  
14 MR URQUHART: Yes, sir.

15  
16 HIS HONOUR: Yes.

17  
18 MR URQUHART: Mr Trezise recalled that Mr Parks didn't  
19 really respond, and that he got the impression that they -  
20 that is the Board - had closed ranks and they weren't going  
21 to talk about it - though Mr Parks in his evidence admits  
22 that Mr Trezise assisted him to construct a dam catchment  
23 on his property because he's actually noted the day that  
24 occurred in April 1986, in his 1986 diary. He stated that  
25 he did not remember this conversation, adding, "I won't  
26 deny he didn't do it."

27  
28 HIS HONOUR: I think he said effectively that Trezise  
29 wouldn't lie about that. He knows the man and he wouldn't  
30 be telling a lie about that. So I think he basically  
31 accepts that it might have happened.

32  
33 MR URQUHART: Yes. And that was - well, he said, "Well, I  
34 won't deny he didn't do it". That's at 1455. So, in  
35 contrast to his denial that I've already referred to, when  
36 he - I said this a moment ago - he denied the suggestion  
37 that over the years that he was a Board member, he became  
38 aware that at the very least Dennis McKenna was involved in  
39 what could best be described as "suspect behaviour".

40  
41 So in contrast to that denial, which he gave at 1424,  
42 and after I had taken him through the evidence relating to  
43 those six occasions, he actually conceded in his evidence  
44 that given all the information that he had been aware of  
45 which had been gathered regarding Dennis McKenna over  
46 the years that he was a Board member, he should have done  
47 more in investigating what Dennis McKenna was up to.

1 That's at page 1463 and 1464. Looks like your Honour's  
2 associate may have found something.  
3  
4 HIS HONOUR: Have we got a page number for Wayne McKenna?  
5 2971, apparently.  
6  
7 MR URQUHART: We may as well clarify that now.  
8  
9 HIS HONOUR: Yes. Yes. At 2971 McKenna says that that  
10 student that he rang Parks about was "S".  
11  
12 MR URQUHART: Yes, your Honour's quite right, yes. So in  
13 that circumstance then, sir, I would submit that, yes, it  
14 is definitely open for your Honour to find that that was,  
15 in fact, the student who we've been identifying as "S".  
16  
17 HIS HONOUR: And I don't quite remember at the moment what  
18 Wayne McKenna said, and as to what he told Parks about  
19 that.  
20  
21 MR URQUHART: Yes, he did not - his evidence was not  
22 precisely the same as Mr Parks' regarding what he said, in  
23 my recollection.  
24  
25 HIS HONOUR: It certainly wasn't that his brother was  
26 fiddling with boys.  
27  
28 MR URQUHART: No, it wasn't. It certainly wasn't that. I  
29 don't think it was even as high as Dennis McKenna was  
30 picking on him. In fact, I do recall it now. Wayne  
31 McKenna was saying that he spoke to Mr Parks because of the  
32 boy's hygiene.  
33  
34 HIS HONOUR: That's right.  
35  
36 MR URQUHART: Yes. So, in fact, it does contrast --  
37  
38 HIS HONOUR: It's a very strange thing to ring the  
39 Chairman at 11pm at night, isn't it?  
40  
41 MR URQUHART: Well, that could well be said, sir, yes.  
42 And I think it was Wayne McKenna's evidence that he - well,  
43 it might have been Mr Parks' evidence, I think, that Wayne  
44 McKenna told him that he was ringing at that hour because  
45 Dennis McKenna wasn't around.  
46  
47 HIS HONOUR: That's right.

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MR URQUHART: Yes.

HIS HONOUR: I just make the passing observation it doesn't seem a very credible version of events - that you get the Chairman out of bed to tell him at 11pm at night that this boy has a personal hygiene problem.

MR URQUHART: Exactly, sir, given the fact that the Chairman was a farmer at the time, and would have been ordinarily sound asleep because he had to get up so early the next morning.

Sir, dealing with what I was saying regarding Mr Parks' evidence. Once I had taken him through those six pieces of information that he'd either received or allegedly received, he conceded that it didn't cross his mind that some further inquiries ought to have been undertaken, and that one possible reason for that was that the Board didn't expect that Dennis McKenna would ever do something like this.

Now, sir, I acknowledge that Mr Parks was one of the most candid witnesses the Inquiry heard from, who had received notice that potentially adverse evidence could be given against him or them. Nonetheless, I have to submit, not without some reluctance due to his refreshing honesty, that your Honour should find that Mr Parks did fail in his responsibility as a Board member to ensure that the children placed under the hostel's care were adequately protected.

Now, sir, counsel for Mr Parks has provided a written submission to the inquiry in response to my recommendations. That submission was received this morning. Counsel did not require those written submissions to be read publicly, though counsel did ask of the executive officer whether your Honour would be reading those before your Honour makes your final recommendation.

HIS HONOUR: Most certainly.

MR URQUHART: She was certainly advised that your Honour would be.

HIS HONOUR: It may well be after reading that that I will have some questions.

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MR URQUHART: Exactly.

HIS HONOUR: We'll see.

MR URQUHART: Now, sir, dealing - if we can just go back, please, to Mr Stephens, because unlike the responses I received from counsel for Mr Murray and Mr Parks, counsel for Mr Stephens has asked, or had received instructions that I do read out into evidence a short response that Mr Stephens has prepared.

HIS HONOUR: Right. Do you wish to do that now?

MR URQUHART: Yes, I do - we'll do that now.

HIS HONOUR: Yes.

MR URQUHART: So this is in response to my recommendations that those three adverse findings that I went through earlier this morning should be made against Mr Stephens. So Mr Stephens writes:

In about 1974 I was asked to join the Board of the Katanning Hostel.

Although I had no prior experience in such a role, nor any training, after discussing the matter with my late wife, I agreed to accept the position.

We hoped that I could play a role in improving the lives of the students attending the hostel.

I made this decision in good faith.

Later, following the sudden departure of the Chairman of the Board, I was asked to assume the role of Deputy Chairman, and later Chairman.

At all times as a Board member I tried to perform my duties to the best of my knowledge and ability.

At no time during my tenure did I come to

1 believe that any of the students at the  
2 hostel were in danger including my own  
3 children. Well after my departure from the  
4 board I later came to learn of matters  
5 involving Dennis McKenna and I feel utterly  
6 betrayed that some of these events occurred  
7 during the period of my association with  
8 the board. If I could change what happened  
9 I would. I understand these events have  
10 caused very significant distress to all  
11 involved, their families and friends.  
12

13 HIS HONOUR: That is the end of it?  
14

15 MR URQUHART: That is the end of it, sir, yes. As to the  
16 balance of those witnesses who I have considered prior to  
17 or on 8 June, I will now state my recommendations and the  
18 reasons for those. I stress from the outset, sir, it has  
19 been Mr Stephens, Mr Murray, Mr Parks who are the three  
20 witnesses that I have to date nominated as having  
21 recommendations for adverse findings.  
22

23 HIS HONOUR: Are there more recommendations of adverse  
24 findings to come?  
25

26 MR URQUHART: No, there is not, sir.  
27

28 HIS HONOUR: Today? What about next week?  
29

30 MR URQUHART: Sorry, sir. None today, but certainly next  
31 week.  
32

33 HIS HONOUR: There will be more next week?  
34

35 MR URQUHART: Yes. We will be making some more  
36 observations about that at the conclusion of this.  
37

38 The first is Ian Robert Lockhart. For several of  
39 these witnesses I propose to go into a little detail  
40 regarding the conclusions that I have drawn. I am going to  
41 do that with respect to Mr Lockhart.  
42

43 To start, I state from the outset that I do not  
44 propose that an adverse finding be made against  
45 Mr Lockhart. However, I will put this in its proper  
46 context.  
47

1 Mr Lockhart gave evidence on 17 April this year to the  
2 Inquiry. He testified that he completed his teaching  
3 degree in 1981, after teaching at Craigie Senior High  
4 School in 1982 he was posted to the Katanning Senior High  
5 School from 1983 to 1987. Whilst there he taught physical  
6 education, and he was also appointed year coordinator for  
7 the year 9 students in 1984. He then remained coordinator  
8 for those students through to 1987, when they completed  
9 year 12 and he had completed his final year of teaching at  
10 Katanning.

