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PERTH CASINO ROYAL COMMISSION

PUBLIC HEARING - DAY 11

10.00 AM TUESDAY, 25 MAY 2021

COMMISSIONER N J OWEN

COMMISSIONER C F JENKINS

COMMISSIONER C MURPHY

HEARING ROOM 3

MS PATRICIA CAHILL SC and MR LIAM O'SHEA as Counsel Assisting the Perth Casino Royal Commission

MR NICK MALONE as Counsel for Mr Michael Christopher Connolly

MR PAUL D EVANS appeared for Gaming and Wagering Commission of Western Australia

MS FIONA SEAWARD and MR JOSHUA BERSON appeared for The Department of Local Government, Sport and Cultural Industries

MR JOSEPH GARAS SC and MR JESSE WINTON and MS MIRANDA CUMMINGS and MR RICHARD LILLY appeared for Crown Resorts Ltd; Burswood Limited; Burswood Nominees Limited; Burswood Resort (Management) Limited; Crown Sydney Gaming Pty Ltd; Southbank Investments Pty Ltd; Riverbank Investments Pty Ltd and Crown Melbourne Limited

10:00AM

COMMISSIONER OWEN: I think we have Mr Toyne. Mr Toyne, would you state your full name for the record, please.

5 MR TOYNE: Nicholas George Toyne.

COMMISSIONER OWEN: Do you wish to affirm or swear an oath?

MR TOYNE: Affirm.

10

MR NICHOLAS GEORGE TOYNE, AFFIRMED

15 COMMISSIONER OWEN: Thank you, sit down, Mr Toyne. Yes, Ms Seaward?

EXAMINATION-IN-CHIEF BY MS SEAWARD

20

MS SEAWARD: Mr Toyne, until March this year, you were employed at the Department of Local Government, Sports and Cultural Industries?

MR TOYNE: That's correct.

25

MS SEAWARD: And your previous role was Assistant Director, Liquor Control and Arbitration?

MR TOYNE: That's correct.

30

MS SEAWARD: And you've received a witness summons to attend this Royal Commission?

MR TOYNE: Yes.

35

MS SEAWARD: Along with that summons, there was a list of questions in request to put together a statement?

MR TOYNE: Yes.

40

MS SEAWARD: In front of you, you should have a copy of a document.

MR TOYNE: Yes.

45 MS SEAWARD: Does that look like the statement that you prepared?

MR TOYNE: Yes.

10:01AM

MS SEAWARD: Does it run for 12 pages?

MR TOYNE: Yes.

5

MS SEAWARD: And 32 paragraphs?

MR TOYNE: Yes.

10 MS SEAWARD: It's unsigned, but on the front cover, it's got a date of 19 May 2021, is that when you finalised the statement?

MR TOYNE: Yes.

15 MS SEAWARD: Have you read the contents of this statement and are you satisfied that the statement is true and correct to the best of your knowledge?

MR TOYNE: Yes.

20 MS SEAWARD: I tender this statement of Mr Toyne which has number DLG.0001.0004.0016.

COMMISSIONER OWEN: The statement of Nicholas George Toyne, which bears the typed date 19 May 2021 and the document identifier DLG.0001.0004.0016 is
25 admitted into evidence as standard exhibit. Thank you.

**EXHIBIT #DLG.0001.000.0016 - STATEMENT OF NICHOLAS GEORGE
TOYNE DATED 19 MAY 2021**

30

COMMISSIONER OWEN: Thank you. Yes, Ms Cahill.

MS CAHILL: Thank you, Commissioner.

35

CROSS-EXAMINATION BY MS CAHILL

40 MS CAHILL: Mr Toyne, if we go to paragraph 4 of your witness statement, which is at page 0003 ---

MR TOYNE: Yes.

45 MS CAHILL: --- you describe there a lengthy career in regulating the racing and gaming and liquor industry in this State?

MR TOYNE: Yes.

10:02AM

MS CAHILL: Between 1988 and earlier this year, March 2021, when you retired.

MR TOYNE: 1985, I commenced as a casino inspector.

5

MS CAHILL: 1985?

MR TOYNE: Yes, 14 October 1985.

10 MS CAHILL: Thank you. In those subparagraphs that you set out in 4.1 through to 4.6, do we read at 4.1, then, that instead of 1988 it should be 1985 to 1991?

15 MR TOYNE: Well, I was employed as a Government Casino Inspector in 1985 and in 1988 I gained promotion to a position of gaming inspector within the Gaming Division.

MS CAHILL: Did that broaden the role that you had?

20 MR TOYNE: At that stage they were separate divisions, so I moved from the casino inspectorate to the newly-established Gaming Division which was community gaming outside of the casino.

25 MS CAHILL: So you had no role between 1988 and 1981 --- I'll start again --- 1988 and 1991 in relation to casino regulation?

MR TOYNE: That's right.

MS CAHILL: Understood.

30 MR TOYNE: Other than the Casino Burswood Island agreement placed certain conditions on community gaming. So my only involvement was ensuring that those provisions of the agreement were adhered to.

35 MS CAHILL: Thank you for that. Can we then go down to the back end of this subparagraphs to 4.5 and 4.6. I'm looking there at your two last roles from 2012, Manager Compliance Liquor and Assistant Director Liquor Control and Arbitration.

MR TOYNE: Yes.

40 MS CAHILL: Did you have anything to do with casino regulation in those roles?

MR TOYNE: As Manager, Compliance Liquor, the only role I had was sending liquor inspectors to the casino to do liquor work.

45 MS CAHILL: Yes. And Director Liquor Control and Arbitration?

MR TOYNE: No, that was making decisions for the granting of liquor licences and

10:04AM

such things as fit and proper on persons in positions of authority.

5 MS CAHILL: So let me just follow on from what you said about 4.1, where you were Gaming Inspector from 1988 and that moved you out of the casino regulation area.

MR TOYNE: Yes.

10 MS CAHILL: The Gaming Investigator function from 1991 to 1993, did that involve casino regulation?

15 MR TOYNE: I can't recall, actually. We had so many restructures in the Department, it's hard to keep up with it. But it was the beginning of the amalgamations of the divisions.

MS CAHILL: I see.

20 MR TOYNE: So I think we took on racing in '91, as far as the provisions of the Betting Control Act in relation to the TAB.

MS CAHILL: And you're talking about those amalgamations and restructures. When I was asking you a moment ago about your position after 2012 ---

25 MR TOYNE: Yes.

30 MS CAHILL: --- was that a product of a demerging, if you like, of what had previously been amalgamated so that you had two streams, liquor on the one hand and gaming on the other?

35 MR TOYNE: One of the first amalgamations was they actually created three positions of senior inspector, liquor, gaming and the casino. Ultimately, those were -- those three positions were amalgamated into one position, the manager compliance. So there was a manager compliance for gaming and a manager compliance for liquor.

MS CAHILL: I understand.

40 MR TOYNE: And gaming included the casino.

MS CAHILL: All right. We might come to those, we will come to the other roles in a moment in more detail. Can I start with your role as Casino Inspector, which I now understand you would confine to the period 1985 to 1988.

45 MR TOYNE: I did return to the casino as a supervising casino inspector and ---

MS CAHILL: When was that, Mr Toyne?

10:06AM

MR TOYNE: Sorry. It's on my CV. I think it might have been in the period '93 to 2006.

5 MS CAHILL: Do you mean in an acting role?

MR TOYNE: No, I got ---I transferred. So at the time the casino inspectorate had four teams of four. There were level 3 inspectors and a level 4 supervisor. I gained promotion to the Gaming Division and at one stage I transferred back to a vacant
10 position of Supervising Casino Inspector, so I was charge of three inspectors at the casino.

MS CAHILL: All right. Let's first of all, before I take you to that early period, 1985 to 1988, ask you about paragraph 14 of your statement at page 0005, you're talking
15 there about carrying out the role of inspector, only when you weren't in other acting positions.

MR TOYNE: Yes.

20 MS CAHILL: If I take you back to paragraph 8 at page 0004, paragraph 8 at page 0004.

MR TOYNE: Yes.

25 MS CAHILL: You're describing there holding the role of Inspector pursuant to the Casino Control Act throughout your career with the Department.

MR TOYNE: Yes.

30 MS CAHILL: Do I understand that to mean that you never ceased to be formally appointed to that position until you retired, even though from time to time you didn't physically act in that position?

MR TOYNE: What I mean by that is that I was an authorised officer until the day I
35 retired. So I was an authorised officer under the Casino Control Act, the Gaming Commission Act, the Liquor Control Act and the ---

MS CAHILL: So authorised officer under the Casino Control Act to do what?

40 MR TOYNE: I had all the powers of an authorised officer. So, if necessary, I could be sent to the casino to perform duties there.

MS CAHILL: What were the powers of an authorised officer under the Casino
45 Control Act?

MR TOYNE: When I first started in 1985, there was power to examine just about anywhere within the casino unimpeded, to examine gaming equipment and to prosecute --- well, commence prosecutions and issue infringements for breach of the

10:09AM

Casino Control Act.

5 MS CAHILL: How did you receive those powers? Through an instrument of delegation?

10 MR TOYNE: Well, through becoming an authorised officer under the *Casino Control Act*, appointed under section whatever it was in the *Casino Control Act*, section 9.

MS CAHILL: Appointed by whom?

15 MR TOYNE: Well, when I first started it was Michael Egan who was the Chief Casino Officer. Upon successful employment within the Casino Control Division, I was authorised as an officer.

MS CAHILL: By whom?

20 MR TOYNE: By Michael Egan.

MS CAHILL: So by the Chief Casino Officer?

MR TOYNE: Yes.

25 MS CAHILL: And as I understand your evidence, that authorisation, to your knowledge, was never withdrawn?

30 MR TOYNE: Definitely was never withdrawn. I handed in my ID badge on 9 March this year.

MS CAHILL: Coming back to that period between 1985 and 1988 ---

MR TOYNE: Yes.

35 MS CAHILL: --- when you were first a Casino Inspector, I'm just going to ask you a series of questions that are directed just to that three-year period.

MR TOYNE: Certainly.

40 MS CAHILL: Was your work undertaken only at the casino or did you work at the Department's offices as well?

45 MR TOYNE: No, we were based at the casino. Essentially we were an outpost of the main Department and we very rarely went into head office.

MS CAHILL: And you worked on a roster?

MR TOYNE: Yes.

10:10AM

MS CAHILL: How many inspectors do you recall were rostered on with you?

5 MR TOYNE: The original --- I was one of the original inspectors. There were 16 of us plus a Senior Inspector who was based at the casino and worked day shift. We had four teams of four inspectors. So each team had four on duty at any one time.

10 MS CAHILL: When you say you worked day shift, the roster was such that there were inspectors or a team of inspectors at the casino 24 hours a day?

MR TOYNE: So the senior inspector at the time worked day shift, but the inspectors worked a rotating roster 24/7, 365 days of the year.

15 MS CAHILL: Did you report to the senior inspector?

MR TOYNE: Yes.

MS CAHILL: And the senior inspector oversaw your work?

20 MR TOYNE: Yes.

MS CAHILL: Was it Mr Egan who was the Chief Casino Officer between 1985 and 1988?

25 MR TOYNE: Yes, he was also the Director of the Casino Control Division.

MS CAHILL: Thank you. Did you have any interaction with the Chief Casino Officer in the course of your work?

30 MR TOYNE: Not on a day-to-day basis but certainly if Mr Egan attended the casino, we would discuss matters of interest with him.

35 MS CAHILL: Now, you've described that authorisation that you had through your appointment by the Chief Casino Officer. Do you recall if, separately from that, you had any powers delegated to you by the GWC?

MR TOYNE: No. No, I didn't have any.

40 MS CAHILL: Or, separately, any powers delegated by the Chief Casino Officer?

MR TOYNE: No.

45 MS CAHILL: Coming back to paragraph 4 at page 0002, you say, at the very beginning of the paragraph:

I was employed as an Inspector to inspect, audit and investigate casino gaming activity.

MR TOYNE: Yes.

MS CAHILL: Can you explain the difference between an inspection and an audit?

5 MR TOYNE: Okay. So inspection might involve watching a dealer deal the game
to ensure it was conducted in accordance with the rules and procedures. An audit
might be an audit of the main cage of the casino bank to --- for example, we attended
the soft count every day. The soft count is the count of money from across the tables
as opposed to the hard count which is money from gaming machines. We attended
10 both of those activities and in the soft count, for example, we ticked off every chip
credit, chip fill, cheque credit, all paperwork that had been put down the drop box by
the dealer. We checked them off the transaction report to ensure that all were
accounted for. At the end of the soft count, we independently conducted a balance of
15 the money counted and the cage manager, who was not present during the count of
the money, would come into the soft count room and would perform what was
known as a buy where he took --- bought the money off the soft count team and the
Government Inspector would watch the cage manager do his totting up of the cash, if
you like, and then he must balance to the figure we had. Whether it was us or him
that was out, we didn't leave the room until it balanced.

20

MS CAHILL: That process, was that an inspection or an audit?

MR TOYNE: I would consider that to be an audit.

25 MS CAHILL: Just to distinguish between a soft count and a hard count, a hard count
is counting the revenue from the electronic gaming machines or EGMs?

MR TOYNE: Yes, coin.

30 MS CAHILL: And the soft count is counting the revenue from the tables?

MR TOYNE: Yes.

35 MS CAHILL: Does it matter whether that's actually in bill form, money bills, or
chips, it's still called a soft count?

MR TOYNE: Yes. It's the money that went down the drop boxes across the tables,
essentially.

40 MS CAHILL: That process that you just described of counting the revenue, what
was the purpose of the inspectors auditing that process?

MR TOYNE: To ensure the revenue is correct for the purposes of reporting the
taxable amount.

45

MS CAHILL: So the tax payable to the State?

10:15AM

MR TOYNE: Yes.

MS CAHILL: Thank you. And you then prepared a report, did you, of that audit?

5

MR TOYNE: Basically at the end of the soft count, we would take out a copy, the original copy of the master game report signed by all the staff. Various documents that emanated from that soft count, we wouldn't prepare a report as such, but we would prepare a package of paperwork.

10

MS CAHILL: And that paperwork, where did that go?

MR TOYNE: That was held in the offices at the casino because at the end of month we would have to do an end-of-month balance because the money to the State Government was paid at the end of the month.

15

MS CAHILL: So you did that end-of-month reconciliation?

MR TOYNE: Yes.

20

MS CAHILL: And then what happened?

MR TOYNE: The casino paid its tax.

25

MS CAHILL: But in terms of your paperwork?

MR TOYNE: The paperwork was retained at the office.

MS CAHILL: The office of the Department?

30

MR TOYNE: It may have moved into the head office, I don't know. I only put the information in files at the Casino Inspectorate offices, which was a highly secure office, by the way.

35

COMMISSIONER JENKINS: At the casino?

MR TOYNE: Yes.

MS CAHILL: So that's what you would describe as part of the audit of the main cage, would you?

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MR TOYNE: It was a daily audit of the soft count.

MS CAHILL: Which is different from an audit of the main cage?

45

MR TOYNE: Yes, the audit of the main cage may cover a longer period of time. There may be some confusion in terms. We weren't doing true audits in the sense

10:16AM

that an accountant would do a true audit, we were doing daily audits of certain activities.

5 MS CAHILL: What were those activities?

MR TOYNE: Such as a soft count and a hard count.

MS CAHILL: How in your mind did it differ from a normal financial audit?

10

MR TOYNE: We weren't trained accountants, for a start.

MS CAHILL: When you say it was different, in what way was what you were doing different, in your mind, from a financial audit?