11  
12 In his evidence he described his year coordinator role  
13 as "pastoral care largely" and "if there's any issues with  
14 the kids, behavioural things, emotional things, I was a  
15 port of call". That is at page 2008.

16  
17 Evidence relevant to Mr Lockhart was given by two  
18 ex-students from the Katanning Senior High School, and that  
19 was Jodie Haddow - now Brown - and Rhonda Goode - now  
20 Moore. I'll just refer to their maiden names when I give a  
21 summary here.

22  
23 They testified on 24 February of this year. In  
24 summary, Jodie Haddow was a hostel student from 1983 to  
25 1986. She recalled that when she was in year 11 in 1986  
26 she and Rhonda Goode, spoke to Mr Lockhart, Andrew Bourke  
27 and possibly Stuart Jones at the phys ed office. Mr Jones  
28 and Mr Bourke were two other teachers. As a hostel student  
29 she had witnessed not just bullying of hostel students by  
30 Dennis McKenna but also inappropriate physical touching by  
31 him of boys at the hostel.

32  
33 Jodie Haddow's recollection was that she and Rhonda  
34 Goode told Mr Lockhart and the other two teachers - the  
35 teacher Mr Bourke - and the third possibly being Mr Jones -  
36 that they were "very concerned that Dennis was sexually  
37 interfering with boys at the hostel and that something  
38 needed to be done". She recalled that the response was to  
39 the effect of, "We know something is happening but we don't  
40 know what to do. We need proof." Both those quotes are at  
41 page 390.

42  
43 She did not recall who exactly said that. When she  
44 questioned that response it was said that, "Until the boys  
45 come to us and tell us that something is happening we can't  
46 do anything". That is at page 391.

1 She then recalled naming four boys that she was very  
2 concerned about. Though Ms Haddow mentioned raising this  
3 matter informally with one or two teachers in 1987, she did  
4 not nominate Mr Lockhart as one of those teachers.

5  
6 HIS HONOUR: That is the following year?

7  
8 MR URQUHART: That is the following year, sir, yes.

9  
10 HIS HONOUR: She did not nominate Lockhart for that.

11  
12 MR URQUHART: No. She didn't, no. I will deal with that  
13 in a moment when I deal with those other teachers.

14  
15 Now, Ms Haddow does, however, recall, together with  
16 Rhonda Goode, raising this topic again with Mr Lockhart,  
17 Mr Bourke and Mr Jones at the 1987 graduation party for  
18 year 12s. On that occasion she recalled that they stated  
19 to the teachers, "This is still happening, what are we  
20 doing?" Her recollection is that the teachers expressed  
21 sympathy and concern but again said, "There's not much we  
22 can do until we have cold hard evidence. And the only way  
23 we can have cold hard evidence is if someone owns up to  
24 it". Those quotes appear at pages 395 and 396.

25  
26 Rhonda Goode also recounted that she was aware from  
27 personal observations that Dennis McKenna was  
28 inappropriately touching boys at the hostel. She was a  
29 hostel student from 1983 through to the end of second term  
30 in 1987. She recalls an occasion in which she and Jodie  
31 Haddow met Mr Lockhart in the phys ed office in either 1985  
32 or 1986. She believes one other person may well have been  
33 there as well, but she cannot recall who that was.

34  
35 She recalls that she had a lot to say about her  
36 beliefs that the boys were being abused and about Dennis  
37 McKenna's behaviour. She also mentioned that the matter  
38 was raised about him mistreating the girls psychologically.  
39 She recalled that Mr Lockhart was asked for some help or  
40 direction. She believed that she indicated that the abuse  
41 was of a sexual kind and she would have mentioned that as  
42 one of the boys had come up to her and said to her prior to  
43 this meeting that Dennis would get them to masturbate him.

44  
45 Rhonda Goode's recollection of Mr Lockhart's response to  
46 these matters was that he would speak to his wife - who she  
47 believed may have been a social worker or something of that

1 nature - that he had to think about what they were saying  
2 and that he would get back to them. She also added that it  
3 is her recollection that there was no real response from  
4 Mr Lockhart that she could recall and it was "more or less  
5 swept under the carpet".  
6

7 Apart from raising the matter with the high school  
8 principal in 1987 Rhonda Goode did not recall raising it  
9 again with any other teachers. So she, therefore, did not  
10 give any evidence about the matter being raised in her  
11 presence and, indeed, by her in the 1987 graduation party  
12 as recounted by Jodie Haddow.  
13

14 Now, in his evidence Mr Lockhart stated that he had no  
15 recollection of either of these two students speaking to  
16 him in his capacity as the year coordinator about Dennis  
17 McKenna sexually abusing or interfering with boys at the  
18 hostel. He admitted that he could not categorically say  
19 that the conversations as recounted by Jodie Haddow and  
20 Rhonda Goode never happened, but explained that if they had  
21 these conversations with him and any other teachers what  
22 could have occurred was "a lack of clarity" and "that the  
23 magnitude of the situation wasn't clear". That was at  
24 page 2020.  
25

26 He also said on the same page, "I feel that if this  
27 information had of been conveyed in the way that it was  
28 intended to be or has been reported to be, it just seemed  
29 so unlikely that I or any of the teachers that have been  
30 named wouldn't have done something about it, or at least  
31 talked amongst ourselves or any of those kinds of things  
32 that may have seen this move further along." Mr Lockhart  
33 also gave evidence about the reputation that Dennis McKenna  
34 had whilst Mr Lockhart was a teacher at the Katanning high  
35 school. He stated, "that he wasn't really someone to mess  
36 with" - page 2009. He agreed that he had said in an  
37 interview with Inquiry investigators prior to his evidence  
38 that, "If you stuffed him around or pissed him off he had  
39 the capacity to make life difficult for you".  
40

41 Sir, it could be argued that if your Honour was to  
42 accept the evidence of Jodie Haddow and Rhonda Goode as  
43 they have recounted what they said, it could be argued an  
44 adverse finding may be made that Mr Lockhart failed to act  
45 in the appropriate manner upon receiving this information  
46 from the two girls.  
47

1 I have considered --

2

3 HIS HONOUR: The issue there would be if I accept Jodie  
4 Haddow's evidence then the response she got was that they  
5 couldn't do anything unless the boys came forward and  
6 confirmed that there had been sexual interference.

7

8 MR URQUHART: Yes.

9

10 HIS HONOUR: I suppose that could be argued that that is a  
11 reasonable response, that they would need to have some firm  
12 information before doing anything with it. That is  
13 probably the issue that I have to decide.

14

15 MR URQUHART: That is precisely right, sir. You  
16 essentially pre-empted what I was going to say, yes. That  
17 is fine. I appreciate that.

18

19 HIS HONOUR: There is a problem in that Rhonda Goode  
20 doesn't totally corroborate Jodie's evidence.

21

22 MR URQUHART: That is right.

23

24 HIS HONOUR: There are some inconsistencies there, but that  
25 is to be expected after such a long passage of time.

26

27 MR URQUHART: That might be right, sir, yes. I have  
28 considered the matter and, as I have said at the outset, I  
29 do not propose making an adverse finding recommendation to  
30 your Honour with respect to Mr Lockhart and his response as  
31 recounted by Jodie Haddow.

32

33 HIS HONOUR: You are saying on the assumption that I  
34 accept Jodie Haddow's evidence I cannot be satisfied that  
35 it was an unreasonable response that she got; that it was  
36 reasonable for Lockhart to want the boys to come forward  
37 before he could do anything about it?

38

39 MR URQUHART: Yes. In all the circumstances --

40

41 HIS HONOUR: I have to have regard to the fact that they  
42 were junior teachers, newly fledged teachers. There had  
43 been no training or guidance as to handle such matters.

44

45 MR URQUHART: That is exactly what I was going to say,  
46 sir. Yes, it was his relative inexperience at the time.  
47 He had been teaching for several years.

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HIS HONOUR: I think he was about 25.

MR URQUHART: Yes. He got his degree in 1981. He spent one year at Craigie Senior High School in 1982 and then he was at Katanning from 1983 to 1987. This happened in 1986-87. So, yes, he would have been only out teaching for several years.