15

MR TOYNE: Well, we were balancing the revenue each day and counting the revenue each day, so it was not what I would call a forensic audit or anything like that.

20 MS CAHILL: You weren't looking for any illegal transactions?

MR TOYNE: We were looking for procedural incorrectness or incorrect activities by the casino, but we certainly weren't looking at the source of money or, you know.

25 MS CAHILL: And why was that? Why weren't you looking for the --- I'll just finish the question for the transcript. Any irregularities in relation to the source of funds?

MR TOYNE: The source of funds wasn't something that inspectors were not concerned with, but that wasn't part of our duties.

30

MS CAHILL: I think you make reference to this at paragraph 26 of your statement, at 0009.

MR TOYNE: Yes.

35

MS CAHILL: Reminding ourselves that you're talking about the period in 1985.

MR TOYNE: Yes.

40 MS CAHILL: The inspectors weren't targeting money laundering directly, in your words, because your understanding was that the Federal Government wasn't?

MR TOYNE: Well, when I made that statement, at the time in 1985, there was no AUSTRAC, there was no anything like that. The casino wasn't a financial institution in the terms of money laundering legislation today. Where I talk about criminality, we were talking about cheating on the casino floor, theft of chips, collusion between staff and punters. It wasn't a big picture. That was --- the police were tasked with that, as far as I understood.

45

10:19AM

MS CAHILL: Yet there was an understanding, even at inspector level in 1985, wasn't there, that casinos such as (audio inaudible).

5 MR TOYNE: Yes. Yeah, but that was a police --- as far as we were concerned as inspectors, that was a police role.

MS CAHILL: Did the police have a role in relation to, in 1985, as far as you can recall, in detecting, uncovering money laundering at the Perth Casino?

10

MR TOYNE: I'm not sure if they directly had --- there was a Police Casino Investigations Unit which may have been tasked with that, but certainly as an inspector I wasn't aware of their specific duties.

15 MS CAHILL: That Police Casino Investigations Unit existed from 1985, to your recollection?

MR TOYNE: Yes.

20 MS CAHILL: And what did you understand it did?

MR TOYNE: It did probity on casino employees, it also looked to the possibility of collusion between casino employees and gamblers and I understood that the big picture items like whether drug money was coming into the casino or anything like that.

25

MS CAHILL: Where did you get that understanding from?

MR TOYNE: Discussions with members of the casino --- Police Casino Investigations Unit.

30

MS CAHILL: Do you know how big that unit was in 1985?

MR TOYNE: Originally there was only, I can recall two operational officers coming to the casino, but I don't know how many officers were associated with that unit.

35

MS CAHILL: But as far as you were aware, they were dealing with what you called the "big picture stuff" which includes money laundering risks and criminal infiltration by organised groups into the casino operations?

40

MR TOYNE: Yes.

MS CAHILL: Now, just coming back to paragraph 4, we've been talking about audits and the hard count and soft count audit, we're back at page 0002, and you talk about --- do you see in that second sentence at paragraph 4:

45

Audit programs were developed for operational matters.

10:21AM

MR TOYNE: Yes.

MS CAHILL: Who developed those audit programs between '85 and '88?

5

MR TOYNE: So originally inspectors were, in relation to games audit, originally inspectors were allocated the task of developing an audit program for games audits. As far as I can recall, we had a regulatory section which worked in head office and the financial stuff was more developed by that section.

10

MS CAHILL: All right. And you describe the --- you mention in the next sentence the auditing of games and then the auditing of the main cage. Now, the main cage was the central place at which all of the revenue of the casino was ---

15

MR TOYNE: Yeah, it's essentially the casino bank.

MS CAHILL: --- counted. There were other cages, though, weren't there?

MR TOYNE: There was a cage in the International Room.

20

MS CAHILL: We'll come back to that in a moment. There was a Plaza Cage?

MR TOYNE: I'm not sure if it was in 1985. As far as I can recall, there was a cage in the International Room and the main cage on the gaming floor.

25

MS CAHILL: Just the two? Are you aware that there are more cages now?

MR TOYNE: Yes, I am.

30

MS CAHILL: What's the purpose of the additional cages?

MR TOYNE: The one in the International Room is to allow patrons in the International Room to go and exchange chips for cash. It's more a convenience. Things like chip fills, for example, took time. So if you had a cage in the International Room stocked with chips, then they could do the chip fills on the table.

35

MS CAHILL: Just explain a chip fill for me.

MR TOYNE: Okay. A table starts off with a float, as gamblers win, the float gets depleted so the pit boss in charge of the tables will request a fill to get back to the float value. Likewise, if the gamblers are losing, and now you've got excess chips on the table, they would credit those off so that they weren't carrying excess chips on the table.

40

45

MS CAHILL: So the casino can avail itself of what I will call generically the satellite cages while they're operating games?

10:23AM

MR TOYNE: Yes.

MS CAHILL: And then also the players ---

5

MR TOYNE: Yeah, they ---

MS CAHILL: --- they can trade cash for chips?

10

MR TOYNE: Yes.

MS CAHILL: Can they also cash in their chips?

15

MR TOYNE: So a player would trade cash for chips on the table. So he would virtually buy chips at the table. When he wanted to cash those chips in, he would go to the cage.

20

MS CAHILL: Now, having cashed out the chips at, say, the international gaming facility cage, were the transactions in that cage then brought to account at the main cage?

MR TOYNE: Yes.

25

MS CAHILL: How did that process occur?

MR TOYNE: Well, essentially the satellite cages did their own balance and, again, cage manager would have done --- would verify the information on that balance.

30

MS CAHILL: Were the satellite cages --- I think we're dealing only between '85 and '88 with the International Room cage.

MR TOYNE: Yes.

35

MS CAHILL: Was that audited in the sense of reviewing the soft count, there wouldn't be a hard count, would there?

MR TOYNE: There was some gaming machines in there.

40

MS CAHILL: All right. Was the hard count and soft count audited in the same way that you've described for the main cage?

45

MR TOYNE: The hard count and the soft count was all the revenue off the gaming floor. So the drop boxes from the International Room were collected and included in the same soft count as the money drop boxes from the main gaming floor.

MS CAHILL: So there was no accounting, as such, done at the satellite cage?

MR TOYNE: They would produce their own reports as to activities within that cage

10:25AM

and it formed part of the source documents that would ultimately be the soft count.

5 MS CAHILL: I understand. But then your audit would be of the main cage which would then incorporate that?

MR TOYNE: Absolutely.

10 MS CAHILL: Understand. Now, you say also here at the third sentence of 4, that the audit included an audit of junket activity.

MR TOYNE: All right, so ---

15 MS CAHILL: I'll just ask a question.

MR TOYNE: Certainly.

20 MS CAHILL: Can you describe how junket activity was audited between '85 and '88?

MR TOYNE: The time I was there, we had very strict control over junket activity in the sense that all --- to qualify for a junket, the player --- the representative or the group must have deposited a certain amount of money with the casino prior to commencing their gambling. Inspectors would be present at every buy-in that the junket did. There was no --- well, what you saw on the media, of bags of cash, it was all --- the money was deposited in the casino bank prior to the players arriving, the junket representative would get what was called cheque credits, which enabled them to use those cheque credits to purchase chips at the table. As I say, the inspectors were present at every buy-in and inspectors were present at the junket settlement. So we could see what they were either --- what they either won or lost was from the initial stake money that they'd been required to deposit at the casino.

35 MS CAHILL: What was the purpose for checking for that? Why was that important ---

MR TOYNE: Well, they ---

40 MS CAHILL: I'll just finish the question. I'll just explain on that on the transcript we've got a question and then an answer.

MR TOYNE: Sorry.

45 MS CAHILL: What was the purpose, the importance to the regulator of making sure that what was paid out or paid in matched the funds that had been deposited?

MR TOYNE: Okay. So junket activity attracted a rebate for the junket players based on their turnover. So let's say, for example, they'd come in with \$1 million and they'd gamble for 24 hours, they may turn over \$3 million or \$4 million on the actual table.

They would receive a rebate based on turnover in cash back.

MS CAHILL: Yes.

5

MR TOYNE: So we wanted to ensure that, again, for the purposes of protecting the revenue owed to the State, that they weren't paid over and above that rebate.

10 MS CAHILL: And again, I assume that similarly with the purpose of the auditing of the main cage, the function here wasn't also directed towards detecting any criminality, illegality of funds, money laundering?

MR TOYNE: No, no.

15 COMMISSIONER OWEN: I'm sorry, you started that first answer in this section by saying "When I was there". Can you clarify what you meant by "When I was there"?

MR TOYNE: Sorry, during the period 1985 to 1988 there was strict control over junket activity, gaming activity.

20

MS CAHILL: Can you, just in a thumbnail sketch, besides the audits of junket activity in the main cage, provide the Commissioners with a flavour of the other types of range of audits that were conducted otherwise in this period '85 to '88?

25 MR TOYNE: Well, it's audits of surveillance activity, as in we would make sure that --- sorry, we would check the supervision levels of the surveillance operation, check --- because the principal directions had many levels. We would check that the money levels met the requirements of the directions. We would also conduct surveillance of what surveillance was watching, so that to ensure that they weren't
30 inappropriately using the surveillance facilities. Likewise, we'd conduct audits of security, manning levels, supervision levels, and there was an element of protection of patrons there to ensure security just didn't beat them up. So it was overall activities at the casino over and above the actual gaming operations, we were looking at the whole operation.

35

MS CAHILL: In broad terms, the purpose to which that was directed was one to ensure gaming integrity?

MR TOYNE: Yes.

40

MS CAHILL: And to contrast it with your big picture description of criminal activity such as money laundering and the infiltration of casino operations by organised crime, it was more small picture criminality?

45 MR TOYNE: Yes.

MS CAHILL: Assaults?

MR TOYNE: Yes.

10:30AM

MS CAHILL: Drunk and disorderly behaviour, that sort of thing?

5 MR TOYNE: Yes, and especially with gaming, theft, and attempted cheating are quite large issues in the period 1985 to '88.

MS CAHILL: Thank you. Do you recall how many bank accounts the casino operator had back in '85 to '88?

10 MR TOYNE: I wouldn't have been privy to that information.

MS CAHILL: And when you say you wouldn't have been privy, you didn't have any audit functions in respect of the casino operator's bank accounts at that time?

15 MR TOYNE: As far as I was aware, we only looked at the gaming accounts that were directly involved in day-to-day gaming activities.

MS CAHILL: You say gaming accounts, a ledger of ins and outs in terms of revenue ---

20 MR TOYNE: Yes.

MS CAHILL: ---not the bank accounts themselves?

25 MR TOYNE: No.

MS CAHILL: You mentioned the directions a moment ago. I will take you to that --
-

30 MR TOYNE: Yes.

MS CAHILL: --- all those documents. That is GWC.0001.0006.0020.

35 MR TOYNE: Yes.

MS CAHILL: Now, you're familiar with these directions?

MR TOYNE: Yes.

40 MS CAHILL: Issued under section 24 of the Casino Control Act?

MR TOYNE: Yes.

45 MS CAHILL: And if we go to page 0010, see down at 5.2.

MR TOYNE: Yes.

10:32AM

MS CAHILL: I'll see if I can extract it. I think that might be the whole paragraph. We'll just look quickly over the page.

5 MR TOYNE: No, I think that's it.

MS CAHILL: Yes. You will see there that any officer of the Commission or a person authorised was permitted to inspect at any time records or accounts including bank accounts ---

10

MR TOYNE: Yes.

MS CAHILL: --- it was directed to be opened under 5.1?

15 MR TOYNE: Yes.

MS CAHILL: Yet you say that wasn't inspected or reviewed during your time as an inspector between '85 and '88?

20 MR TOYNE: No, I'm saying the operational inspectors didn't review that. I'm not sure whether the regulatory team or the Chief Casino Officer reviewed those accounts. As I say, we were an outpost based at Burswood Casino, which now is Crown.

25 MS CAHILL: So it's possible, if I can use this shorthand expression, head office ---

MR TOYNE: Yes.

30 MS CAHILL: --- may have, but you have no knowledge of that, whether they did or didn't?

MR TOYNE: That's right.

35 MS CAHILL: Understand. Just cursor back up to section 4.1. You see there at 4.1(b), at the end of the month the casino operator had to furnish to the GWC a certified copy of the chip account sheet and the cash account sheet for that month. Was that provided to you?

40 MR TOYNE: No, that would have gone to head office.

MS CAHILL: I see, and reviewed by them?

MR TOYNE: Yes.

45 MS CAHILL: Are you able to say for what purpose it was reviewed by them?

MR TOYNE: No.

MS CAHILL: We look at (c), bank reconciliation statement in respect of the direction 5.1 bank account showing the balance at the beginning of the month, et cetera.

5

MR TOYNE: Yes.

MS CAHILL: Were you provided with that reconciliation statement or did that go to head office as well?

10

MR TOYNE: Head office.

MS CAHILL: Now, I ask you about investigations because that's the third function you said you had as a casino inspector. When was an investigation undertaken?

15

MR TOYNE: Well, it could be as simple as attempted cheating or cheating by a patron. There could be a staff member who we either had information or we suspected may be in collusion with a player. It could be as simple as a patron complaint that we investigated, or you could be assigned a major investigation if there was --- depending what the Chief Casino/Director of the Division.

20

MS CAHILL: So is it correct to say, if I understand your evidence, that there were two broad circumstances in which an investigation might be initiated; in response to an incident or complaint, so be reactive in that sense?

25

MR TOYNE: Yes.

MS CAHILL: Or, alternatively, during just the regular physical inspection of the casino operations, an inspector might see something that he or she thinks, "Well, that warrants investigation"?

30

MR TOYNE: Yes, it may not have just been see something. One of the roles of the original casino inspectors was also to establish a network amongst casino employees. Each employee under their licence --- under licensing regulations is responsible to ensure that the games are dealt in accordance with the rules and procedures. Now, if a casino employee felt that the rules and procedures were incorrect, or were being --- or was being instructed not to deal by those procedures or rules, then part of our role was to give them some comfort that they could speak to an inspector about it in confidence and we could either commence an investigation or, you know, say to them no, no, that's been approved, or whatever.

35

40

MS CAHILL: So integrity of gaming was one purpose for which investigations were undertaken, to protect that?

45

MR TOYNE: I'd say the main purpose of the investigation was integrity of gaming.

MS CAHILL: And that integrity of gaming included that the games were played fairly and in accordance with the rules?

10:37AM

MR TOYNE: Absolutely.

5 MS CAHILL: And were there investigations taken --- undertaken in relation to what you and I are describing as the small picture criminality?

MR TOYNE: Yes.

10 MS CAHILL: And that would be reactive, presumably, when something occurred, an incident arose?

MR TOYNE: It was mostly reactive. There were some proactives, such as when information was received that international cheats were operating in Australia. Casinos have information of known cheats throughout the world. We had access to
15 that information so we would be on the lookout for those types of people, if you like.

MS CAHILL: Where did you get that information from?

MR TOYNE: In 1985 there was a thing known as the Griffin Book which casinos
20 throughout the world subscribed to. It was a collation of cheating from around the world of known cheats and known gangs of cheats.

MS CAHILL: Now, were there ever any investigations into issues pertaining to
25 problem gambling?

MR TOYNE: I can't say there were. My involvement in problem gambling was a
problem gambler would ultimately probably get banned from the casino, in 1985.
Later on, there was an introduction of self-barring, and that's, if you like, where our
involvement there might be if the person re-entered, we would try and counsel them.
30 Ultimately, it ended up that when a patron wanted to self-bar, they had to bring in
somebody to act as their guarantor, if you like, and we may be involved in contacting
that person to tell them that the problem gambler had been at the casino, located on
the casino floor.

35 MS CAHILL: Were the inspectors involved in the process of having somebody banned?

MR TOYNE: No. We were enforcing the provisions of the Act which said if you
re-enter, you're committing an offence.

40

MS CAHILL: Do you know who, on the regulatory side, was involved in the
process of having somebody banned?

MR TOYNE: There's always a power in the Casino Control Act and later on the
45 Gaming Commissioner, I think, for the Commissioner of Police, to ban people from
casinos. And finding ways to ban themselves, to ban people from casinos. As far as
I understand, those powers were very rarely exercised.

MS CAHILL: What I'm trying to understand is how those who exercised that power would actually find out, gather information about whether someone was an appropriate person to investigate and begin a process in relation to ban them?

5

MR TOYNE: In my experience, that normally was the security manager on duty.

MS CAHILL: Who is a casino person?

10 MR TOYNE: Yes. Yes.

MS CAHILL: So, effectively, between '85 and '88, the regulator didn't have any role in relation to ascertaining the sorts of people who should be, or identifying people who should be the subject of a banning order?

15

MR TOYNE: No, we didn't --- yeah, it wasn't our decision to make who should be banned. We reviewed a barring and if we considered the barring to be incorrect, we would write a report recommending the barring be overturned.

20 MS CAHILL: Did the position of the regulator not being involved in actually instituting a ban, did that ever change in your time with the Department?

MR TOYNE: Not as far as I know, no.

25 MS CAHILL: If we go back to paragraph --- if we go to paragraph 24 at page 0009, I think over the page there, you're describing, I think, the position that although a Casino Inspector had the power to issue an infringement notice in respect of the breach of the Casino Control Act or GWC Act or regulations, you, inspectors, rarely actually, or never, issued an infringement notice yourselves, is that right?

30

MR TOYNE: In relation to casino employees, we issued --- regularly issued infringement notices for patrons who were barred and had re-entered and we could issue infringement notices if we were satisfied that somebody had cheated or attempted to cheat at the casino. But in relation to employees, that was always reported to the Gaming Commission.

35

MS CAHILL: What was the reason for that demarcation?

40 MR TOYNE: One of the reasons, I think, is that the infringement notices carried fairly low penalties. That's a way of dealing with something on the spot. If it was an investigation led to uncovering systemic problems, then the Commission could recommend to the Governor a fine of up to \$30,000 at the time. So there was, I suppose, more oomph in the buck.

45 MS CAHILL: Yes, which is why it was then referred up the line, is that what you're saying?

10:42AM

MR TOYNE: Yes.

5 MS CAHILL: Now, just in terms of the investigations that were undertaken at
inspector level ---

MR TOYNE: Yes.

10 MS CAHILL: --- just give me a brief overview as to how they were typically
undertaken?

15 MR TOYNE: The inspector on duty would --- if something that involved a patron,
security had a --- security and surveillance. Under the directions we were required to
notify the on-duty Government Inspections on detection of illegal activity and the
on-duty Government Inspector, depending if it was an offence under the Act, would
then become the investigating officer. In practice, we allowed the casino to conduct
the interview and we would seek clarification of any matters that we felt were not
covered in the interview and we would want to satisfy ourselves that the elements of
the offences were proven before we took any action.

20

MS CAHILL: Was anybody on the regulatory side present when the Casino
Operator conducted the interview?

25 MR TOYNE: Most times we were present.

MS CAHILL: What was the reason for having the Casino Operator conduct the
interview?

30 MR TOYNE: In the first instance, security was responsible for the overall operation
of the casino and therefore they were responsible for detection of illegal acts and
taking action once those acts were detected. Our role was to ensure they didn't turn a
blind eye to --- or take summary justice. So our role was to ensure that they did
conduct the investigation properly. In practice, quite often it would involve a
discussion between the Government Inspector and the security manager.

35

MS CAHILL: And sometimes it would lead to either being referred to higher-ups in
the Department or the issuing of an infringement notice by an inspector, and other
times not?

40 MR TOYNE: Yeah, so the security manager would conduct their interview and take
their action. The casino inspector would report to the senior inspector whether the
action taken was correct. If it was deemed that it wasn't correct, then we may
conduct further investigations and make other recommendations to the Gaming and
Wagering Commission.

45

MS CAHILL: I wanted to come to your CV and ask you about your acting roles.

MR TOYNE: Yes.

10:45AM

MS CAHILL: So if we go to DLG.0001.0004.0001, page 0003. So this is one of the pages of your CV. Do you recall it?

5 MR TOYNE: Yes.

MS CAHILL: You catalogue on this page all of the acting roles you had during your time with the Department.

10 MR TOYNE: Yes.

MS CAHILL: And the date periods are very specific.

MR TOYNE: Yes.

15

MS CAHILL: How did you compile that list?

MR TOYNE: Basically I asked for records from the Human Resources Department.

20 MS CAHILL: For the purposes of presenting this to the Royal Commission, or was it something prepared earlier?

MR TOYNE: It was something prepared earlier.

25 MS CAHILL: How accurate, is it, do you think?

MR TOYNE: It was accurate at the time I produced it. I don't know how --- as I've retired, I don't have access to the HR records of the Department.

30 MS CAHILL: Now, you see there's an Assistant Director Gaming between November and December that you held the acting role for?

MR TOYNE: Yes.

35 MS CAHILL: What did that job entail?

MR TOYNE: That was it. At the time, the Gaming Division, I think, was still separate. So that was managing the inspectors, providing policy advice and such like to the Director of Gaming.

40

MS CAHILL: In relation to casino regulation?

MR TOYNE: No.

45 MS CAHILL: I understand. And when you were doing that role, you weren't involved in casino regulation?

10:47AM

MR TOYNE: That's correct.

5 MS CAHILL: Understand. Now we leap forward to 1991, because of you were then a Gaming Inspector without casino involvement from 1988 through to 1991?

MR TOYNE: Yes.

10 MS CAHILL: And then we get to your role of Gaming Investigator between 1991 and 1993. I'm going to ask you questions directed to just that two to three-year period there.

MR TOYNE: Yes.

15 MS CAHILL: So were you involved in any casino regulation at this point?

MR TOYNE: I may have been. I can't exactly remember the dates that we got so-called multiskilled.

20 MS CAHILL: What do you mean? Like, there was an amalgamation?

MR TOYNE: Yes.

MS CAHILL: And it may have included this period?

25

MR TOYNE: Yes.

MS CAHILL: But you can't be sure?

30 MR TOYNE: Yeah, I --- yeah, I can't be sure.

MS CAHILL: Do you have any recollection of acting exclusively on the investigation side in relation to casino, the Perth Casino?

35 MR TOYNE: I think during the period that I was Acting Assistant Director Gaming, I didn't have anything to do with the casino. I went back to the casino in '93 as a Supervising Government Casino Inspector and that was when I became, again, involved in casino work.

40 MS CAHILL: You say Supervising Government ---

MR TOYNE: Casino Inspector.

45 MS CAHILL: --- Casino Inspector. If we just cursor back to page 2, I think it is 0002. There we go. You've listed there at the bottom your career history.

MR TOYNE: Yes.

10:48AM

MS CAHILL: You've got Gaming Investigator, do you see there, '91 to '93?

MR TOYNE: Yes.

5

MS CAHILL: And then you have a role of Compliance Inspector.

MR TOYNE: Yes.

10 MS CAHILL: That was different from the title that you just ---

MR TOYNE: We'd been amalgamated. They kept having restructures and changing the name of the position.

15 MS CAHILL: So Compliance Inspector or what was the other term you used?

MR TOYNE: Okay. So under the Casino Control Division, there was Casino --- Government Casino Inspectors and there were Supervising Government Casino Inspectors. So in the team of four, the Government Casino Inspectors were level 3s, and a Supervising Government Casino Inspector was responsible for the supervision of that team and they were Level 4s.

20

MS CAHILL: And how did that correlate to the Compliance Inspector role that you've written down here?

25

MR TOYNE: So by the time --- once we got amalgamated, the level 3s got upgraded to a level 4, so there was no difference between the inspectors and the Compliance Inspector then was doing community gaming, casino work, and racing work, I believe.

30

MS CAHILL: But essentially supervising other inspectors?

MR TOYNE: No, no, they're just --- we all became level 4s, so just one of the team.

35 MS CAHILL: So when were you a Supervising Government Casino Inspector?

MR TOYNE: In 1993.

MS CAHILL: Until when?

40

MR TOYNE: Until we got amalgamated into one division.

MS CAHILL: Was that in about 2005?

45 MR TOYNE: No, it was a long time before that.

MS CAHILL: About when?

10:50AM

MR TOYNE: Maybe it was 2005 after Mr Sergeant became the Director-General.

5 MS CAHILL: Do you remember how many years approximately you were
Supervising Government Casino Inspector?

MR TOYNE: Maybe one or two before that happened.

10 MS CAHILL: You started in '93. So that would put it at around '95?
MR TOYNE: Yes.

MS CAHILL: That sounds about right?

15 MR TOYNE: Yes.

MS CAHILL: All right. So you're Supervising Government Casino Inspector still
based at the casino?

20 MR TOYNE: Yes.

MS CAHILL: And now you're in charge of a team rather than being part of team
that's supervised by somebody else, you were doing the supervising?

25 MR TOYNE: Yes.

MS CAHILL: We're now a few years down the road from when you were last a
Casino Inspector in '88?

30 MR TOYNE: Yes.

MS CAHILL: Has anything changed in terms of the nature of the inspection, audit
and investigation function?

35 MR TOYNE: Sorry, what year are you talking about now?

MS CAHILL: So it's '93 to '95.

40 MR TOYNE: Yeah. No, it hadn't, no.
MS CAHILL: All fairly much the same?

45 MR TOYNE: Yes, around about '95 we started the process and looked at the
involvement of Government Inspectors, Casino Inspectors in the day-to-day
activities of the casino.

MS CAHILL: And whether or not they should be there 24/7?

MR TOYNE: That was after '95.

MS CAHILL: You said around '95 looking at their involvement?

5

MR TOYNE: Yeah. So, for example, prior to '95 we issued --- we held the stock of cards and stock of equipment and we issued it on a daily basis to Gaming Shift Manager. After that period, the casino held the stock of equipment, we held the keys to the locked area. So instead of being responsible for the total stock, we made sure

10

MS CAHILL: Understand. And so that was to preserve the integrity of the games that were being played?

15 MR TOYNE: Absolutely. Yes.

MS CAHILL: No one could tamper with cards?

MR TOYNE: Yes.

20

MS CAHILL: Understand. So at the end of '95, do I understand correctly you then moved into your Compliance Inspector role?

25

MR TOYNE: Yeah, around about then. It's hard to remember. There's that many restructures.

MS CAHILL: So we're talking 20 years or so, 15, 20 years ago ?

MR TOYNE: Yes.

30

MS CAHILL: So was this a product of the amalgamation of different streams, work streams within the Department?

MR TOYNE: Yeah.

35

MS CAHILL: Was that put in liquor and gaming together?

MR TOYNE: That was later.

40 MS CAHILL: This is just putting all gaming together?

MR TOYNE: Yes.

MS CAHILL: And racing?

45

MR TOYNE: Our involvement in racing was generally we conducted counts of TABs. What we're looking for there was, again, credit betting and betting by employees. So we would turn up unannounced to the TAB agency and you can print

out what the money they should have on the premises in realtime and we would count the money to ensure they weren't giving credit to patrons and such like.

5 MS CAHILL: All right, thank you. Coming back to casino regulation, as a Compliance Inspector, were you still based at the casino?

MR TOYNE: No.

10 MS CAHILL: So you'd moved to ---

MR TOYNE: Head office.

MS CAHILL: --- head office.

15

MR TOYNE: Yes.

MS CAHILL: What was your interaction with the --- or more broadly, your role in relation to compliance inspection?

20

MR TOYNE: Okay. So, when we amalgamated, if you like, you would rotate through --- you would do community gaming for a period of time, and then you would be based at the casino as an inspector for a period of time.

25 MS CAHILL: Oh, I see. So when you're involved in casino regulation, you were based at the casino?

MR TOYNE: Yes.

30 MS CAHILL: Understand. And from about 2002, they reduced slightly the roster, didn't they, so that inspectors weren't there 24/7?

MR TOYNE: Yes.

35 MS CAHILL: They clocked off at 3.00 in the morning and came back at 7.00 the next day?

MR TOYNE: Yes.

40 MS CAHILL: Every day of the year?

MR TOYNE: Yes.

MS CAHILL: Were the same number of inspectors rostered on each time?

45

MR TOYNE: No, no.

MS CAHILL: Four inspectors?

10:55AM

MR TOYNE: No.

MS CAHILL: How many now?

5

MR TOYNE: Two.

MS CAHILL: So if you were in charge of an inspection team, a roster, at the casino, were there two plus you or just you and one other?

10

MR TOYNE: No. So by the time we were compliance inspectors, there were no longer supervising inspectors.

MS CAHILL: I see.

15

MR TOYNE: So as the Senior Inspector of Compliance, I was responsible for the roster and I would --- but the parameter was only two inspectors at the casino, so you would roster your resources accordingly.

20

MS CAHILL: So when you were rostered on, it was you and one other?

MR TOYNE: Yes.

25

MS CAHILL: Understand. What was the reason, do you know, for the reduction from four to two?

30

MR TOYNE: Yeah, I do know. So in about 1996, around about there, I was given a project of reviewing the principal directions with the brief of removing casino inspectors from the day-to-day activities in the casino. So, for example, an audit program was developed for the soft count and inspectors no longer attended the soft count. Gaming equipment was handed over to the casino so there was not as much need for the same number of inspectors. So our activity, as in day-to-day operational involvement, was being reduced.

35

MS CAHILL: Why was that?

MR TOYNE: I can only offer you my opinion on that.

40

MS CAHILL: An impression?

MR TOYNE: An impression. The Department was taking on additional roles and limited resources, so to enable the Department to move its responsibilities.

45

MS CAHILL: So it's a resourcing issue?

MR TOYNE: Yes.

10:57AM

MS CAHILL: As far as you could ascertain?

MR TOYNE: Yes.

5

MS CAHILL: But to be fair, no one ever said that to you?

MR TOYNE: That's right.

10 MS CAHILL: I'm asking for an impression, again, from you, Mr Toyne.

MR TOYNE: Yes.

MS CAHILL: Between 1985 when you first came onboard as a Casino Inspector,
15 through to towards the end of this period as a Compliance Inspector in the mid 2000s

MR TOYNE: Yes.

20 MS CAHILL: --- would you say there was any shift in approach by the regulator to
casino regulation?

MR TOYNE: Once we started reducing day-to-day operational involvement, I think
there was a change in approach to the casino operator.

25

MS CAHILL: Can you describe that change for me?

MR TOYNE: I would say there was a greater emphasis on customer service rather
than regulation.

30

MS CAHILL: What do you mean by that?

MR TOYNE: Okay. So, for example, in 1985 Government Casino Inspectors, when
the money was going to be collected off the tables, which is the drop box collection,
35 Government Inspectors followed that collection around, issued keys for the drop
boxes and made sure every drop box was collected off every table. It was pretty
inconvenient to the casino operator. They had to wait for us if we were involved in
other activities and it was a regulatory burden that was placed on them. By the time,
when you pointed out that we were only there until 3.00 in the morning, we no
40 longer performed that function. So there was a reduction in the type of hands-on
regulatory approach, if you like.

MS CAHILL: So when you used that expression of your impression that there was a
greater emphasis on customer service, the customer you're identifying here is the
45 casino operator?

MR TOYNE: Absolutely.

MS CAHILL: You say absolutely. Did you have an impression that's how the regulator saw the casino operator as its customer?