HIS HONOUR: He graduated at 21 and it was only just a few years later, wasn't it?

MR URQUHART: It was sir, yes. As your Honour has already referred to teachers in 1986 and 1987, had no training or guidelines to assist them in deciding what to do when such complaints were made to them by students. At the most, I would submit --

HIS HONOUR: So it may well have been an error of judgment because perhaps what should have been done is to go to the principal and disclose what had been said and get the principal's advice as to what to do.

MR URQUHART: Sir, indeed that might be an observation that your Honour could make, that it was merely an error of judgment. I would emphasise, sir, that if such a finding was to be made by your Honour that that would not in any way indicate Mr Lockhart's response as recounted by Jodie Haddow, who seems to have a better recollection of this matter than Rhonda Goode, that it was not in any way a dereliction of duty.

HIS HONOUR: Is it open for me to conclude that there might have been some understanding that the girls would try to get the boys to come forward, or not?

MR URQUHART: It could well be on the evidence because --

HIS HONOUR: It might make it more reasonable to wait for that to happen.

MR URQUHART: Yes. And indeed, according to Jodie Haddow, she actually gave the names of boys that she feared something would happen to because, of course, neither of these two girls had actually seen Dennis McKenna do anything other than the inappropriate touching that we heard so much evidence about, that open touching of hands

1 on the shoulder, ruffling hair, hands down the front of the  
2 shirt, which he did openly in public - which I am not  
3 saying was appropriate; it was inappropriate - but it was  
4 not on the same scale as the offending that he engaged in  
5 in the privacy of his unit.

6  
7 HIS HONOUR: It was Jodie or Rhonda or the other two  
8 girls, one of them thought that that behaviour initially  
9 was family friendly - family environment? It might have  
10 been one of them that said that.

11  
12 MR URQUHART: If one of those two witnesses had said that  
13 it would be that their view was that it wasn't appropriate  
14 for a family.

15  
16 HIS HONOUR: I think I am confusing them with someone  
17 else.

18  
19 MR URQUHART: Certainly, sir, we have heard numerous  
20 witnesses or ex-students who gave evidence about that  
21 inappropriate touching. Indeed, we heard evidence from  
22 teachers who were either tutoring or living at the hostel  
23 give similar accounts of what they saw Dennis McKenna do.

24  
25 That is what I intend saying about Mr Lockhart.

26  
27 HIS HONOUR: Has there been any submission from him?

28  
29 MR URQUHART: No, there wasn't, sir. He was invited to  
30 make one, although in my letter I advised him that I did  
31 not propose recommending an adverse finding against him.

32  
33 Dealing now with Andrew James Bourke. Of course there  
34 is a lot of cross-over evidence here between that that was  
35 given in relation to Mr Lockhart and that which was given  
36 in relation to Mr Bourke, so I will be able to deal with  
37 this in more of a summary. Mr Bourke gave evidence at the  
38 Inquiry. That would have been on 17 April. He said he was  
39 a teacher at the Katanning Senior High School from 1983 to  
40 1987 - which are the same years as Mr Lockhart - where he  
41 taught predominantly maths.

42  
43 One of the students he taught maths to was Jodie  
44 Haddow. Now, I have already summarised the evidence of  
45 Ms Haddow a moment ago and I will not repeat that, save to  
46 say that she recalled that in 1987 the subject matter was  
47 raised by her two or three times informally, and she said

1 probably only with one or two teachers, who she said was  
2 either Mr Bourke or Mr Jones - Stuart Jones.

3  
4 She recalls the responses on those occasions were  
5 along the lines of, "We are doing the best we can. We are  
6 onto it and we are just waiting for the boys to come  
7 forward". That was at page 394.

8  
9 HIS HONOUR: She says with Bourke and Jones, or Bourke or  
10 Jones?

11  
12 MR URQUHART: She is not so clear about this at all as  
13 against her accounts with the meeting in the phys ed room  
14 and later at the year 12 graduation party. She could only  
15 say it was probably with one or two teachers, and that it  
16 was either Mr Bourke or Mr Jones.

17  
18 HIS HONOUR: I cannot be satisfied that she definitely did  
19 with Bourke?

20  
21 MR URQUHART: In my submission you could not, no, with  
22 respect to those approaches that she says she made in 1987.

23  
24 HIS HONOUR: She is clear that he was there at the first  
25 meeting at the phys ed office.

26  
27 MR URQUHART: Yes. She also says with the same clarity  
28 the 1987 graduation party. Now it is accepted, sir, that  
29 Rhonda Goode did not name Mr Bourke as being a teacher she  
30 discussed this matter with.

31  
32 HIS HONOUR: On her evidence I could not be satisfied any  
33 one other than Lockhart.

34  
35 MR URQUHART: Yes.

36  
37 HIS HONOUR: She said she had a feeling in the back of her  
38 mind there might have been someone else there.

39  
40 MR URQUHART: That was as high as it was. Really no  
41 inference can be drawn at all in respect to the identity of  
42 that person.

43  
44 In any event, on her account that person does not seem  
45 to have engaged in the discussion. Her recollection is  
46 that it was Mr Lockhart who responded to what was being  
47 said by her and her friend.

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Mr Bourke's evidence was on 17 April, that after he had been teaching at Katanning for a while, he could see that Dennis McKenna was "a bit of a bully". And this bullying was towards some of the hostel students. He actually recounted an occasion where he can recall when two students from the hostel arrived to school very upset.

Mr Bourke also said in an interview with Inquiry investigators on 31 January of this year that he knew that there were "things that weren't sort of quite right with how he" - that is Dennis McKenna - "did things in terms of persecution and so on of certain kids". That is at transcript page 4 of that interview.

Mr Bourke stated that he had no recollections of meeting with Jodie Brown and Rhonda Moore in the phys ed room of the school in or about 1986, where they talked about their concerns regarding Dennis McKenna abusing and interfering with boys, either sexually or otherwise.

HIS HONOUR: Was he the teacher who remembered Rhonda, I think? One of them remembered her.

MR URQUHART: Yes. Ms Haddow remembered Mr Bourke as being --

HIS HONOUR: No. I am saying it was either Lockhart or Bourke who actually remembers, I think, Rhonda.

MR URQUHART: As a student.

HIS HONOUR: As a student, and he said someone like her wouldn't tell a lie, or something like that. I think he said there must have been some --

MR URQUHART: These three teachers - I am including Mr Jones in this - those who could remember either of these students spoke very highly of them. There is no doubt about that.

HIS HONOUR: One of the teachers said that if these girls say there was this conversation - and I don't remember - but they wouldn't be telling lies and it must have happened. One of them said something to that effect.

MR URQUHART: Mr Jenkin says it was Mr Bourke. It was

1 either Mr Bourke or, on my recollection, Mr Jones. It is  
2 one of those two.

3  
4 HIS HONOUR: I think it is Mr Bourke. But then, of  
5 course, Rhonda Goode doesn't say that he was there.

6  
7 MR URQUHART: Yes. Of course with the passage of time  
8 this is a problem that the Inquiry has encountered, not  
9 just in respect of this particular matter but other areas  
10 of the evidence that we have heard.

11  
12 Just returning to what Mr Bourke's recollections were.  
13 He could not recall any other occasion on which either of  
14 these students raised the subject matter with him,  
15 including the graduation party at the end of 1987. As to  
16 the version given by Jodie Haddow, he stated at 1984, "Yes,  
17 it could have possibly happened but again I feel strongly  
18 that I didn't hear things mentioned in terms of sexual  
19 abuse". Mr Bourke accepted, however, that if these girls  
20 had of mentioned abuse, but not in a sexual sense of it,  
21 rather physical, then he would have expected that his  
22 response may well have been that he would have needed  
23 someone to come forward before any action could be taken.  
24 Which is, of course, the account which was given by Jodie  
25 Haddow.