5 MR TOYNE: It was beginning to move that way, yes.

COMMISSIONER OWEN: Sorry, are we talking here around 2002?

10 MR TOYNE: It started earlier than that, but yeah, 2002 would be --- I was asked to review the principal actions in '96 and '98, so the move away from hands-on regulation was starting then.

15 MS CAHILL: I might ask you to elaborate on that a bit more. So in the mid-1990s, as you recall, you think it was around 1996, the directions we were looking at a little while ago, you were asked by whom to review?

MR TOYNE: By my Director of Operations, David Halge, who had been asked by the CEO, as far as I was aware.

20 MS CAHILL: The CEO of the Department. Can you remember who that was?

MR TOYNE: Barry Sergeant.

25 MS CAHILL: I see. And you were given a guidance as to how you were to review the directions and for what purpose ?

MR TOYNE: I was given instruction that the purpose was to remove Casino Inspectors from day-to-day involvement in operational matters.

30 MS CAHILL: And were you told why?

MR TOYNE: No.

35 MS CAHILL: And just coming back to at the later point in time, and Commissioner Owen asked you about whether this customer service orientation was around 2002 or later, I was putting it to you about the mid-2000s. Is it a better way to look at it that it was a gradual process?

MR TOYNE: Yes.

40

MS CAHILL: From about the mid-1990s?

MR TOYNE: Late-1990s.

45 MS CAHILL: Late-1990s, where, is this fair, increasingly the attitude of the regulator was to emphasise service to the casino operator, to reduce inconvenience to it?

11:01AM

MR TOYNE: In certain aspects, yes.

MS CAHILL: Over and above prioritising, maintaining the integrity of the gaming and small picture criminality, that sort of thing?

5

MR TOYNE: Particularly gaming was always our main focus. If anything, my impression it was to reduce the burden on the casino operator.

10 MS CAHILL: Did that come at an expense, the expense of something else, in your view?

MR TOYNE: In my view, it lessened the regulatory control that the Department/Commission had over the activities of the casino.

15 MS CAHILL: Can you be a little more specific about in what respects it lessened the regulatory control?

MR TOYNE: The example I can give is, ultimately, in relation to electronic gaming machines, in 1985, Government Inspectors used to seal the CPU board within an
20 electronic gaming machine. Okay, so the cabinet in an electronic gaming machine is not the important thing. What's important are the microchips which control how the game is played and the return to player. So, in 1985, if a video technician accessed the video machine, it was sealed by a Government Inspector. At the time of an
25 accessing, if you wanted to get into the central processing unit, a Government Inspector would break the seal, we would ensure that it was the same seal that had been placed on last time and we would stand there and watch, albeit we might not know what he's doing, we would stand there and watch the video technician perform his duties. If he went into the CPU board, at the end of his job, we would to take the
30 master gaming Entron, which is the chip, and we would --- sorry, we would take the Entron from the gaming machine and compare it to masters we had in our office and they had to match. Now, and when we started moving away, the sealing of video machines was handed over to the casino and I'm not sure that --- the only comfort that I can think because is the casino operator at the moment, that a patron hasn't
35 accessed the casino and changed the chips over. I don't see that the regulator can take a lot of comfort in the fact that the machine hasn't been accessed inappropriately.

MS CAHILL: In particular, by or on behalf of the casino operator, do you mean?

40 MR TOYNE: Yes.

MS CAHILL: So that's one example that you give in relation to EGMs. Was there any relaxation, do you recall --- or did you have the impression of any relaxation of procedures in relation to the hard and soft count? Sorry, just to clarify,
45 understanding that the inspectors no longer actually physically observed that process?

MR TOYNE: We still observed the process using surveillance cameras and we were getting the source documents at the end of the count, so in relation to the audit

programs developed for the soft count, I think there was reasonable satisfaction at that time that we were getting a true picture of revenue.

5 MS CAHILL: So, just at that time, to be clear, is through the 1990s and the early 2000s?

MR TOYNE: Yes.

10 MS CAHILL: Now, did the auditing of the hard and soft count, and we might say auditing of revenue generally, did that change in any way due to the advent of an increasing use of electronic transactions to move money?

15 MR TOYNE: Well, again, say the junket activity, most junket money was deposited by way of electronic funds transfer.

MS CAHILL: In any event?

20 MR TOYNE: Yes, the little bags of cash just didn't happen.

MS CAHILL: What about the local gaming? Were people paying by cards, for example?

25 MR TOYNE: To buy chips and things?

MS CAHILL: Yes.

30 MR TOYNE: I don't think they could. Credit card. In fact, there was a Gaming Commission Policy. There were ATMs at the casino, but the ATMs had to be 400 metres from the gaming floor, and they weren't located on the gaming floor. So a person could go and get money out of an ATM but part of the logic behind them being located that distance was to give the patron a chance to think about what he was doing before he took his money out.

35 MS CAHILL: Pause for reflection?

MR TOYNE: Yes.

40 MS CAHILL: And was there also a daily limit on the ATM?

MR TOYNE: I believe there was. I'm not sure, but I believe there was.

45 MS CAHILL: So, in substance, you'd say that notwithstanding out there in the wider community the over 1990s and early 2000s, the increasing use of electronic transactions, that didn't affect local casino gaming?

MR TOYNE: No.

11:06AM

MS CAHILL: And insofar as you continued to be involved in casino regulation after the early 2000s, did that ever change subsequently? People using debit cards, for example?

5

MR TOYNE: The only thing I can recall, and this is discussion with other inspectors, is in these unprecedented COVID times, they have allowed patrons to get money from EFTPOS machines on the gaming tables and at the bars.

10 MS CAHILL: But that's a very recent advent?

MR TOYNE: Yes.

15 MS CAHILL: So we've talked about EGMs and we've talked about revenue counting.

MR TOYNE: Yes.

20 MS CAHILL: In this period of time from 1985 and then through the '90s and early 2000s, did the audit programs change in other ways that are substantial or material?

MR TOYNE: It less and less involved the participation of the casino inspectors in framing the audit programs and more revolved around a Central Regulatory Unit that was in head office.

25

MS CAHILL: Was your impression or your view that the audit program suffered for that lack of involvement by the on-the-ground inspectors?

30 MR TOYNE: It may sound like an elitist opinion, but the people who were writing the audit programs weren't experienced casino inspectors.

MS CAHILL: Is your point that if you haven't actually seen how the casino operates in practice, it's less likely that an audit program will be as relevant as it should be?

35 MR TOYNE: Yes.

40 MS CAHILL: Has that position ever changed, to your knowledge? Understanding you probably only have relevant knowledge of the regulation of the casino up until 2012, but up until that point, were the audit programs --- the move was to just have them developed at head office?

MR TOYNE: Yes.

45 MS CAHILL: Compared to 1985, when you were back there on the casino floor ---

MR TOYNE: Yes.

MS CAHILL: --- in the '90s and 2000s, was there a change in how junket activity

was audited?

MR TOYNE: We no longer attended the buys or anything like that.

5

MS CAHILL: And why not?

MR TOYNE: That was part of the removal of involvement in operational activity.

10 MS CAHILL: So was there any auditing of junket activity in this later period?

MR TOYNE: There may have been some by individual inspectors.

MS CAHILL: But on an ad hoc basis?

15

MR TOYNE: Yes.

MS CAHILL: What about the inspection or auditing of bank accounts, did that begin? I recall you saying that that didn't happen in the '80s.

20

MR TOYNE: I wouldn't be able to say.

MS CAHILL: Because you can't remember or ---

25 MR TOYNE: It didn't involve the inspectors.

MS CAHILL: I see. And in this '90s, early 2000s period, to your knowledge was the regulator starting to think of money laundering as a more direct risk that was arising in relation to the Perth Casino operations?

30

MR TOYNE: No, there was more a belief that it was the responsibility of other law enforcement authorities.

MS CAHILL: And were investigations continuing to be undertaken in much the same way as they had in the '80s?

35

MR TOYNE: Yes.

MS CAHILL: Now, this amalgamation with the Liquor Division ---

40

MR TOYNE: Yes.

MS CAHILL: --- of the Department, about when do you recall that occurring?

45 MR TOYNE: Okay, so the Liquor Control Act was amended in about 2005 to include responsible service for alcohol provisions and training requirements for staff involved in the service of liquor. As far as I recall, there was a commitment by the Government to provide a stronger enforcement presence and that's when the

inspectors that had previously just done gaming work were multiskilled to do liquor work as well.

5 MS CAHILL: That included you?

MR TOYNE: Yes.

10 MS CAHILL: If we go to paragraph 13 of your witness statement at page 0005, is it in that context that you make the comment that you do, at 13, this is at around 2005 and subsequently, that it became harder to discharge all your functions as inspector adequately?

15 MR TOYNE: Yeah. There was several problems in that. In my opinion, training wasn't provided at the level that we had in 1985 and probably needed. The biggest problem was one minute you're doing liquor work and gaming work and then you're at the casino. When your time ended at the casino, any investigation you were involved in would be handed over to another inspector. So ---

20 MS CAHILL: You were disrupted in the --- the investigation was disrupted?

MR TOYNE: Yes.

25 MS CAHILL: Which is not helpful?

MR TOYNE: Yes, and also, I felt that that way of rotating inspectors detracted from the skill levels of the inspectors.

30 MS CAHILL: I think that's the point you make at 18, if I understand what you're saying there, that because a different --- an individual inspector had to be skilled across a range of regulatory areas, that had a sort of lowest common denominator effect, if you will?

35 MR TOYNE: I mean, the way I used to put it, we became jack of all trades and masters of none in the sense that, in my opinion, there was a particular set of skill sets to do with a casino inspector and you need to hone those skills all the time. For example, when I first started, you were expected to watch a dealer make a pay-out on a roulette table and be able to calculate what should be the correct pay-out prior to the dealing making the pay-out. Now, if you're not at the casino all the time you lose that edge and the dealers every day, they're increasing their skill level and increasing the speed that they deal those games. And likewise with the surveillance system, it was very a very short period of time where your skill level at manipulating the surveillance system and calling up the correct cameras would start to fade, so every
40 time you went back to the casino, it was almost like a relearning experience.

45 MS CAHILL: So there's inefficiencies there as well as missing things?

MR TOYNE: Yes.

MS CAHILL: Can I come back to what you were saying about the training in relation to casino regulation. You felt that that had come off, it wasn't as good as it used to be?

5

MR TOYNE: Well, when I first started in '85 when I had three months' dedicated training. We had, believe it or not, we had a casino set up at the Hyatt Centre and the inspectors were trained in each game, how to deal the games. Inspectors were shown cheating techniques and, you know, it is full-on, intense training. So by the end of that period of time, we were pretty proficient on all the games. Subsequent to that, the Department would do on-the-job training. As a Supervising Government Casino Inspector, if a new inspector was employed, I was responsible to train that person in the games and whatever. I just didn't think it was as good as the full-on training that we'd had in the beginning. When the casino --- sorry, when the Inspectorates were amalgamated, we lost a fair amount of casino inspectors that didn't work outside the casino so that knowledge base left and I don't think we've ever recovered it.

10

15

MS CAHILL: When did they actually drop off the three-month training?

20

MR TOYNE: It never happen the after the first intake.

MS CAHILL: And the on-the-job training diminished with the amalgamation?

25

MR TOYNE: Well, it was never as extensive as the training that I received as an initial Government Inspector.

MS CAHILL: And presumably if people were on the job less at the casino, anyway, then their on-the-job training would be less?

30

MR TOYNE: Absolutely.

MS CAHILL: Is your impression that by the mid-2000s, casino inspectors just weren't as skilled as they were originally?

35

MR TOYNE: Yes.

MS CAHILL: To a significant degree?

40

MR TOYNE: I would say so.

MS CAHILL: Just to finish off on this little section here, Mr Toyne, in your position as Compliance Inspector during the 2000s, who did you report to within the Department?

45

MR TOYNE: I would have reported to Assistant Director Gaming.

MS CAHILL: And did you have any interaction with the Chief Casino Officer in the

course of your work?

5 MR TOYNE: During the period that Mr Halge was the Director of the Operations Division and the Chief Casino Officer, he was a very approachable director and any inspector could walk into his office and discuss matters with him. Generally speaking, we interacted with the Assistant Director, Gaming Manager Inspections, whatever his title was at the time.

10 MS CAHILL: So I'm gathering from what you are saying, that Mr Halge was someone who was very approachable in that role?

MR TOYNE: Absolutely.

15 MS CAHILL: But perhaps others either side of him not so much?

MR TOYNE: Absolutely.

20 MS CAHILL: And in what circumstances would you approach Mr Halge to discuss matters with him?

MR TOYNE: If I discussed something with Mr Halge, I'd already discussed it with my immediate supervisor and it may be as a response to a question from Mr Halge or it may be a matter I felt ---

25 MS CAHILL: A concern?

MR TOYNE: A concern about that I would discuss it with him. It may be procedures, it may be manning levels, it may have been as simple as activities of security officers.

30 MS CAHILL: But --- all right. Now, did you have any powers delegated to you by the GWC, to your knowledge?

35 MR TOYNE: No.

MS CAHILL: During this time?

40 MR TOYNE: No.

MS CAHILL: Or by the Chief Casino Officer?

MR TOYNE: No, I only had the powers that came with being an authorised officer.

45 MS CAHILL: Just quickly, we can look at your CV again. Just a couple of quick questions and then we can break. That's DLG.0001 --- there we are, looking at your acting roles at 0003. For the transcript I will read out that document number DLG.0001.0004.0001_0003. I'm looking at the period between 1993 and 2006.

11:18AM

MR TOYNE: Yes.

MS CAHILL: I think you've already explained your role as Senior Investigator
5 Gaming. Maybe you haven't. Do you see there you've got Supervising Government
Casino Inspector in 1993?

MR TOYNE: Yes.

10 MS CAHILL: So that's not an acting role?

MR TOYNE: That would have been then, yes.

MS CAHILL: And then Senior Investigator Gaming. What was that role?
15

MR TOYNE: That was essentially supervisor of a team of inspectors that were
assigned in the gaming area.

MS CAHILL: And in 1994, that didn't include Casino Regulation?
20

MR TOYNE: Jeez, I can't recall.

MS CAHILL: Director of Gaming?

25 MR TOYNE: Director of Gaming would have been the --- it may have been than
then they were still separate divisions. The Director again would have been in
charge of Community Gaming.

MS CAHILL: All right. Dropping down to Supervising Regulatory Officer in '96?
30

MR TOYNE: I'm not even sure what that title related to. No, I couldn't say.

MS CAHILL: All right. That's a convenient time.

35 COMMISSIONER OWEN: We'll resume at 11.35. Thank you.

ADJOURNED [11.20 AM]

40 **RESUMED** [11.36 AM]

45 COMMISSIONER OWEN: Ms Cahill?

MS CAHILL: We'll move onto the next topic, Mr Toyne. I've just got two questions
that occurred to me over the break. Can I take you back to what you were saying

about in that early 19 --- in that early period in the '80s where you were observing the hard and soft count, and you were saying that in relation to the daily reconciliation in the main cage, the paperwork that the inspectors prepared was housed at the casino.

5

MR TOYNE: It may have gone to head office. I'm not --- I put it in files at the casino. The Senior Inspector may have forwarded it onto head office. I wasn't sure of that.

10 MS CAHILL: What about the month's end, when that monthly reconciliation was done, the paperwork that the inspectors had from that, what happened to that?

MR TOYNE: That probably went to head office.

15 MS CAHILL: Why do you say "probably"?

MR TOYNE: Because that was the magic figure of the casino tax. They would want to know that.

20 MS CAHILL: Thank you. Another question, on a different topic. When you were describing the change over the period of time from the mid '80s through into the '90s and early 2000s, that removal of the inspectors from much of the actual physical observation of the operations on the casino premises, you were describing how there was a substitution by way of looking at surveillance material, to a degree. Where
25 was the surveillance equipment? Where was that located that the inspectors were using?

MR TOYNE: Okay. So from 1985 the top floor of the casino was divided into two halves. One was the casino surveillance facility and one was a matching surveillance
30 facility that we had, we had our own surveillance monitor room, so we could independently control cameras and do our own taping and whatever.

MS CAHILL: So that was in the '80s?

35 MR TOYNE: Yes.

MS CAHILL: And then that room that the regulator had, that room was maintained through the '80s, '90s and 2000s?

40 MR TOYNE: I can't remember what year, but some time in the early 2000s --- maybe it was around about 2012. The current surveillance or Government Inspector's office is located on the basement level of the casino next to staff entry. It contains the surveillance facility but nowhere near as big as the one we had
45 previously.

MS CAHILL: Let me just understand that. So you date that at around 2012?

MR TOYNE: Yes.

11:39AM

MS CAHILL: That would put you towards the end of your involvement with Casino Regulation, is that about right?

5 MR TOYNE: Yes. Yes.

MS CAHILL: And you're saying it's not as big now, the surveillance equipment?

MR TOYNE: Sorry.

10

MS CAHILL: First of all, demoted to the basement, that's the first, yes?

MR TOYNE: So the surveillance ---

15 MS CAHILL: Sorry, it went down to the basement?

MR TOYNE: Yes.

MS CAHILL: And can you just describe in general terms the surveillance equipment
20 that you had up on that top floor before 2012 or thereabouts?

MR TOYNE: It was a mirror image of the surveillance equipment that the casino had.

25 MS CAHILL: The casino had, all right, and that involved multiple screens?

MR TOYNE: Yes.

MS CAHILL: About how many?

30

MR TOYNE: Eight, nine.

MS CAHILL: Did it enable the user to observe every room of the casino?

35 MR TOYNE: If we wanted to. Not at once, no. But we could set a camera to scroll through. So, for example, at nighttime, there would be no need to be watching the soft count room because the count occurred from 7 o'clock in the morning. But obviously at nighttime when the games are --- when the casino's packed, there's more tables to watch because more tables are open. So we had a choice of programming
40 whatever we wanted, really.

MS CAHILL: So you could watch whatever part of the casino you wanted to ---

MR TOYNE: Yes.

45

MS CAHILL: --- under that original surveillance arrangement?

11:40AM

MR TOYNE: Yes.

MS CAHILL: Now, what was the situation when you moved to the basement?

5

MR TOYNE: It still has that capability for us to look at --- it's a smaller version, but it's the same capability. I don't know if it's got as many screens as it had before.

MS CAHILL: Is it better, worse or no different in terms of its utility?

10

MR TOYNE: The difference that I see now is that if we want to tape for evidence, we go to the casino operator and ask them to dub us a tape, whereas previously in '85, we would make our own copies.

15

MS CAHILL: And so you can see in realtime what's happening, but it doesn't record?

MR TOYNE: It has the capability to record, but it's just policy and procedure that we obtained evidential tapes via the casino operator.

20

MS CAHILL: So that's changed, has it?

MR TOYNE: Yes.

25

MS CAHILL: Do you know the reason for that change?

MR TOYNE: No.

30

COMMISSIONER JENKINS: Can I ask a question just whilst we're on that. My understanding is that at some point the inspectors no longer spent 20 or 24 hours a day at the casino?

MR TOYNE: Yes.

35

COMMISSIONER JENKINS: So there aren't always inspectors in the basement, are there?

40

MR TOYNE: No. Although I think --- when I was there we reduced the shifts the time we were on the premises down to, say, from 3 o'clock. Now it's the case of inspectors are not there every day, they're sent out there for specific tasks.

COMMISSIONER JENKINS: So is that the only surveillance facility that the regulator has, the one in the basement?

45

MR TOYNE: It's classified as a basement, but it's their undercroft parking level. So as far as the staff are concerned, it's the ground level as they walk into the casino. But, yes, that's the only --- however, we can go and view surveillance, their surveillance facility at any time.

11:43AM

COMMISSIONER JENKINS: But you don't have the capacity to sit in the --- in head office?

5 MR TOYNE: No.

COMMISSIONER JENKINS: And view what's happening at the casino?

MR TOYNE: No.

10

COMMISSIONER JENKINS: That's what I wanted to find out. Thank you, Ms Cahill.

15 MS CAHILL: Commissioner Owen, I'm going to tender the directions, I don't think they've been tendered before. DWC.0001.0006.0020.

COMMISSIONER OWEN: The Burswood Casino Directions, DWC.0001.0006.0020, admitted into evidence as an exhibit.

20

EXHIBIT #DWC.0001.0006.0020 - BURSWOOD CASINO DIRECTIONS

25 MS CAHILL: Commissioner, now I'm going to come to the period, the last period of your involvement with casino regulation at the Department, Mr Toyne, and that's between 2006 and 2012 when you were Senior Inspector Compliance.

MR TOYNE: Yes.

30 MS CAHILL: So these questions are directed towards that time period. So, now, you're in this role, you're not based at the casino at all, is that right?

MR TOYNE: That's right.

35 MS CAHILL: And if we pull up this document, GWC.0002.0002.0044, this is the job description for that role?

MR TOYNE: Yes.

40 MS CAHILL: And you recognise that document?

MR TOYNE: Yes.

45 MS CAHILL: You can see from that little flowchart there you're one of three Senior Inspectors Compliance.

MR TOYNE: Yes.

11:44AM

MS CAHILL: Obviously there were two others at the time that you held that role.

MR TOYNE: Yes.

5

MS CAHILL: Who were they?

MR TOYNE: One was Mr Leigh Radis and one was Mr Santo Manino(?).

10 MS CAHILL: Now, the Director of Compliance was the person to whom the three of you reported?

MR TOYNE: Yes.

15 MS CAHILL: Was that Mr Mick Connolly at the time?

MR TOYNE: Sorry, what date are we talking?

MS CAHILL: I'll break it up. So '06, '07 when you started in that role?

20

MR TOYNE: 06/07, it would have been Mr David Halge, subsequent to that is Mr Mick Connolly.

25 MS CAHILL: Then he went away because, remember, I'm talking about the period of '06 to '12, he went to Fisheries, didn't he, at around 2010.

MR TOYNE: Yes.

MS CAHILL: Do you remember who filled the role after him?

30

MR TOYNE: Director of Compliance? I know in 2012 it was advertised and another gentleman came in. It may have been somebody acting in the position, I'm not sure.

35 MS CAHILL: Now, these three Senior Inspectors, Compliance, did you all do the same job or did you have different roles?

MR TOYNE: Okay, so one was Senior Inspector Compliance Gaming, one was Senior Inspector Compliance Liquor, and one was Senior Inspector Compliance Casino.

40

MS CAHILL: And you were which one?

45 MR TOYNE: Well, I did all three at some period because we rotated through the positions.

MS CAHILL: I see. So you weren't given fixed roles, Casino, Gaming and Liquor?

MR TOYNE: No.

MS CAHILL: The idea was that you rotated through those positions?

5

MR TOYNE: Yes.

MS CAHILL: For how long a period of time was each rotation?

10 MR TOYNE: To begin with, it wasn't a specific rotation. It was basically --- I think we probably lasted six months to a year before we got rotated.

MS CAHILL: And is there any --- was there any record, do you remember, being kept about when you were in which rotated role?

15

MR TOYNE: There may have been. I'm not certain.

MS CAHILL: All right. Now, coming back to the job description, you see down the bottom of the page, the front page that we're on, that section 3, "Role and Purpose".

20 Have you got that there, just down the bottom of the page?

MR TOYNE: Yes, yes.

MS CAHILL: And it describes the role and purpose, as it says.

25

MR TOYNE: Yes.

MS CAHILL: By reference to, or for the purpose of meeting the business objectives of the Compliance Division.

30

MR TOYNE: Yes.

MS CAHILL: Do you know what the business objectives of the Compliance Division was between 2006 and 2012?

35

MR TOYNE: Regulation of lawful gambling and liquor activities.

MS CAHILL: Were you ever given any more detailed description of the business objectives?

40

MR TOYNE: There was a business plan that was available.

MS CAHILL: In 2006?

45 MR TOYNE: I think so.

MS CAHILL: And prepared by the Department?

MR TOYNE: Yes.

MS CAHILL: At a higher level than you were?

5

MR TOYNE: Yes.

MS CAHILL: And do you remember the content of it?

10 MR TOYNE: Well, basically it was what I saw was involved in was KPIs, key performance indicators.

MS CAHILL: If we go over the page of this job description form, we're into section 4, "Statement of Key Products & Services".

15

MR TOYNE: Yes.

MS CAHILL: The first heading there is "Co-ordination", so you had to basically manage and coordinate the inspectors?

20

MR TOYNE: Yes.

MS CAHILL: Did it work that when you're each in your different rotations, say, if you were in your casino rotation role, you'd coordinate the casino inspectors, somebody else would --- another one of the inspectors would coordinate the liquor inspectors, for example, and so on?

25

MR TOYNE: Yes, except for the rostering, there was one roster that was common across the three.

30

MS CAHILL: And do you see under the next heading, "Compliance Audit, Inspection and Investigation Programs".

MR TOYNE: Yes.

35

MS CAHILL: "Development and continuous review of audit and inspection programs" ---

MR TOYNE: Yes.

40

MS CAHILL: --- that was something that you did in your role?

MR TOYNE: Yes, although I would say the Senior Inspector's role was more the continuous review of audit programs rather than the development of them.

45

MS CAHILL: How do you distinguish between those two functions?

MR TOYNE: If an inspector conducted the audit program in the field and felt that it wasn't relevant, or parts of it weren't relevant, we would document those, put them to their regulatory area.

5

MS CAHILL: Where do you mean when you say regulatory area?

MR TOYNE: Well, there was --- they developed a regulatory section which basically did things like when legislation was being amended they prepared the legislation. It took on the role of gatekeeper of the audit programs, if you like.

10

MS CAHILL: Is that the Licensing stream?

MR TOYNE: It was more attached to the Policy Branch.

15

MS CAHILL: So were there three broad streams in this regulatory part of the Department at this stage, Policy, Compliance and Licensing?

MR TOYNE: Yes.

20

MS CAHILL: Policy is, you think, where the development of audit programs was focused?

MR TOYNE: They were called regulatory officers, but they sat in the same area and were attached to the policy area.

25

MS CAHILL: What was the distinction between the Compliance and Licensing streams?

MR TOYNE: Compliance and Licensing, so Licensing would only be concerned with issuing approvals.

30

MS CAHILL: So approvals for casino employees?

MR TOYNE: Yes.

35

MS CAHILL: Junket approvals?

MR TOYNE: Yes, they would by then. It was --- by 2006, junket approval processes were more a paperwork exercise than a hands-on interview and ---

40

MS CAHILL: We'll come back to that.

MR TOYNE: Yes.

45

MS CAHILL: But by 2006 when you had this separate Licensing stream as opposed to the Compliance stream, were junket approvals handled by Licensing or Compliance?

MR TOYNE: The actual approvals were handled by Licensing, the leg work, if you like, to do with interviews and such like were handled by Compliance Inspectors.

5 MS CAHILL: People like you?

MR TOYNE: Yes.

MS CAHILL: Or people you were supervising?

10 MR TOYNE: Yes.

MS CAHILL: Which? Or both?

15 MR TOYNE: Both.

MS CAHILL: So you reviewed audit and inspection programs and if they required improvement or development, that went to the Policy stream?

20 MR TOYNE: Yes.

MS CAHILL: So you were just identifying the problems, not finding the solutions, can I put it that way, for issues with audit programs and inspection programs?

25 MR TOYNE: We may have recommended a solution, or we may say this is no longer relevant, for example.

MS CAHILL: But the decision about whether to change the audit or inspection program lay elsewhere?

30 MR TOYNE: Yes.

MS CAHILL: In the Policy stream?

35 MR TOYNE: Yes, that --- yes.

MS CAHILL: Now, the second dot point under this compliance audit, et cetera, heading says:

40 Identification of significant regulatory risks and the development of *appropriate risk treatment plans*.

Is that something that you did in your role?

45 MR TOYNE: We might identify regulatory risks but we didn't develop appropriate treatment plans, no. And I will state that none of the Senior Inspector Compliance, ever went on a training course for risk assessment.

MS CAHILL: But you did understand it to be part of your role to identify significant regulatory risks?

5 MR TOYNE: Yes.

MS CAHILL: Now, money laundering was a known regulatory risk at this time in relation to casinos?

10 MR TOYNE: Yes.

MS CAHILL: And is that something that you identified in the course of this role as a regulatory risk?

15 MR TOYNE: Well, it had already been identified but as far as the Department was concerned, that was a police and other law enforcement body's role.

MS CAHILL: So that's the point you make at 26 and 27 of your written statement. By the time you get into the mid-2000s, the sense is, well, we've got the AUSTRAC
20 legislation and we've got WAPOL and those are the agencies that have the remit to investigate those sorts of activities?

MR TOYNE: Yes. And some of the audit programs reminded you of that. There was a statement in them.

25

MS CAHILL: I see. And to actually not investigate these things ---

MR TOYNE: That it wasn't our role.

30 MS CAHILL: I see. And that position that you've expressed at 26 and 27, particularly 27 where you say, well, that wasn't our remit, so you saw it in the audit program, who was setting that agenda within the Department? At your level or higher up?

35 MR TOYNE: Higher.

MS CAHILL: And where higher up?

MR TOYNE: Director and CEO. I'd say CEO.

40

MS CAHILL: Director-General, do you mean?

MR TOYNE: Sorry, Director-General, yes.

45 MS CAHILL: When you say CEO, was there a CEO of the Department at that time?

MR TOYNE: It was Director-General, then. You get confused with the vernacular

11:55AM

of private and --- enterprise and Government sometimes.

MS CAHILL: That was Mr Sergeant you were referring to?

5

MR TOYNE: Yes.

MS CAHILL: So is the consequence that in relation to money laundering risks, there were, to your knowledge, no treatment plans developed to address that risk?

10

MR TOYNE: Yes.

MS CAHILL: Commissioner, I will just tender the job description, that's DWC.0002.0002.0044.

15

COMMISSIONER OWEN: The job description form with the document identifier that Ms Cahill has just read out is admitted into evidence as an exhibit.

20 **EXHIBIT #GWC.0002.0002.0044 - JOB DESCRIPTION FORM**

MS CAHILL: Can I take you to a page of the Casino Manual at GWC.0001.0013.0026_0006. You're familiar with the Casino Manual?

25

MR TOYNE: Yes.

MS CAHILL: Here we are at paragraph 1.5, referring to the --- I'll call it in shorthand the AML Act, the Anti-Money Laundering and Counter-Terrorism *Financing Act, the Casino Manual identifies that the casino must maintain an anti-money laundering program, which includes the reporting of cash transactions and detecting and reporting conduct which may be suspicious in nature. Do you know or can you recall when that requirement was introduced into the Casino Manual?*

30

35 MR TOYNE: It would have been shortly after the Act was proclaimed.

MS CAHILL: You're inferring that, but you don't know ---

MR TOYNE: Yes, sorry.

40

COMMISSIONER OWEN: Ms Cahill, can I just make a point here? I suspect that between now and November the Casino Operating Manual is going to figure in various guises and there are varied versions of it. But it might be important, I think, if we specify the version each time it's referred to. I notice this one is February 2021.