26  
27 He also testified that given the reputation that  
28 Dennis McKenna had, if he was to be taken on by a young  
29 teacher, as he was at the time, he would have had to made  
30 sure that his argument was compelling. He was then asked  
31 at page 1987 by me:

32  
33 So would it be the case then that if - and  
34 I emphasise "if" - you were told by Jodie  
35 Haddow and Rhonda that they believe that  
36 Dennis McKenna was sexually interfering  
37 with boys and they actually conveyed that  
38 to you, that you would have felt that  
39 wasn't going to be enough evidence?

40 A. Again, I can't recall. But if you  
41 want me to speculate --

42  
43 Q. Yes, I do.

44 A. I think I most likely would have said  
45 that someone needs to come forward just to  
46 confirm it.

1 Now, sir, Mr Bourke had also made a personal observation  
2 about arguably inappropriate behaviour by Dennis McKenna  
3 towards a male student. He recalled an occasion some time  
4 in 1985, '86 or '87. He can't recall the precise year -  
5 when he observed a student sitting on Dennis McKenna's knee  
6 in his office. He recalls a student wasn't just alone with  
7 Dennis McKenna, but there were other students also present.  
8

9 HIS HONOUR: Now, can I be satisfied that is what happened  
10 before the girls spoke to the teachers?  
11

12 MR URQUHART: Well, we don't know.  
13

14 HIS HONOUR: We don't know.  
15

16 MR URQUHART: We can't be satisfied, sir, because Mr  
17 Bourke could only say it happened in '1985, 1986 or 1987,  
18 so it may well have happened before, or it may well have  
19 happened after, but in my submission, sir, we would be  
20 unable to narrow it any further. We do know who the  
21 student was. His name has not been disclosed, and it won't  
22 be disclosed now, but we do know --  
23

24 HIS HONOUR: He's one of the boys in the small maths  
25 class - wasn't Bourke the maths teacher?  
26

27 MR URQUHART: Yes, it was Mr Bourke who was the maths  
28 teacher; yes, one of the small group of boys.  
29

30 HIS HONOUR: The very small class including - it might  
31 have been both girls or one of the girls.  
32

33 MR URQUHART: No, it was Haddow.  
34

35 HIS HONOUR: One of the girls. Haddow, that's right.  
36

37 MR URQUHART: Ms Haddow was in that class.  
38

39 HIS HONOUR: Yes.  
40

41 MR URQUHART: And this boy actually was one of the boys  
42 that Ms Haddow says she named at the phys ed room meeting  
43 as potentially being one of the four boys who had been  
44 sexually interfered with by Dennis McKenna. I emphasise  
45 she could only guess that that was the case. She noted  
46 this boy in particular - his behaviour had changed.  
47

1           And Mr Bourke stated that his reaction at the time  
2           that he saw this was, "That looks unusual." And that he  
3           also agreed that he used the following phrase in his  
4           interview with the Inquiry Investigators on 31 January 2012  
5           that "it didn't look right." Now, as I said --  
6  
7           HIS HONOUR:    Didn't he say something about the boy was  
8           very tall, that's why it looked unusual, he was a big boy?  
9  
10          MR URQUHART:   Yes.  
11  
12          HIS HONOUR:    And he said that as - it was sort of - his  
13          evidence to the effect was, I think, glancing - he didn't  
14          study it for long, he just - as he passed he noticed  
15          through a door of the office, I think, or something like  
16          that.  
17  
18          MR URQUHART:    He was walking past that window.  
19  
20          HIS HONOUR:    The window. That's right.  
21  
22          MR URQUHART:    The large window.  
23  
24          HIS HONOUR:    And he said they were sharing a joke at the  
25          time.  
26  
27          MR URQUHART:    Yes.  
28  
29          HIS HONOUR:    And the boy and McKenna - and I understood  
30          his evidence to mean that he didn't put a sinister  
31          interpretation on what was happening because it appeared to  
32          be something like a joke going on.  
33  
34          MR URQUHART:    Yes.  
35  
36          HIS HONOUR:    Am I right about that?  
37  
38          MR URQUHART:    Yes, and also more relevantly in the  
39          presence of other boys as well.  
40  
41          HIS HONOUR:    Yes.  
42  
43          MR URQUHART:    It didn't - yes, I mean, in fairness to Mr  
44          Bourke, he certainly did not give an account that the boy  
45          looked distressed in any way.  
46  
47          HIS HONOUR:    Yes.

1  
2 MR URQUHART: And, sir, I would --  
3  
4 HIS HONOUR: I mean, there is a difference between someone  
5 who sees McKenna being fairly touchy with boys and stroking  
6 under shirts and things on a number of occasions over a  
7 period of time, and someone who might just pass a window  
8 and see - get a glimpse of a boy sitting on the lap,  
9 sharing a joke with McKenna.  
10  
11 MR URQUHART: Yes.  
12  
13 HIS HONOUR: They might be horsing around or tomfoolery.  
14 I mean, there can be a difference there.  
15  
16 MR URQUHART: There can be, certainly, sir. Of course --  
17  
18 HIS HONOUR: But on the other hand, you say he said it  
19 didn't look right.  
20  
21 MR URQUHART: Yes, he said in his evidence that it  
22 looked - his reaction was, "It looks unusual", and then in  
23 his interview with investigators he agreed he said, "It  
24 didn't look right."  
25  
26 And so, again, that observation by him, and I  
27 appreciate what your Honour says regarding the fact that it  
28 was just a one-off incident, the boy didn't look upset, it  
29 was done in the presence of others - by the same token,  
30 your Honour will need to consider whether or not the  
31 evidence of Ms Haddow is accepted, that this was one of the  
32 boys that she named at that phys ed room meeting; and that,  
33 therefore, whether it should have triggered a response by  
34 Mr Bourke that was over and above the response that was  
35 given to these girls.  
36  
37 HIS HONOUR: Do you think he should have asked the boy  
38 himself?  
39  
40 MR URQUHART: Well, he - I'm almost certain, sir, I did  
41 pose that question to him.  
42  
43 HIS HONOUR: Right.  
44  
45 MR URQUHART: I think it didn't cross his mind. I could  
46 be wrong there, but that's my recollection.  
47

1 HIS HONOUR: Do you think it would have been a reasonable  
2 response, or is it something you wouldn't do?

3  
4 MR URQUHART: Well, sir, again we have to take into  
5 account two factors, and that is: firstly, Mr Bourke's  
6 relative inexperience at the time - and once more, again,  
7 that we're not talking about 2012, we're not talking about  
8 2005, 2000, 1995 - we're going way back to 1986, 1987,  
9 1985, and as we've already emphasised, Mr Lockhart teaches  
10 in those years, '85, '86, '87, had no training or guidelines  
11 to assist them in deciding what to do when they observe  
12 this sort of behaviour or when they hear the complaints  
13 that the two girls allege they made to these teachers.

14  
15 So, in my submission, therefore, bearing in mind the  
16 time frame and Mr Bourke's inexperience, I have decided not  
17 to make a recommendation of an adverse finding regarding  
18 what he did with respect to this matter. Even if your  
19 Honour was --

20  
21 HIS HONOUR: What he didn't do?

22  
23 MR URQUHART: -- yes, what he didn't do, yes, even if your  
24 Honour was to accept in the entirety the evidence of Jodie  
25 Haddow and Rhonda Goode. Yes. When I say "what he didn't  
26 do" because, again, if Ms Haddow's evidence is accepted -  
27 and, again, I state as I said before, it would seem Ms  
28 Haddow's recollection is arguably better than Ms Goode's,  
29 and, indeed, Ms Haddow has said that it was on more than  
30 one occasion that these - the response she kept on getting  
31 was that, "Yes, we just need more."

32  
33 So it was neither girl ever gave evidence, or  
34 certainly - I'll say this - certainly Ms Haddow never gave  
35 evidence that these complaints that she was making were  
36 dismissed. There was nothing of that nature. It was  
37 always that response.

38  
39 HIS HONOUR: So unlike other situations we've heard  
40 evidence about, there wasn't this rejection out of hand or  
41 the telling lies or that sort of thing.

42  
43 MR URQUHART: Exactly.

44  
45 HIS HONOUR: Yes. So they got a good hearing on their  
46 evidence.

47

1 MR URQUHART: Yes.  
2  
3 HIS HONOUR: And the issue is whether or not in those  
4 circumstances, if I find that those were the circumstances,  
5 whether it was reasonable to require the boy, one of the  
6 boys, to come forward before doing anything?  
7  
8 MR URQUHART: Yes.  
9  
10 HIS HONOUR: Yes.  
11  
12 MR URQUHART: So, indeed, again, at its highest, sir, I  
13 would merely recommend that a finding be made that there  
14 was just simply an error of judgment that, again, did not  
15 display any dereliction of duty of Mr Bourke.  
16  
17 HIS HONOUR: Now, as to the procedure, the guidelines that  
18 I've issued are to the effect that if I propose to make a  
19 finding which goes beyond your recommendation, then these  
20 teachers will be given a notice of that proposed finding  
21 and they'll have the opportunity to respond.  
22  
23 MR URQUHART: Yes.  
24  
25 HIS HONOUR: So that's the procedure. I'm just putting  
26 that on the record.  
27  
28 MR URQUHART: Yes, sir, yes. That's definitely the case.  
29  
30 HIS HONOUR: So if I accept your recommendation, then  
31 there's no need to hear any further from any of those  
32 teachers.  
33  
34 MR URQUHART: That would be my submission, sir, yes.  
35  
36 HIS HONOUR: Yes.  
37  
38 MR URQUHART: Now, sir, I'm mindful of the time.  
39  
40 HIS HONOUR: Do you want to deal with Mr Jones?  
41  
42 MR URQUHART: I certainly do. Yes.  
43  
44 HIS HONOUR: And then perhaps we might break for lunch.  
45  
46 MR URQUHART: We might have to, your Honour. I was rather  
47 hoping if I could wrap this up --

1  
2 HIS HONOUR: Approximately how much longer have you got to  
3 go, do you think?  
4  
5 MR URQUHART: After I deal with Mr Jones, I need to deal  
6 with a number of witnesses, or a number of persons, but  
7 they won't take as long --  
8  
9 HIS HONOUR: Right.  
10  
11 MR URQUHART: -- as the ones I have dealt with so far.  
12 So --  
13  
14 HIS HONOUR: I have a fairly compelling commitment this  
15 afternoon. An unexpected --  
16  
17 MR URQUHART: All right.  
18  
19 HIS HONOUR: -- old family friend is in a bad way in  
20 hospital. I need to go and see her. So if we deal with Mr  
21 Jones and have a break, a reasonably short lunchbreak --  
22  
23 MR URQUHART: Certainly, sir.  
24  
25 HIS HONOUR: -- and that will allow me the time.  
26  
27 MR URQUHART: No, problem, sir.  
28  
29 HIS HONOUR: Yes.  
30  
31 MR URQUHART: So the time you need to get away.  
32  
33 HIS HONOUR: It's just a matter of finding the time to do  
34 it.  
35  
36 MR URQUHART: Okay. Thank you, your Honour.  
37  
38 HIS HONOUR: It's fairly urgent, apparently.  
39  
40 MR URQUHART: I'll just deal now with Stuart Michael  
41 Jones.  
42  
43 Now, I'll state right from the outset sir, in my  
44 submission the evidence from Jodie Haddow and Rhonda Goode  
45 falls short of the required standard to establish that Mr  
46 Jones was even one of the teachers present on those  
47 occasions these two students say they raised their

1 concerns.  
2  
3 HIS HONOUR: I think I have to agree with that.  
4  
5 MR URQUHART: Yes.  
6  
7 HIS HONOUR: And certainly there's no evidence from Rhonda  
8 Goode capable of satisfying me he was there, and Jodie  
9 Haddow's fairly vague about that as well.  
10  
11 MR URQUHART: Well, I'll state that - state those reasons,  
12 sir, because I identified four. And the first was that,  
13 yes, Ms Haddow was not 100% certain that Mr Jones was in  
14 attendance at the 1986 meeting in the phys ed room;  
15 secondly, Ms Goode stated that the only teacher at that  
16 meeting was Ian Lockhart, though there may have been  
17 someone else there, but she can't remember who it was;  
18 three, Ms Haddow was not certain whether she spoke to Mr  
19 Jones informally about this matter in 1987 - stating it was  
20 either Mr Jones or Mr Bourke; and then, fourthly, though Ms  
21 Haddow did nominate Mr Jones as one of the leaders - sorry,  
22 one of the teachers present when the matter was discussed  
23 in 1987 at the Year 12 graduation party, Ms Goode, who was  
24 also present, according to Ms Haddow, gave no evidence at  
25 all about that conversation.  
26  
27 HIS HONOUR: Now, if, in fact, Jones was there only for  
28 that graduation party and listened into a conversation  
29 about something that happened previously, it may be a long  
30 bow to draw to assume that he would have understood what  
31 they were talking about. It's obviously a carry-on from  
32 the 1986 --  
33  
34 MR URQUHART: Yes.  
35  
36 HIS HONOUR: -- discussion with Jodie Haddow saying,  
37 "Well, what are you doing about it?"  
38  
39 MR URQUHART: That's a very pertinent point, sir, yes.  
40  
41 HIS HONOUR: And I don't think the evidence was very clear  
42 as to precisely what was said at that time.  
43  
44 MR URQUHART: Exactly. I'm just checking that again; but,  
45 yes, Ms Haddow didn't give any evidence that they went into  
46 the sort of detail of when it was done.  
47

1 HIS HONOUR: That may be why he's come up in the evidence,  
2 because he just happened to be there at that time.

3  
4 MR URQUHART: Yes. That is entirely open for your Honour.  
5 Yes. So, therefore, sir, I don't propose making any  
6 recommendation of an adverse finding, of course, against Mr  
7 Jones, and nor do I submit that the evidence could even  
8 establish a finding that he simply made an error of  
9 judgement because there's not that sufficient evidence to  
10 establish that he was actually present at these occasions  
11 in which the two ex-students say they raised their  
12 concerns.

13  
14 HIS HONOUR: Right.

15  
16 MR URQUHART: Well, sir, that might be an appropriate time  
17 to adjourn now.

18  
19 HIS HONOUR: All right. We'll adjourn now until  
20 2 o'clock.

21  
22 LUNCHEON ADJOURNMENT

23  
24 UPON RESUMPTION:

25  
26 HIS HONOUR: Please be seated. Yes, Mr Urquhart.

27  
28 MR URQUHART: Thank you, very much, sir. Before I move on  
29 to the next area, I wish to make one clarification, if it's  
30 not clear, and that is that the witness's evidence - and I  
31 was referring to Jodie Haddow - was, in fact, Jodie Brown.  
32 So she was sworn in as Jodie Brown in her evidence at the  
33 hearing --

34  
35 HIS HONOUR: I was aware of that.

36  
37 MR URQUHART: -- in February, yes. It may be that others  
38 might not be.

39  
40 HIS HONOUR: I see.

41  
42 MR URQUHART: Just to clarify that. I fully appreciate  
43 your Honour was, but it may be the case that others reading  
44 the transcript would not be aware that Jodie Haddow is, in  
45 fact, Jodie Brown.

46  
47 HIS HONOUR: Yes.