45

MS CAHILL: Yes. So I will --- yes, so I will be clear on the record that I'm referring to the version as at 23 February 2021 and the question is directed towards

whether you knew or could offer a substantiated view about when that was --- that requirement in paragraph 1.5 was introduced?

5 MR TOYNE: No, I can't.

MS CAHILL: But your best guess, if I can put it this way, is the at the time the AML legislation came in?

10 MR TOYNE: Or shortly after, yes.

MS CAHILL: Do you know if this requirement to maintain an AML program, which included A and B, was ever audited by the regulator?

15 MR TOYNE: I don't know if it was ever audited, but I know that we were aware of it and that it was discussed at the Senior Operations meetings, at a high level.

MS CAHILL: In what respect? Do you mean in meetings with the operator?

20 MR TOYNE: Yes, as far as their requirement to report went, yes.

MS CAHILL: And what was the nature of the discussion?

25 MR TOYNE: I only went to a couple of those meetings but that was their obligations to report that, suspect transactions, whatever.

MS CAHILL: You were never involved in auditing that requirement?

30 MR TOYNE: No.

MS CAHILL: You don't know if it ever was audited?

MR TOYNE: Yeah, I don't know if it was ever audited.

35 MS CAHILL: By others, yes. Commissioner, I will tender just that --- I was just going to tender that single page.

40 COMMISSIONER OWEN: The document, which is a part of the Casino Manual Operations, which has the identifier number GWC.0001.0013.0026_0006, is admitted into evidence as an exhibit.

MS CAHILL: And I need page 7, thank you, because it goes over the page.

45 COMMISSIONER OWEN: And _0006 and _0007.

EXHIBIT #GWC.0001.0013.0026_0006 AND _0007 - CASINO MANUAL OPERATIONS 23 FEBRUARY 2021 VERSION

MS CAHILL: Thank you, Commissioner.

5

Now, I'm going to go to a different document but with almost the same Bates number, GWC.0001.0013.0027_0006. So here we have a page from the Casino Operations Manual effective as at 10 June 2019 and I'm taking you to paragraph 2.1 which provides for, in terms, the operator to detect and report suspicious transactions. Now, again, do you know if that requirement was ever audited by the regulator?

10

MR TOYNE: I don't know. These questions may be more appropriate to be asked of the current Manager Compliance, Mr Radis. To my knowledge, it wasn't.

15

MS CAHILL: So, Commissioner, I tender those two pages.

COMMISSIONER OWEN: The two pages from the Casino Manual Operations with the identifiers GWC.0001.0013.0027_0006 and _0007, are admitted into evidence as an exhibit.

20

EXHIBIT #GWC.0001.0013.0027_0006 AND _0007 - TWO PAGES FROM THE CASINO MANUAL (OPERATIONS)

25

MS CAHILL: Now I'm going to come back to the February 21 version, but at a different page, Mr Toyne. GWC.0001.0013.0026_0011. Now, at the bottom, 4.2, "Foreign Currency Redemption", that box there effectively provides a procedure for a patron to buy back the foreign currency that they've brought into the casino for the purpose of gaming. Do you recall whether that was part of the Casino Manual when you had your role as Compliance Inspector?

30

MR TOYNE: I don't recall, but I would imagine it would be, because they had the ability to do that from day one.

35

MS CAHILL: And throughout the time that you were involved in casino regulation, they retained that ability?

40

MR TOYNE: Yes.

MS CAHILL: Did it ever occur to you that it might create the opportunity for money laundering to take place?

45

MR TOYNE: Not really, because the only --- as far as I was concerned, the only money they'd be buying back their foreign currency with would be money they won on the gaming tables.

MS CAHILL: But if the money that they originally put in was money from criminal

proceeds?

MR TOYNE: Well, we wouldn't have known that. Yeah.

5

MS CAHILL: Did it occur to you at the time that the ability to buy back the foreign currency might facilitate money laundering?

MR TOYNE: No.

10

MS CAHILL: Does it occur to you now?

MR TOYNE: The casino will only give people --- when there's cheques, if they win money, they track their players. Because for two purposes; one is to ensure they're only going to get paid out their winnings, and secondly, they may wish to encourage that player to come back in future, join the International Room, whatever. So without collusion between senior management and the patron, I can't say that it's that easy to launder money at a casino.

MS CAHILL: Well, it depends, doesn't it, what cheques are placed on understanding the source of the monies that are --- the foreign monies that are paid in initially to the ---

MR TOYNE: I'd agree with you. As far as an inspector is concerned, our job was to verify that before the casino started giving them junket rebate programs, that the money was actually deposited. The source of the funds was never something the inspectors were involved in.

MS CAHILL: Is that again because it was basically considered the remit of other agencies, AUSTRAC and WAPOL, to look into, detect, investigate, the source of funds being paid in?

MR TOYNE: Yes.

MS CAHILL: Now, separately from money laundering, criminal associations with junket operators was a known regulatory risk between '06 and 2012, wasn't it?

MR TOYNE: Yes.

MS CAHILL: Did you develop any treatment plan for that risk?

MR TOYNE: Again, that was considered the remit of police.

MS CAHILL: On what basis?

45

MR TOYNE: Well, number one, we wouldn't have information as to who was a criminal and who wasn't.

12:05PM

MS CAHILL: You could obtain information about a junket operator, though, couldn't you?

5 MR TOYNE: Only the information that the junket operator provided to us.

MS CAHILL: Well, there was section 25A, wasn't there, regulations could be passed in order to permit information to be obtained from junket operators?

10 MR TOYNE: Yes, the regulations were there and I was involved in interviews of junket operators, but the quality of information that was given to us, we really had no way of checking them because the police checked it.

15 MS CAHILL: Did you ever suggest or consider developing a treatment plan that proposed that further regulations be promulgated to obtain more detailed information from the junket operators?

MR TOYNE: Personally, no, I didn't, but I was aware that the junket regulations were going --- at one stage were going to be repealed.

20 MS CAHILL: But before then?

MR TOYNE: When I did a review of the directions, because prior to the regulations coming into existence, the directions were the main thing that gave us the ability to collect information. Well, when the principal directions were reviewed, it was --- that was part of the operational involvement I was briefed or instructed to remove us from. Hence that's why the regulations came into existence.

30 MS CAHILL: I was going to come to this a little bit later, but let's touch on it now while you're talking about this. So the regulations that required, amongst other things, junket tour operators to be approved were introduced in about 1999, weren't they?

35 MR TOYNE: Yes.

MS CAHILL: Before then, the requirements that junket tour operators and their representatives had to meet in order to be able to bring a tour to the Perth casino --

40 MR TOYNE: Yes.

MS CAHILL: --- were the subject of section 24 directions?

MR TOYNE: Yes.

45 MS CAHILL: I showed to you the casino directions in their current form.

MR TOYNE: Yes.

12:07PM

MS CAHILL: A little earlier.

5 MS CAHILL: To your recollections what did those directions provide? So this is pre-regulation.

MR TOYNE: Pretty much what the regulations ultimately provided.

10 MS CAHILL: Was there any difference?

MR TOYNE: No, I don't think so.

MS CAHILL: Then we move to the regulations.

15 MR TOYNE: Yes.

MS CAHILL: Did you have any involvement in the preparation of the regulations?

20 MR TOYNE: No.

MS CAHILL: Then you said you became aware later of the movement to repeal the regulations.

25 MR TOYNE: Yes.

MS CAHILL: That wasn't something that you were proposing, the repeal?

MR TOYNE: Not at all.

30 MS CAHILL: Pardon.

MR TOYNE: Not at all.

35 MS CAHILL: So where did that impetus for that repeal come from?

MR TOYNE: As far as I'm aware, the Director-General.

MS CAHILL: That's Mr Sargeant?

40 MR TOYNE: Yes.

MS CAHILL: Was it explained to you the reason behind that impetus?

45 MR TOYNE: Okay, so in 1995 or 1996, I did a review of the Gaming Commission Act and that review was presented to the Minister and there was responses by the Minister. And at one stage we were talking about removing the junket stuff from the directions, and I think it was the Minister's response that, "Well, if you do that, I want regulations to provide the same information."

12:08PM

MS CAHILL: Yes, but then we move on, and there's this impetus to then either relax or remove the regulations.

5 MR TOYNE: Yes.

MR TOYNE: Yes.

10 MS CAHILL: So was it explained to you why there was that move to relax or remove the regulations?

MR TOYNE: Not at all.

15 MS CAHILL: It was just something that was --- that you were told Mr Sargeant wanted to happen?

20 MR TOYNE: To be perfectly honest, I found out after the event. I can say that what was --- when the regulations were enacted and we were collecting the information, because we no longer had the close liaison with WAPOL, the value of the information we were collecting was questionable in that we were interviewing a junket representative and asking him for financial information, and we were only recording what we told us. We didn't have any way of verifying the information that he gave us, we didn't have any powers overseas, we didn't have any powers under the Act to get that information verified.

25 MS CAHILL: Again, I was going to come to this later, but let's do it now. So you have described the directions and the regulations being more or less or reflecting more or less the same procedure?

30 MR TOYNE: Yes.

MS CAHILL: Separately from that, you have just mentioned a change in the sense that the police were involved in the process at one point and then later weren't.

35 MR TOYNE: That's right.

MS CAHILL: So when did that happen, relative to the introduction of the regulations?

40 MR TOYNE: I think it was around the time that the Department stopped funding the police --- police officers' position.

MS CAHILL: Sorry, relative to ---

45 MR TOYNE: Sorry, the gaming.

MS CAHILL: So relative to the introduction of the regulations. Was it before the

12:13PM

regulations were introduced, or after?

MR TOYNE: Sorry, what --

5

MS CAHILL: I'm talking to you about the police involvement. You mentioned police were involved and then they weren't involved in the junket procedures.

MR TOYNE: I think it was before the regulations.

10

MS CAHILL: You talk about the, is it the department not funding what in relation to the police?

MR TOYNE: Sorry, when I say that, I meant the Gaming and Wagering Commission funded a position in the police department to look at junket activity.

15

MS CAHILL: So you describe that, I think, before the break, you said that there were two people?

20

MR TOYNE: Yes.

MS CAHILL: Casino control unit or ---

MR TOYNE: Yes, investigation unit.

25

MS CAHILL: --- investigation unit. And that was funded by GWC?

MR TOYNE: Yes.

30

MS CAHILL: Up until a point prior to 1999, which is when the regulations were introduced?

MR TOYNE. Yes, that was in 1999, yes.

35

MS CAHILL: So when you had a junket procedure before 1999 and the police were involved in it --

MR TOYNE: Yes.

40

MS CAHILL: --- what did the police do?

MR TOYNE: They would take the junket representative's fingerprints, they would do probity as much as they could overseas on the junket representative.

45

MS CAHILL: So did you --- you, being the department/GWC --- gather information, passport details, other information --

MR TOYNE: Yes.

12:14PM

MS CAHILL: --- and provide it to the police in that unit?

MR TOYNE: Yes, they had all the information that we collected, yes.

5

MS CAHILL: You gave it to them? You being GWC/department.

MR TOYNE: Yes.

10

MS CAHILL: And separately they took the fingerprints of the tour operators or representatives?

MR TOYNE: Yes, in practical terms it usually occurred at the same time we were interviewing, the police would come in and take their fingerprints.

15

MS CAHILL: Did they participate in the interview at all?

MR TOYNE: No.

20

MS CAHILL: They observed it?

MR TOYNE: No, they took the fingerprints.

25

MS CAHILL: So you had an interview, you were supplied with additional information apart from the interview, and the interview information and all the other information, presumably by way of documentation, went to the police, who performed investigations?

MR TOYNE: Yes.

30

MS CAHILL: So that ended before 1999?

MR TOYNE: As far as I can recall, yes.

35

MS CAHILL: Because GWC stopped funding that police position?

MR TOYNE: Yes.

40

MS CAHILL: And do you know why?

MR TOYNE: No.

45

MS CAHILL: And then after the police were no longer involved, you still had the interview process?

MR TOYNE: Yes, because the regulations required it.

12:15PM

MS CAHILL: And gathered the documentary information?

MR TOYNE: Yes.

5

MS CAHILL: No fingerprints, though?

MR TOYNE: No.

10 MS CAHILL: Because you wouldn't have had the power to do that. Understood. So what happened to the information that was being collected now, without the involvement of the police?

15 MR TOYNE: I'm not sure. As far as I can recall, we collected the information and -- I don't know any more.

MS CAHILL: Well, you say you don't know any more. Did you ever know?

20 MR TOYNE: When the police were involved, it meant that they went away and did their probity stuff. I don't know what happened after.

MS CAHILL: You described a little while ago, after 2006, and now the RECs were repealed in 2010, you recall.

25 MR TOYNE: Yes.

MS CAHILL: So there's about a three to four-year period there where the regulations were still in place, and you were in the role of senior inspector, compliance.

30

MR TOYNE: Yes.

MS CAHILL: You described a little while ago that the interviews and so forth were conducted by the compliance stream?

35

MR TOYNE: Yes.

MS CAHILL: So you would have been involved then in interviews and document gathering from junket tour operators?

40

MR TOYNE: Yes.

MS CAHILL: So you would recall then that process and what happened with the information?

45

MR TOYNE: That went to head office.

MS CAHILL: Well, you were at head office, Mr Toyne. You were the senior

inspector.

MR TOYNE: Yes, sorry, it went to the regulatory section of the department.

5

MS CAHILL: What do you mean regulatory section? You were part of the regulatory section.

MR TOYNE: Yes, sorry, there was a group of officers called the regulatory officers that were attached to the policy section.

10

MS CAHILL: So it went to policy? Or licensing, or stayed within compliance?

MR TOYNE: Probably went to licensing, sorry, yes.

15

MS CAHILL: Well, what? What happened to it?

MR TOYNE: It would have gone to licensing.

MS CAHILL: And compliance had no more involvement?

20

MR TOYNE: Yes.

MS CAHILL: Either the approval was given or it wasn't?

25

MR TOYNE: Yes.

MS CAHILL: I understand. Coming back to the job description, we had a little diversion there, and I'll take you back to the job description, which is GWC.0002.0002.0044. I was on the next page where we were looking at section 4, and I was asking you about significant regulatory risks, and that's how we got to talking about junkets, those being a significant regulatory risk.

30

MR TOYNE: Yes.

35

MS CAHILL: I want to move to another kind of risk: social harms associated with the increasing sophistication of EGMs.

MR TOYNE: Yes.

40

MS CAHILL: Was that a risk known to you at the time you were senior inspector compliance?

MR TOYNE: I was aware that electronic gaming machines are probably the most addictive form of gambling that exists, and that it targeted the most vulnerable people in that it usually involved lower price to play, if you like.

45

MS CAHILL: People who can least afford to become addicted to gambling.

MR TOYNE: Yes.

5 MS CAHILL: And there was another issue, wasn't there, a risk, associated with EGMs, and that was because of their increasing sophistication, the inability to clearly distinguish them from poker machines?

MR TOYNE: Yes. Yes, definitely.

10 MS CAHILL: And indeed GWC wrestled with this issue of how to clearly distinguish between a poker machine on the one hand and an EGM on the other?

15 MR TOYNE: Yes, although in Western Australia, as far as I'm aware, it had always been that --- the gaming machines that we had at the casino here involved the player making some active decision rather than just pulling an arm or pressing a button and allowing the machine by its program to do. So for example, if we had a blackjack machine here, then the player would be given the opportunity in that game to draw additional cards, say. Although it's a fine line difference, there was an active involvement of the player in decision-making.

20 MS CAHILL: And the lack of involvement of the player is understood to be particularly pernicious, something that's not desirable?