1  
2 MR URQUHART: Thank you, sir. I turn now to my  
3 recommendation to your Honour regarding hostel staff  
4 members who were employed at the hostels the Inquiry has  
5 examined, where one or more of their fellow staff members  
6 were engaging in sexual offending against students.  
7

8 I deal, first, sir, with St Andrew's Hostel in  
9 Katanning. Now, your Honour, I do not intend recommending  
10 that you make any specific adverse findings regarding  
11 individual Katanning Hostel staff members who were employed  
12 during the time that sexual offending has been found to  
13 have occurred against students at that hostel, and that  
14 would be for the period that insofar as criminal  
15 convictions are concerned, from 1977 through to 1991.  
16

17 Though, of course, with respect to Kerryn Stephens'  
18 allegations, he said that he was sexually abused by Dennis  
19 McKenna in 1976. However, I will say this: the Inquiry  
20 heard from a large number of witnesses who were either  
21 ex-students of the hostel or were teachers who tutored at  
22 the hostel, who testified to seeing Dennis McKenna  
23 regularly and openly engaging in what was clearly  
24 inappropriate conduct with boys at the hostel. This  
25 included having boys sit on his lap, holding their hands,  
26 placing his hand down the front of their shirts, having  
27 their heads resting on his lap and placing his hand on  
28 their upper thighs.  
29

30 It was apparent from these witness accounts that  
31 Dennis McKenna did not stop this behaviour even when he was  
32 seen to be doing it. Those eyewitness accounts occurred as  
33 early as 1976 and continued well into the 1980s.  
34

35 Whilst I accept there was only one ex-student who  
36 specifically recalled seeing other hostel staff members  
37 present when Dennis McKenna was observed behaving in this  
38 way, I nevertheless do intend recommending to your Honour  
39 that given Dennis McKenna's sustained behaviour of suspect  
40 touching of boys in his care in public areas of the hostel,  
41 it ought to have been expected that incidents of such  
42 behaviour would have come to the attention of hostel staff  
43 members who have worked and resided at the hostel for any  
44 extended period of time.  
45

46 The Inquiry did hear from five witnesses that had  
47 worked at the St Andrew's Hostel over this period of time,

1 and only one, Wayne McKenna, recalled just one occasion  
2 when he saw a boy sitting on his brother Dennis's lap in  
3 the warden's office.  
4

5 So I make one exception though to that general  
6 recommendation, and that is I would not include in the  
7 recommendation any staff members who resided and worked at  
8 Reidy House. Therefore, Mrs Gunda McKenna, who worked and  
9 lived at Reidy House was on another site, would be excluded  
10 from that general recommendation that I proposed.  
11

12 HIS HONOUR: So what's the general finding you're  
13 recommending?  
14

15 MR URQUHART: Well, that it would have been expected that  
16 those types of incidents that Dennis McKenna was seen to  
17 display in public areas of that hostel, you would have  
18 expected that behaviour would have come to the attention of  
19 hostel staff members who were working at the hostel for any  
20 extended period of time.  
21

22 HIS HONOUR: Well, as I understand it, you're inviting me  
23 to draw inferences which are compelling on the evidence  
24 with all these students there at the time, teachers that  
25 come and go, and they've seen little snapshots of behaviour  
26 over the whole period --  
27

28 MR URQUHART: Yes, sir.  
29

30 HIS HONOUR: -- of this type of behaviour, and you ask me  
31 to draw the inference that any staff member working there  
32 full time must have seen many instances of such behaviour,  
33 which seems to be a very reasonable inference.  
34

35 MR URQUHART: Yes.  
36

37 HIS HONOUR: And it's the type of behaviour which, over a  
38 sustained period, which would raise the suspicions of any  
39 reasonably objective person.  
40

41 MR URQUHART: That's exactly right, sir.  
42

43 HIS HONOUR: And so you're asking me to make - inviting me  
44 - there's very little in the way of, in fact, if any,  
45 specific instances where some witnesses said, "Well, one  
46 McKenna saw this happen" et cetera. I think there's not  
47 much of that at all.

1  
2 MR URQUHART: No, there's never --  
3  
4 HIS HONOUR: But nevertheless it can be inferred, without  
5 making findings with respect to any specific episode, that  
6 over a period this behaviour must have been observed and  
7 therefore I can make a general finding against all such  
8 staff that they must have seen behaviour which would raise  
9 suspicions of any reasonably objective person.  
10  
11 MR URQUHART: Correct, sir, yes.  
12  
13 HIS HONOUR: And although I can't make findings specific  
14 to any individual in that regard, there has been a neglect  
15 of duty that can be assumed as being occasions of neglect  
16 of duty by such staff members.  
17  
18 MR URQUHART: Correct, sir. Kylie Haddow is the only  
19 witness that specified that --  
20  
21 HIS HONOUR: And who did she refer to?  
22  
23 MR URQUHART: She referred - I thought your Honour might  
24 have asked me that. She referred to - look, I would need  
25 to have a look at the transcript.  
26  
27 HIS HONOUR: All right. Well, perhaps you could let me  
28 know that later.  
29  
30 MR URQUHART: I will.  
31  
32 HIS HONOUR: Yes.  
33  
34 MR URQUHART: I will. There were some of the McKennas who  
35 were working there when she was there, which would be in or  
36 about 1986 or 1987.  
37  
38 HIS HONOUR: So what you're essentially saying is that  
39 staff members who worked there over a lengthy period would  
40 have been put on inquiry by this type of behaviour, and  
41 they ought to have done something about it.  
42  
43 MR URQUHART: You would have expected them to have  
44 observed this behaviour --  
45  
46 HIS HONOUR: Yes.  
47

1 MR URQUHART: -- precisely, because, and I did elicit this  
2 from some witnesses, on those occasions when they saw  
3 Dennis McKenna doing this, it was not as if he stopped  
4 straightaway. In fact, he conditioned --  
5

6 HIS HONOUR: No, I think that Mary Pilatti was an  
7 example.  
8

9 MR URQUHART: That's the example I was going to give,  
10 where the expression on his face was almost, "Look, I can  
11 do this, I'm above all this", words to that effect. So  
12 that would suggest, sir, that he didn't seem too concerned  
13 to be sighted by at least students and other teachers,  
14 engaged in this sort of behaviour, and therefore he would  
15 be likely to have done the same sort of thing had he been  
16 observed by hostel staff members, although I wish to make  
17 it clear there's no evidence to suggest that he ever did  
18 this when parents of the students were about or around or  
19 in proximity; that the evidence was elicited from some of  
20 the ex-students and certainly no parents who have been  
21 called or Board members, for example, have given any  
22 evidence of seeing this type of behaviour by Dennis  
23 McKenna.  
24

25 Now, sir, written advice of my proposal to make that  
26 general recommendation was given to the five ex-staff  
27 members from St Andrew's who gave evidence before the  
28 Inquiry. Each were invited to respond in writing to my  
29 proposed recommendation should they wish to do so, and no  
30 one has taken up that invitation.  
31

32 Now, sir, if I can deal with staff members at the  
33 other hostels. Dealing first with St Christopher's in  
34 Northam, during the 14 years that Roy Wenlock was warden.  
35 Once more I do not propose making any recommendations of  
36 adverse findings, either specific or against individuals or  
37 even generally against those staff members with respect to  
38 the sexual abuse alleged against Roy Wenlock.  
39

40 I make the distinction of sexual abuse because the  
41 Inquiry has heard a number of accounts of the physical  
42 abuse that were meted out to students. However, the terms  
43 of reference of this Inquiry is confined quite clearly to  
44 allegations of sexual offending.  
45

46 So the alleged sexual offending by Roy Wenlock against  
47 boys in his care though, of a significant duration, was

1 seen to the order of at least 10 years, was largely far  
2 more discrete than the behaviour exhibited by Dennis  
3 McKenna.

4  
5 HIS HONOUR: So apart from being touchy-feely with boys,  
6 he used to cane them relentlessly.

7  
8 MR URQUHART: Well, yes, that's right. And then seemed to  
9 offer solace to them, as one boy described, by inviting  
10 them to his unit for the eventual wrestling.

11  
12 HIS HONOUR: I mean, indeed, I think the housemaster,  
13 Timothy Blee was aware of the - heard rumours about  
14 wrestling and the like, and was aware that Wenlock was  
15 wrestling with boys in his flat, but I don't think there's  
16 any suggestion he knew that that was happening when they  
17 were semi-naked or in underpants.

18  
19 MR URQUHART: No, sir, I was going to make an observation  
20 about Mr Blee.

21  
22 HIS HONOUR: Well, I'll leave it to you then.

23  
24 MR URQUHART: Sir, I was going to say that the actions  
25 taken by Timothy Blee, who was a teacher, was a housemaster  
26 of the hostel, and the Deputy Warden, Walter Dennison, when  
27 they became aware of the specifics regarding Roy Wenlock's  
28 wrestling of students, in my submission could not be  
29 faulted, particularly - and I emphasise when regard is had  
30 to the fact that this occurred in the 1970s, somewhere  
31 around the mid 1970s - '75, '76, '77.

32  
33 And, similarly, sir, it's my submission that no  
34 criticism could be levelled at the Northam High School -  
35 sorry, the Northam High School principal.

36  
37 HIS HONOUR: Mr Riordan.