25 MR TOYNE: Well, it just means that they lost money quicker because the spin rate was faster and whatever.

MS CAHILL: So a slower rate of play that is caused by the requirement for more player interaction --

30 MR TOYNE: Yes.

MS CAHILL: --- gives more time for reflection.

35 MR TOYNE: Yes.

MS CAHILL: So a person can consider whether they should keep playing.

MR TOYNE: Yes.

40 MS CAHILL: Yet, as EGMs continue to evolve, and this was the position in 2006 through to 2012, wasn't it, the question was, well, should we be doing something more to address the risks in terms of social harms occasioned by EGMs?

45 MR TOYNE: That certainly wasn't the inspectorate's approach.

MS CAHILL: Is it something that you reflected on?

12:21PM

MR TOYNE: Personally?

MS CAHILL: Yes.

5

MR TOYNE: Yes.

MS CAHILL: Well, it was in your job description to identify significant regulatory risks.

10

MR TOYNE: Yes.

MS CAHILL: And did you identify it as a significant regulatory risk during your term as senior inspector compliance?

15

MR TOYNE: In consideration of new games, new electronic gaming machines, yes.

MS CAHILL: In what way?

20

MR TOYNE: Well, whether the game being proposed involved active participation by the player.

MS CAHILL: Is that all?

25

MR TOYNE: Yes.

MS CAHILL: Did you consider such things as the rate of play?

30

MR TOYNE: The approval of gaming machines moved from the compliance area to what I call this regulatory officer area. A lot of them ---

MS CAHILL: You mean licensing?

35

MR TOYNE: Yes, sorry, yes.

MS CAHILL: So you didn't approve EGMs in the compliance section?

MR TOYNE: No.

40

MS CAHILL: But coming back to your job description, one of the aspects of your job was to identify significant regulatory risks and the development of appropriate risk treatment. Did you, for example, ever propose a treatment plan for addressing the highly addictive characteristics of EGMs?

45

A. No.

MS CAHILL: Do you know if either of the other senior inspectors compliance did so?

MR TOYNE: I do know, and the answer is no.

MS CAHILL: Is there any reason for that?

5

MR TOYNE: It just wasn't on our radar, if you like.

MS CAHILL: Well, you did say, though, a moment ago that you did understand that EGMs were the most addictive form of --

10

MR TOYNE: Absolutely.

MS CAHILL: --- gambling, and targeting those people who were arguably the most vulnerable.

15

MR TOYNE: Yes.

MS CAHILL: So it actually was on your radar, wasn't it?

20 MR TOYNE: When we were --- at the time that I was involved in the approval of gaming machines, prior to it moving to the licensing section, we were looking at whether it met the return to play of the --- return to player --- that the Gaming and Wagering Commission had authorised, if you like. Those items to do with problem gambling were more the remit of the Commission itself than inspectors.

25

MS CAHILL: Why do you say that?

MR TOYNE: It wasn't something which we took into consideration when approving a gaming machine.

30

MS CAHILL: But your job description was to identify significant regulatory risks --

MR TOYNE: Yes.

35 MS CAHILL: --- you would accept, wouldn't you, that the risk of social harm through the playing of addictive EGM gaming is a significant regulatory risk?

MR TOYNE: Yes.

40 MS CAHILL: Was it just something that you overlooked?

MR TOYNE: It was overlooked by the compliance division. I don't say that individuals overlooked it.

45 MS CAHILL: But I'm looking at your job description, Mr Toyne.

MR TOYNE: That was a generic job description for three positions. We may have

12:25PM

made a comment if the casino were to increase the number of EGMs.

5 MS CAHILL: Well, you're speculating. Or are you recalling having cautioned against increasing the number of EGMs?

MR TOYNE: I'm speculating if we were asked. But we weren't asked.

10 MS CAHILL: But there's lots of things you could do, isn't there, to address the social harms arising from EGMs?

MR TOYNE: Yes.

15 MS CAHILL: Such as a lock-out of the machine after a certain period of time that it's been played by the one user?

MR TOYNE: Yes.

20 MS CAHILL: And limits on the amount that can be expended in the one period of play?

MR TOYNE: Yes.

25 MS CAHILL: And you could even think about warnings coming across the screen after ---

MR TOYNE: Yes.

30 MS CAHILL: --- requiring, as opposed to a full lock-out, periods where the machine is just paused for five minutes --

MR TOYNE: Yes.

35 MS CAHILL: --- again to allow the player the opportunity to reflect?

MR TOYNE: Yes.

MS CAHILL: You never proposed those sorts of things?

40 MR TOYNE: No. It's the sort of thing that would be considered at a higher level.

MS CAHILL: It's a treatment plan that you could have propounded to those above you, couldn't you?

45 MR TOYNE: In relation to EGMs, it was never explained or expected of us that we would look at that type of issue, as senior inspectors.

MS CAHILL: Do I understand it correctly when we were looking at your job

description and the job description of the other senior inspectors compliance where it says (audio distorted) and development of appropriate risk treatment plans, that was within the boundaries set for you by people above you?

5

MR TOYNE: Yes.

MS CAHILL: In the departmental hierarchy?

10

MR TOYNE: Yes.

MS CAHILL: Who precisely, at what level?

15

MR TOYNE: Directors and Director-General? And Deputy Director-General.

MS CAHILL: Do you mean that they would, either informally or more formally, explain to you what the objectives of your role were, and therefore the sorts of regulatory risks you were supposed to be identifying and dealing with?

20

MR TOYNE: Yes. Problem gambling, there was an officer that was specifically dedicated in the licensing area for problem gambling, so any sort of assessment of things like lock-outs and warnings and whatever would be performed by that officer, and that information would be put forward to directors or Deputy Director-General or the Director-General.

25

MS CAHILL: Hindsight, of course, is a wonderful thing --

MR TOYNE: Yes.

30

MS CAHILL: --- but having asked you those questions now and looking back, when you look at your job description, is it something that you think, with that wonderful hindsight, that you could have addressed in the course of your role as senior inspector compliance, or do you maintain that it was outside your remit in terms?

35

MR TOYNE: We could have if we were encouraged to, yes.

MS CAHILL: And do you say you were either not --- is it the case that you weren't encouraged in the sense that it wasn't brought to your attention, or you were actively discouraged from looking at regulatory risk of social harms?

40

MR TOYNE: It was an area handled by the problem gambling officer within the department, so it wasn't something that we were ---

MS CAHILL: So it was a structural ---

45

MR TOYNE: Yes.

MS CAHILL: --- issue that because that structure existed, you inferred that that

wasn't part of your job?

MR TOYNE: It was more than inferred. It wasn't part of my job to look at that risk.

5

MS CAHILL: So if you had put your head up, suggesting that the EGMs be managed in this way in the casino manual, those who were working in the problem gaming area would regard you as encroaching on their turf?

10 MR TOYNE: If I --- I had the feeling that if I'd had recommended something like that, that --- I didn't know if my opinion would have been valued.

MS CAHILL: Well, you don't know if it would or if it wouldn't have.

15 MR TOYNE: The only example I could give you is, over time, the casino has introduced a number of bets on gaming tables that colloquially are referred to as sucker bets.

MS CAHILL: Sucker bets.

20

MR TOYNE: Yes, high house advantage and attractive to a player because they, on the face of it, offer high return, but in fact the bets are such a high house advantage that it's probably not worth belting on them. So when the casino first starts off, if you like, during the honeymoon period, they are making lots of money because people, like in Perth, for example, people generally didn't know how to gamble at casino games, so even though the house advantage might only be, say, 3 or 4 per cent, they were making far in excess of that.

25

Over time, even if it's simply the fact that the player loses so much money, they learn strategies one way or another and the house advantage --- not the house advantage, the return to the casino drops because players have learnt some form of strategy --- I'm talking about table games there --- there's only two ways then that the casino can --- or three ways that a casino can then increase their profits; that's either to encourage more people to come and gamble, or to increase the table limit, so increase the price to play, or introduce bets on the table that offer a higher house advantage and might increase your revenue off that gaming table.

30

MS CAHILL: Can you give me an example in practical terms of a sucker bet?

40 MR TOYNE: Probably a lot of gamblers would disagree with me because they follow it, but it's a bet called perfect pairs in blackjack. What you are betting is that you get dealt a pair, say, eight of clubs, in the round of play. There's eight decks of card in a blackjack shoe, they do --- they use a shuffling machine and they continuously shuffle in between in each hand, so it's highly unlikely that --

45

MS CAHILL: So the odds are very poor, so that's known as a sucker bet.

MR TOYNE: That's why it's referred to colloquially as a sucker bet.

MS CAHILL: But your point of telling me all this was to say that these were introduced at some point?

5 MR TOYNE: So inspectors would be asked to write reports on the introduction of those bets, and inspectors may offer opinions that those bets were not ---

MS CAHILL: Did that happen?

10 MR TOYNE: Yes.

MS CAHILL: In your time?

MR TOYNE: Yes.

15

MS CAHILL: About when?

MR TOYNE: Early 2000-something.

20 MS CAHILL: At that stage, if you could confine it to a decade.

MR TOYNE: Yeah, in the 2000s, yes.

MS CAHILL: Maybe the early 2000s?

25

MR TOYNE: Yes, yes.

MS CAHILL: So these particular bets, you say, were the subject of reporting by the inspectors?

30

MR TOYNE: Well, the inspectors --- at that stage when the proposal for new bets, if you like, was introduced, the inspectors were asked to provide a report on what their opinion was, did the proposal meet the requirements of the rules, such like.

35 MS CAHILL: Yes, and I think your point was to tell me what happened when that report was given.

MR TOYNE: It was --- perfect bets is a bet at the casino. Perfect bet is a bet at the casino. So --

40

MS CAHILL: Despite ---

MR TOYNE: Reservations ---

45 MS CAHILL: Reservations expressed by the inspectors --

MR TOYNE: Yes.

12:34PM

MS CAHILL: --- about the fairness of that game to players?

MR TOYNE: Yes.

5

MS CAHILL: And is your point to say that the way in which those reservations were received, once expressed, gave you no encouragement to raise concerns about the fairness of things such as EGMs?

10 MR TOYNE: Yes.

MS CAHILL: If we come back to section 4 of the job description, please, you will see under that second dot point that we have been dealing with at length, we have got the job description:

15

To monitor and review various activities through the implementation and *conduct of audit and inspection programs.*

MR TOYNE: Yes.

20

MS CAHILL: What I'd like to do here is ask you to reflect on and provide some evidence about whether and to what extent the audit and inspection processes in the 2006 to 2012 period changed from the earlier periods that you were involved in the casino inspection. So, first of all, you will see there that under the first dot point it says:

25

Casino gaming operations including but not limited to the operations of the casino main bank

30 We will take that one first. The main bank, you understand to be a reference to that part of the main cage where all the revenue is accounted for?

MR TOYNE: Yes. So there's what's called a chip bank, which holds all the stock of chips, and then there's the main bank, which deals with the cash.

35

MS CAHILL: But when you've got that sort of final reconciliation of the day or the month, that happens at the main bank, doesn't it?

MR TOYNE: Yes, yes.

40

MS CAHILL: So through 2006 to 2012 did you implement any new audit or inspection programs for the main bank?

45 MR TOYNE: My recollection is by that stage the audit programs were being developed by this regulatory team, which were ---

MS CAHILL: You mean in policy?

MR TOYNE: Yes, they were loosely attached to policy, yes.

5 MS CAHILL: So none of the three compliance inspectors are involvement with that? Senior inspectors compliance, I beg your pardon.

MR TOYNE: We had involvement to the extent we would provide input into the development of programs but we didn't develop the programs.

10 MS CAHILL: So the audit of the main bank in that time, 2006 to 2012, to your knowledge, did it change from how it had been previously?

MR TOYNE: Well, the audit program may have changed but I can't recall.

15 MS CAHILL: Think back to just before you left the casino regulation and moved exclusively into liquor licensing, whether you were doing it the same way you had in the late 1990s, early 2000s. Bearing in mind that there was less physical presence on the floor of the casino of inspectors.

20 MR TOYNE: The only thing I can recall is that the audit programs relied more on source documents and information provided by the casino operator rather than by information garnered by inspectors.

25 MS CAHILL: Now, source documents, what are you referring to?

MR TOYNE: So, for example, at the end of the soft camp, a master game report would be produced which gave a breakdown of revenue from each table. As I said in the initial days we were in the soft game room, that master game report was produced and signed by all staff, and we took it there and then. Later on that master
30 game report was provided to us by the casino operator. So ---

MS CAHILL: How would you know that they were counting all of the revenue and putting it into the master sheet?

35 MR TOYNE: Well, the only way to verify that, by then, was to go through the surveillance tapes of the soft camp.

MS CAHILL: But you only did that when inspectors were on the premises, which was not every day.

40 MR TOYNE: That's right, yes.

MS CAHILL: So it created a risk that on the days the inspectors weren't there, if there was --- that not all of the revenue would be counted and included in the master
45 sheet?

MR TOYNE: A potential risk, yes.

MS CAHILL: Yes, but whether that happened or not, no one would know.

MR TOYNE: Yes.

5

MS CAHILL: Now, the next one is security and surveillance departments. It was the job requirement to implement audit and inspection programs and conduct them in relation to security and surveillance departments. Did that change from 2006 to 2012?

10

MR TOYNE: Well, again, the same thing occurred, in that the audit programs were generally developed by the regulatory officers, and inspectors would conduct the audits. The main change that I noted was that to conduct an inspection program, previously as I said we were on the premises, I decided to do or I was allocated a security audit, I would walk into the security department and start my audit. When you are not based there, it required us to ring up and make appointments to meet the manager or ---

15

MS CAHILL: Why was that? Why could you not have just shown up?

20

MR TOYNE: Because --- well, we could. But to --- to interview the managers and whatever, we had to ensure that they were at --- in that part of the premises when we turned up to interview them.

25

MS CAHILL: But when it comes to surveillance, you would expect the casino operator to have people monitoring the security cameras at all times?

30

MR TOYNE: That was a requirement of the directions. One of the concerns that inspectors had is that they --- that even it specified the manning levels, so one of the concerns the inspectors had is once this change, if you like, came into being, by the time we got there, if the manning levels were down by the time we got there, they could be up.

MS CAHILL: What change are you referring to there?

35

MR TOYNE: Where we were no longer a permanent presence at the casino.

MS CAHILL: But if you conducted a random inspection, that would be a way of checking? An unannounced inspection.

40

MR TOYNE: Yes, except that their surveillance system is so good, they could see us coming from the Great Eastern Highway. And we entered through staff entry.

45

MS CAHILL: And they all --- the people who operated the cameras could --- I think the story goes, doesn't it, they knew the number plates of the department vehicles.

12:41PM

MR TOYNE: Absolutely, yes.

MS CAHILL: And they would raise the boom on the car park --

5

MR TOYNE: Yes --

MS CAHILL: --- before you --- as you arrived in recognition of the department vehicle?

10

MR TOYNE: Yes. They also knew the faces of every government inspector.

MS CAHILL: Is the short point there was no possibility of conducting a truly unannounced inspection, they would at least have a few minutes' notice while you parked your car and made your way to the casino?

15

MR TOYNE: Absolutely.

MS CAHILL: Did you think of that at the time as a weakness in the system?

20

MR TOYNE: Yes.

MS CAHILL: Did you raise that concern with anybody?

25

MR TOYNE: Yes.

MS CAHILL: Who?

MR TOYNE: My directors.

30

MS CAHILL: Can you name them?