38  
39 MR URQUHART: Yes, Claude Riordan.

40  
41 HIS HONOUR: Well, he behaved admirably, I thought.

42  
43 MR URQUHART: Yes, yes, for the actions he says he took in  
44 1976. Now, all he was advised, sir, was that his son, who  
45 attended the high school, and not the hostel - that they  
46 had simply heard stories that Roy Wenlock would invite boys  
47 to his flat and make them wrestle with him in their

1 underpants. And that was content of his statement which we  
2 read out at the Inquiry.

3  
4 Now, Mr Riordan stated that he advised Bishop Michael  
5 Challen, the then Chairman of the hostel's Board of  
6 Management, who according to Mr Riordan advised him, "We  
7 are aware of the situation and we have it in hand." And  
8 so, therefore, in my submission, Mr Riordan, particularly  
9 bearing in mind the time, 1976, had responded in a  
10 responsible manner with respect to those hearsay accounts  
11 that he had been given by his two sons.

12  
13 Turning then, sir, to Hardie House, South Hedland.

14  
15 The matter investigated by the Inquiry with respect to  
16 this hostel regarded an alleged single incident of a  
17 supervisor sexually abusing a 13-year-old boy in 1985. In  
18 my submission, there is insufficient evidence to make any  
19 adverse finding recommendation against any staff members at  
20 that hostel; and, more relevantly, of course, those that  
21 are still alive.

22  
23 Now, indeed, it is evident from their records that one  
24 hostel staff member involved in this investigation was  
25 commended by the Country High School Hostels Authority for  
26 the actions she took. Now, her name is Pamela Joy Mason,  
27 and the complainant in this matter has only been identified  
28 as "P", also said in his statement to the Inquiry that he  
29 recalls thinking at the time that Mrs Mason was really good  
30 about how she handled the matter.

31  
32 And it might be appropriate then, sir, if I could deal  
33 with a statement, another statement that was not in my  
34 possession at the time that I commenced my address at  
35 10 o'clock this morning. It is actually from Mrs Mason,  
36 and it was only signed on 22 June today, at 10:30am.

37  
38 So now that I've dealt with what my proposals or  
39 recommendations are in relation to Hardie House, that I'll  
40 just read into evidence now --

41  
42 HIS HONOUR: Right.

43  
44 MR URQUHART: -- Mrs Mason's statement. Pamela Joy Mason  
45 states:

46  
47 I am 65 years of age and currently reside

1 in the Perth metropolitan area.  
2  
3 In 1982 I moved from Tasmania to Perth  
4 after losing my son.  
5  
6 Whilst I was living in Perth I saw an  
7 advertisement in the paper looking for a  
8 supervisor at Hardie House in South  
9 Hedland.  
10  
11 I applied for the job through a private  
12 hiring agency and was shortlisted.  
13  
14 I remember being told that the warden, Joy  
15 Fisher, picked me over the other applicant  
16 because of my age, as she was looking for  
17 someone with a bit of maturity.  
18  
19 When I commenced at the Hardie House, Joy  
20 Fisher was the warden. There had a female  
21 senior supervisor, myself, two male  
22 supervisors, two cleaners, and two cooks  
23 (one was a weekend cook who died and we had  
24 to send her body back to New Zealand for  
25 burial), and one gardener.  
26  
27 Joy Fisher was an extremely good warden.  
28 She was very honest and straight by the  
29 book, and she was a tough disciplinarian  
30 and very thorough. I enjoyed working for  
31 her.  
32  
33 When I started at Hardie House there would  
34 have been approximately 40 or 50 kids.  
35 Half of those would have been boys, and  
36 half girls.  
37  
38 Some time after I started at Hardie House,  
39 the senior supervisor left and I took over  
40 as the senior supervisor.  
41  
42 I remember a man who used to come to Hardie  
43 House yearly to undertake audits. His  
44 surname was Bachelard-Lammas, but the only  
45 thing he would audit was our petty cash and  
46 stamp book.  
47

1 I can't remember the exact date, but it was  
2 quite a while before I left Hardie House  
3 (which was 1986). Mr Bachelard-Lammas ...  
4 came up to South Hedland and together with  
5 Joy Fisher went on a tour around the  
6 region, trying to drum up support for the  
7 hostel.

8  
9 Whilst they were away I remember on a  
10 Sunday night around 10pm a couple of the  
11 boys came and saw me and told me about some  
12 inappropriate behaviour by a male  
13 supervisor.

14  
15 I cannot remember the boy's name, but he  
16 was a tiny little fellow and quite young.  
17 I think he came with two other boys to see  
18 me.

19  
20 He told me that the male supervisor had  
21 either touched him or taken his clothes off  
22 and touched him, but from memory there was  
23 no mention of any penetration.

24  
25 The other boys mentioned that they had been  
26 in the male supervisor's room, and there  
27 was some reference to the boys being given  
28 alcohol.

29  
30 I thought this complaint was sufficiently  
31 serious enough to tell the male supervisor,  
32 whose name I cannot recall, to leave the  
33 hostel and to go to Port Hedland  
34 immediately.

35  
36 I then rang Joy Fisher and left a message  
37 at the pub where they were staying, and  
38 because I could not get hold of Joy, I rang  
39 the local Chairman of the Board (whose name  
40 I cannot remember) to notify him.

41  
42 I then rang the police and the boy's  
43 mother. I remember the boy's mother lived  
44 far away. Initially I thought it was a  
45 town, but I now remember it was Koolan  
46 Island.

47

1 I told her about - that her son had been  
2 involved in an incident with the male  
3 supervisor, and I think I told her that  
4 there was no need for her to come in,  
5 because I think she wanted to make her way  
6 to Hardie House.

7  
8 I would have said not to come in because I  
9 knew she was a long way from the hostel,  
10 and also that her son was not at risk  
11 because I had removed the male supervisor.

12  
13 During my discussion with the boy's mother,  
14 I do not recall her mentioning that she  
15 thought her son was lying and making up the  
16 allegation, nor that the boy had done this  
17 sort of thing before when he wanted to get  
18 his way.

19  
20 From memory, Joy returned to Hardie House a  
21 day or so later, and whilst I cannot  
22 specifically remember talking to her about  
23 this issue, it is highly probable that we  
24 did speak about it.

25  
26 I did not talk to anyone from the Hostel  
27 Authority, nor did I speak with Mr  
28 Bachelard-Lammas about this incident.

29  
30 I am not aware what happened to the boy, or  
31 even if he was collected by his mum. I  
32 just cannot recall what happened to him.

33  
34 I don't have any recollection of Joy  
35 talking to the boy's mother, and I do not  
36 believe that Joy would have told any person  
37 that the boy's mother told her that her son  
38 was lying about what had happened to him.

39  
40 On the night the boy came to see me and I  
41 rang the police, I think some uniform  
42 officers came to the hostel, and again the  
43 next day, which would have been a Monday,  
44 more police came to see the boy.

45  
46 That same morning I remember the male  
47 supervisor came back to Hardie House and I

1 was really angry with him and told him that  
2 for his own sake he needed to leave Hardie  
3 House immediately.

4  
5 I remember him taking whatever little  
6 belongings he had, and left. He did not  
7 return back to Hardie House and I am pretty  
8 sure he actually left before Joy returned  
9 from her tour.

10  
11 I don't remember what actually happened to  
12 the male supervisor.

13  
14 In 1986 I made a decision to leave Hardie  
15 House, and whilst I was attending a hostel  
16 seminar in Perth, I met Dennis McKenna.

17  
18 During my discussion with him I told him I  
19 was thinking of leaving Hardie House, and  
20 he offered me a job, but not at the actual  
21 hostel. It was in a beautiful old  
22 building, but I cannot remember what the  
23 name of the building was.

24  
25 I liked the sound of the idea and decided  
26 to make a trip down to Katanning to check  
27 it out. However, Dennis never showed up.

28  
29 Some time later I received a letter which  
30 was very poorly prepared, informing me that  
31 the "Board" has decided not to offer me a  
32 position. I don't remember ever being  
33 offered a position by Dennis.

34  
35 I had a vivid memory of Joy Fisher warning  
36 me about Dennis, telling me how he was  
37 really "dodgy".

38  
39 This statement is true to the best of my  
40 knowledge and belief. I have made this  
41 statement knowing that if it is tendered in  
42 evidence, I will be guilty of a crime if I  
43 have wilfully included in the statement  
44 anything that I know to be false or that I  
45 do not believe is true.

46  
47 It's then been signed by Mrs Mason, as I said earlier. It

1 was today at 10.30am.

2  
3 Sir, the next and final hostel that I'll be referring  
4 to with respect to the conduct of staff members is the  
5 Narrogin hostel.

6  
7 The Inquiry's investigation into this hostel also  
8 concerned an isolated incident of alleged sexual  
9 interference by a supervisor against a 13-year-old boy in  
10 1990. The matter was handled by the then Warden, Mr Donald  
11 Dixon, and the Chairman of the Narrogin Hostel Board, Mr  
12 Doug Fairclough, who is now deceased.

13  
14 I would submit to your Honour that no adverse finding  
15 should be made against Mr Dixon regarding his involvement  
16 in this matter. To the contrary, the manner in which he  
17 dealt with this matter was commendable, particularly when  
18 regard is had to the following facts: that it was in 1990,  
19 and actually in 1990 before Dennis McKenna was charged;  
20 that it was at a time when it seemed wardens were not  
21 advised of the processes to be followed when such a  
22 complaint of a sexual nature was made against a hostel  
23 staff member; and, finally, that the decision to offer this  
24 supervisor the opportunity to resign was out of Mr Dixon's  
25 control. That decision, of course, was made and could only  
26 be made by the board.

27  
28 Now, sir, if I could now turn my attention to those  
29 witnesses who had been advised at or before 8 June this  
30 year by me, that I did not propose making any adverse  
31 finding recommendations to your Honour. The first is  
32 Satchell John Peacock. Although he went by his - or goes  
33 by his middle name, "John".

34  
35 Now, I confirm, sir, that I do not propose  
36 recommending to you that any adverse findings be made  
37 against Mr Peacock. By way of just brief summary, Mr  
38 Peacock was a member of the Katanning Hostel Board from  
39 1983 to 1986. During that time he was advised by a parent,  
40 Mrs Davies, in his capacity as a Board member, that Dennis  
41 McKenna was mucking around with boys.

42  
43 When he was examined at the Inquiry, I think by your  
44 Honour, from memory, Mr Peacock, stated that what he  
45 thought she was referring to was that Dennis McKenna was  
46 having, as he described it, "gay sex with boys".  
47

1           Now, Mr Peacock's response to this matter raised by  
2 Mrs Davies was to pay unexpected visits to Dennis McKenna's  
3 unit on a number of occasions over a significant period of  
4 time, in the hope of catching him, as he describes it, "in  
5 the act."  
6

7           Though Mr Peacock conceded in his evidence before the  
8 Inquiry that he probably did not try hard enough responding  
9 to Mrs Davies' allegations - and that's at transcript 1165  
10 - and that maybe he should have gone a bit further than  
11 what he actually did - and that's at transcript 1178, I  
12 feel that I have to take account the following factors:  
13 first, that Board members were not given any guidance as to  
14 what to do in these circumstances; secondly, the lack of  
15 resources and expertise Board members such as Mr Peacock  
16 had to properly investigate such an allegation - I'll state  
17 there, sir, and add Mr Peacock was a farmer; and then,  
18 third, rather than dismiss or ignore the allegation that  
19 Mrs Davies was making, Mr Peacock actually tried to catch  
20 Dennis McKenna in the Act on a number of occasions over an  
21 extensive period of time.  
22

23 HIS HONOUR:    So at least he did something.  
24

25 MR URQUHART:   At least he tried to do something.  
26

27 HIS HONOUR:    Yes.  
28

29 MR URQUHART:   It was destined to fail because, of course,  
30 those times that he made the visits were not at those times  
31 at which Dennis McKenna appeared to be sexually interfering  
32 with boys.  
33

34 HIS HONOUR:    No, he virtually did that after hours, behind  
35 locked doors.  
36

37 MR URQUHART:   Yes, exactly, but it does not - there's no  
38 evidence to suggest that Mr Peacock knew that.  
39

40           Now, sir, I can just simply state now the names of  
41 those witnesses or persons that I don't propose - don't  
42 submit any recommendations of adverse findings be made, and  
43 I will just read out the names of eight of those persons,  
44 and the last one I'll just make a few additional comments  
45 about.  
46

47           So, and they are - Robert Hendry, Murray Gatti, Ron

1           Byrne, Patricia Pringle, Graham Young, Neil Thompson,  
2           Cornelius or Con Burro, Bernard Clayton and Gerald  
3           Marriott.

4  
5           I just wish to make a comment regarding Mr Marriott,  
6           sir, and that is this: it was suggested that Mr Marriott  
7           was the principal involved in the matter concerning Diane  
8           Renton, previously known as Diane Pascoe, and Kylie Haddow.  
9           I don't intend to go into any great detail as to their  
10          evidence, but it was their account that they saw a  
11          principal in relation to a note that had been written which  
12          detailed Dennis McKenna's conduct towards boys at the  
13          hostel. And there was a suggestion that that was, in fact,  
14          Mr Marriott.

15  
16          In my view, sir, you could not be satisfied to the  
17          required standard of proof that the person these two  
18          witnesses saw was, in fact, Mr Marriott, and not another  
19          staff member at the hostel.

20  
21          And if I could also add, sir, in Mr Marriott's case,  
22          he provided great assistance to the Inquiry by providing to  
23          investigators a planner that he kept in 1986, which  
24          meticulously recorded events at the high school when he was  
25          principal there, and times of meetings, and matters of that  
26          nature. And the information there within the planner  
27          provided a great deal of assistance to the Inquiry in  
28          relation to other areas of investigation.

29  
30          Now, just by way of concluding remarks, sir, I  
31          emphasise that the process of advising persons of my  
32          recommendations of adverse findings, and receiving written  
33          responses from either those persons or their legal  
34          representatives, is continuing. It was hoped, sir, that  
35          that part of the process involving myself providing written  
36          notice of my recommendations would be completed yesterday.

37  
38          Two reasons have prevented that. The first is that  
39          oral evidence was still being adduced by the Inquiry just  
40          two days ago. And as we have seen this morning, I have  
41          read out further statements from persons who have only  
42          provided and signed those statements within the last  
43          48 hours. So that is the first reason.

44  
45          The other is the unfortunate recent illness of a key  
46          staff member who was to be involved in this process of  
47          preparing my recommendations of adverse findings, and so

1 for those two reasons there have been unexpected delays.  
2

3 Now, it is hoped that the final list of persons I  
4 estimated to your Honour this morning was about 20 - it is  
5 hoped that they will be advised of my recommendations one  
6 way or the other by Monday of next week.  
7

8 I appreciate that those delays may cause problems for  
9 those persons, or their counsel particularly, of course,  
10 those who are going to be in receipt of recommended adverse  
11 findings.  
12

13 If there are any problems caused with these delays,  
14 then the Inquiry will be as accommodating as it can,  
15 bearing in mind the time constraints between now and when  
16 the report needs to be delivered.  
17

18 In the meantime, sir, I would be stating this: that  
19 whilst I mentioned this morning that Friday, 29 June, has  
20 been set aside for oral closing submissions by myself and  
21 any other persons who have adverse finding recommendations  
22 made against them to appear, it's likely that there would  
23 be closing submissions regarding one person on Thursday, 28  
24 June - just the one person. That is in order to  
25 accommodate his counsel.  
26

27 So on that basis, sir, that's all I have to say now,  
28 and unless there's nothing else. If we could adjourn to  
29 10:00 on Thursday, 28 June, but bear in mind though that  
30 most of the closing addresses will be taking place on the  
31 following day, Friday, the 29th.  
32

33 HIS HONOUR: Thank you. We'll adjourn until Thursday, 28  
34 June at 10am.  
35

36 MR URQUHART: Thank you, sir.  
37

38 AT 2.38PM THE HEARING ADJOURNED TO  
39 THURSDAY, 28 JUNE 2012 AT 10AM  
40  
41  
42  
43  
44  
45  
46  
47