MR TOYNE: When the decision was made to start removing the inspectors from the casino, I wasn't in favour of that regulatory move. My belief is that you need a permanent presence at the casino, and I raised that with Mr Halge, my director. Various times I raised it with Mr Connelly. You know, quite a lot of other inspectors --- the initial group of inspectors were not in favour of reducing the regulatory control that we had at the casino.

35

40 MS CAHILL: So you raised it with both Mr Halge and Mr Connelly?

MR TOYNE: Yes.

MS CAHILL: And over what sort of period of time are we talking?

45

MR TOYNE: Well, from the moment the - it was first mooted to reduce the presence at the casino.

MS CAHILL: We are just --- I'm just trying to remember your evidence about when that was.

5 MR TOYNE: Probably mid to late '90s.

MS CAHILL: Continuing on to when, when did you stop --- my words, not yours --- complaining about that reduction?

10 MR TOYNE: Amongst themselves, the inspectors never stopped complaining about it.

MS CAHILL: Just in terms of complaining up the line.

15 MR TOYNE: In colloquial terms, how many times do you bang your head against a brick wall? It was obvious to us that the decision wasn't going to be altered.

MS CAHILL: When did you give up?

20 MR TOYNE: Oh.

MS CAHILL: Just approximately.

MR TOYNE: Yes.

25

MS CAHILL: Maybe I can help you by putting it this way. Do you feel like you repeated those concerns over the course of a year or over the course of several years?

MR TOYNE: Over the course of several years.

30

MS CAHILL: From 1999?

MR TOYNE: Yes.

35 MS CAHILL: Are we talking 10 years or something less than that?

MR TOYNE: Probably 10 years.

MS CAHILL: Thereabouts? Not 20 years.

40

MR TOYNE: Not 20 years. So at least until I was no longer involved in casino regulation.

MS CAHILL: That would take us through to about 2012?

45

MR TOYNE: Yes.

MS CAHILL: And what was the typical response that you got when you raised these

concerns?

MR TOYNE: Basically the decision has been made.

5

MS CAHILL: And was it ever explained to you by whom?

MR TOYNE: The driving force behind the removal of inspectors from the casino was the Director-General, Barry Sargeant.

10

MS CAHILL: Now, coming back to your job description, the last activity in this bullet point I had you at, we just discussed security and surveillance departments, and then there is internal audit. Do you understand what's being referred to there?

15 MR TOYNE: Yes.

MS CAHILL: What is it?

MR TOYNE: The casino has an internal audits section.

20

MS CAHILL: Which does what?

MR TOYNE: Well, I don't know, I was never allocated a an audit of the internal audit, never met with the internal auditors. There was people above me. Although I do believe that the current manager compliance has involvement with internal audits.

25

MS CAHILL: So you are not able to say what the internal audit function of the casino operator was or what it entailed?

30 MR TOYNE: No.

MS CAHILL: Do you know whether it was something that was carried out on the casino premises?

35 MR TOYNE: Internal audit?

MS CAHILL: Yes.

MR TOYNE: Yes, yes.

40

MS CAHILL: You do?

MR TOYNE: Yes.

45 MS CAHILL: And do you know where?

MR TOYNE: Well, I know internal audit was located in the executive offices, but

12:46PM

that's all I know.

5 MS CAHILL: And that was throughout the period from when you were involved in casino regulation --

MR TOYNE: Yeah.

10 MS CAHILL: --- from 1985 through to 2012?

MR TOYNE: No, in 1985 internal audit did not exist.

MS CAHILL: Did not exist?

15 MR TOYNE: That's right.

MS CAHILL: When did it commence?

20 MR TOYNE: I wouldn't be able to say with certainty.

MS CAHILL: Let's settle on something less than --- roughly.

25 MR TOYNE: It probably --- from my recollection, it probably got created about the same time that AUSTRAC requirements came into being.

MS CAHILL: If we said the mid-2000s, would that accord with your recollection roughly?

30 MR TOYNE: Yes.

MS CAHILL: So in or around the time you were senior inspector compliance, and for the duration of that time, you were aware of an internal audit function that the casino operator had?

35 MR TOYNE: Yes.

MS CAHILL: And located in the executive offices?

40 MR TOYNE: Yes.

MS CAHILL: And were the executive offices the subject of camera surveillance?

MR TOYNE: No.

45 MS CAHILL: And do you know who, within the regulators, involved themselves in auditing and inspecting the internal audit function of the casino operator?

MR TOYNE: After 2012, it was Mr Connelly.

MS CAHILL: And before then?

5 MR TOYNE: It would have been director level. It wasn't something that the inspector did.

MS CAHILL: Well, there's a few different levels of director, isn't there, in the department, and was before 2012?

10 MR TOYNE: Yes, so the divisional director.

MS CAHILL: Well, we come back to you, you've got a policy stream and a compliance stream and a licensing stream --

15 MR TOYNE: Sorry. Compliance, director compliance.

MS CAHILL: Is that Mr Connelly?

20 MR TOYNE: Yes.

MS CAHILL: Just bearing in mind that between 2006 and 2012, he was away at Fisheries, about 2010 to 2012.

25 MR TOYNE: Yes.

MS CAHILL: So can you remember who was responsible for the internal audit in that 2010 to 2012 period.

30 MR TOYNE. No, I can't.

MS CAHILL: And because your job description expressly says that --- refers to you being involved in the implementation and conduct of audit and inspection programs to monitor the internal audit, did you ever raise with anyone in the department or GWC why you weren't performing that function?

35 MR TOYNE: No, because the director of the operations area or compliance area, as far as I was aware, was performing that function. And he had no issue with the fact that the senior inspectors compliance were not doing it.

40 MS CAHILL: Between 2006 and 2012 did you implement any new audit or inspection programs with respect to junket activities?

MR TOYNE: No.

45 MS CAHILL: Do you know if either of the other senior inspectors compliance did?

MR TOYNE: No, I don't know.

12:50PM

MS CAHILL: Did you have any involvement in developing auditing inspection programs or conducting audits or inspections of the casino operator's bank accounts?

5 MR TOYNE: No, I didn't have any involvement in them, no, I didn't conduct any audits.

MS CAHILL: Do you know if the other senior inspectors compliance did?

10 MR TOYNE: I don't recall inspectors or senior inspectors being involved in audits of bank account.

MS CAHILL: Do you know if, between 2006 and 2012, anyone up the line, if you will, in the department was looking into the bank accounts of the casino operator, reviewing them?
15

MR TOYNE: I don't know.

MS CAHILL: Can you remember if Perth casino commenced using the SYCO software as a financial management tool while you were in this role of senior inspector compliance?
20

MR TOYNE: Yes.

25 MS CAHILL: They did.

MR TOYNE: Yes.

MS CAHILL: Was any audit or inspection program developed with respect to SYCO?
30

MR TOYNE: I understand there was an audit program developed. However, I certainly didn't receive any training on SYCO, and I can't say how much training inspectors got.
35

MS CAHILL: So let me understand. About when do you recall SYCO being introduced?

MR TOYNE: It was after Crown took over.
40

MS CAHILL: After Crown took over.

MR TOYNE: Yes.

45 MS CAHILL: So just approximately?

MR TOYNE: Tell me when Crown took over?

12:51PM

MS CAHILL: That was about 2004.

MR TOYNE: Yes, so it would have been maybe 2006. Around there.

5

MS CAHILL: You weren't involved in auditing or inspecting SYCO, or you were?

MR TOYNE: I wasn't.

10 MS CAHILL: Was not. Was anybody, to your knowledge?

MR TOYNE: I don't think inspectors were. I don't know if anyone else was.

MS CAHILL: Did you ever see the audit program?

15

MR TOYNE: For SYCO, no.

MS CAHILL: But you knew it existed?

20 MR TOYNE: I knew there was one being developed, I don't know if it existed.

MS CAHILL: So you don't know whether it actually ever came into being.

MR TOYNE: Yes.

25

MS CAHILL: Coming down to section 4, down the bottom of this page, Mr Toyne, you will see under that --- do you see where we were there and there were three dot points just where I was.

30 MR TOYNE: Yes.

MS CAHILL: Then we tab out and it says:

35 *Provide significant input and assistance in the development and review of
policy procedures, regulatory controls across all areas of regulated activity.*

Do you see that?

MR TOYNE: Yes.

40

MS CAHILL: In relation to casino regulation, who had the primary responsibility for the development and review of policy and regulatory controls?

MR TOYNE: The director compliance, Mr Connelly.

45

MS CAHILL: Can you describe what input you had into that task?

MR TOYNE: Inspectors would review procedures, look at regulatory controls, but we weren't involved in the review of policy.

5 MS CAHILL: So regulatory controls, that would include the Casino Manual as the primary regulatory control tool?

MR TOYNE: Yes.

10 MS CAHILL: So you were involved in reviewing the casino manual?

MR TOYNE: And submissions to amend the Casino Manual.

15 MS CAHILL: So the casino operator could propose that there be an amendment to the Casino Manual and that would be considered; yes?

MR TOYNE: Yes.

20 MS CAHILL: The other way would be that the Department or GWC could initiate itself a consideration or review of whether or not the manual should be amended?

MR TOYNE: Yes.

25 MS CAHILL: What was the more frequent situation?

MR TOYNE: The casino operator requesting amendments.

30 MS CAHILL: Did the regulator ever propound amendments or make amendments of its own initiative to the Casino Manual?

MR TOYNE: The --- for example, the policy to deal with ATMs and the distance from the casino floor and such like was a Gaming Commission policy.

35 MS CAHILL: Would you put it in rough percentage terms over 2006 to 2012, the percentage of amendments that were --- compared to (inaudible) the regulator on the other?

MR TOYNE: 90/10.

40 MS CAHILL: And were the amendments that were made, whoever they were instigated by, were they always approved by GWC or was the manual sometimes amended by an officer using delegated power?

45 MR TOYNE: Significant changes were approved by the GWC.

MS CAHILL: And what amounts to something that's a significant change?

MR TOYNE: For example, casino proposing amending supervision levels for

gaming tables and that was a significant change to the regulatory oversight of tables, if you like, by the operator himself, so that was a proposal that went to the casino operator --- that went to the Gaming and Wagering Commission, yes.

5

MS CAHILL: Can you give me an example of one that wouldn't be?

MR TOYNE: It would be very minor stuff that wouldn't be ---

10

MS CAHILL: Such as?

MR TOYNE: I mean, even the casino operator proposed --- if they proposed a patron --- sorry, not a patron, an employee, being exempt from wearing an ID badge, in general terms that would be approved without reference to the Gaming
15 Commission but within policy guidelines established by the Gaming Commission.

MS CAHILL: So if we could try explaining it or illustrating it again by percentages, the rough percentage of amendments that would require approval by the GWC?

20

MR CAHILL: That would be higher, that would be more likely 80%.

MS CAHILL: 80%?

25

MR TOYNE: Yes.

MS CAHILL: Who got to decide whether an amendment went up to the GWC or was dealt with by a delegated power?

30

MR TOYNE: Either the Director of Compliance or the Director of Licensing.

MS CAHILL: So the one sitting just under the Director-General?

MR TOYNE: And until the Deputy Director-General position got created.

35

MS CAHILL: Was --- in that period 2006 to 2012, can you recall whether the Casino Manual was ever amended to impose requirements in relation to the (inaudible)?

40

MR TOYNE: I can't recall.

MS CAHILL: And in the period 2006 to 2012, was there any point at which either you or one of the other Senior Inspectors Compliance took on the job of actually reviewing the Casino Manual as a whole, to see whether or not it should be amended to address regulatory risk?
45

MR TOYNE: No, we didn't, no.

MS CAHILL: To your knowledge, has the Casino Manual ever been, to use an

expression, overhauled in the time that the casino has been in operation?

5 MR TOYNE: Yes, there was one time, yes. So the process of amending the Casino Manual was often quite laborious, so there was one stage where, to do with the games procedures and whatever, there with a concept that we would have a generic procedural manual to do with things that are common to every game and then there would be, if you like, annexures to that manual with specific rules for the individual games that were specific to the individual games.

10 MS CAHILL: I guess what I'm driving at is this, Mr Toyne: you have got a Casino Manual that was first implemented in 1985?

15 MR TOYNE: Yes.

MS CAHILL: And so that's several decades ago.

MR TOYNE: Yes.

20 MS CAHILL: And it has been amended on an ad hoc basis and typically at the instigation of the casino operator?

MR COYNE: Yes.

25 MS CAHILL: Has any consideration been given to updating and, if you like, future-proofing the Casino Manual to make it, overall, a contemporary document for modern casino gaming operations?

30 MR TOYNE: I don't know if that's been --- sorry, I cannot recall a specific project to do that, but the Casino Manual is a dynamic document that was being amended all the time.

MS CAHILL: That's rather my point, Mr Toyne. It starts life in 1985.

35 MR TOYNE: Yes.

MS CAHILL: And then it changes and grows, but in a very ad hoc way ---

MR TOYNE: Yes.

40 MS CAHILL: --- to deal with specific issues.

MR TOYNE: Yes.

45 MS CAHILL: So one, of course, which is quite topical, is the regulation and oversight of junket tours.

MR TOYNE: Yes.

01:01PM

MS CAHILL: But has anyone ever considered standing back and looking at the manual as a whole and asking themselves whether it should be amended in a holistic way, indeed, by way of a substituted manual, so that all of the parts are coherent and consistent?
5

MR TOYNE: From the regulator's perspective, I'm not aware of that.

MS CAHILL: Now that I've put that to you, do you think that that's a suggestion that has merit?
10

MR TOYNE: Yes.

MS CAHILL: Why do you say that?
15

MR TOYNE: Well, to ensure it's current and up to date.

MS CAHILL: Do you have concerns about the contents of the current manual in that regard?
20

MR TOYNE: No.

MS CAHILL: And why not?

MR TOYNE: Because it's a dynamic document that's continually being amended and inspected --- sorry, the regulator has ensured that we always have a copy of the current manual.
25

MS CAHILL: When you make a change to one part of it --- the manual is enormous, isn't it?
30

MR TOYNE: Yes.

MS CAHILL: Consideration isn't being given to how it fits with each and every aspect or part of the manual, is it?
35

MR TOYNE: Not necessarily, no. Depends on the subject matter that you are amending.

MS CAHILL: That's a convenient point, Commissioners.
40

COMMISSIONER: All right, we will resume at 2.00 pm.

45 **ADJOURNED**

[1.03 PM]

RESUMED

[2.00 PM]

5 COMMISSIONER OWEN: Thank you very much.

MS CAHILL: Thank you, Commissioner.

10 Just staying a little bit longer with that 2006 to 2012 period, before we broke, we were talking about an earlier period in the late '90s, early 2000s, a period of regulatory landscape, the casino regulations in 1985 to '88.

MR TOYNE: Yes.

15 MS CAHILL: Can I ask you to do the same exercise now for 2006 to 2012 when comparing it with what happened in the mid-1990s to the early 2000s. Would you say that the overall approach to casino regulation in the 2006 to 2012 period was the same, or did it change from the 1990s to 2000s?

20 MR TOYNE: It may have changed to the extent that we became more reliant on the audit programs.

MS CAHILL: Rather than being physically on site, from that perspective?

25 MR TOYNE: Yes.

MS CAHILL: What's your assessment about the merit of that change?

30 MR TOYNE: I always had a belief that we should always have had a full-time presence at the casino. I liken it to stewards at a racecourse, because the opportunities to manipulate games at the casino is so great in the similar way that in race meetings, you know, there's lots of opportunities to affect the outcome of the race, I believe that the only way to ensure strong regulatory compliance is with a permanent presence at the casino.

35 MS CAHILL: You're then saying it moved away from predominantly physical presence and inspection-based regulation to much more audit based?

MR TOYNE: Yes.

40 MS CAHILL: In terms of the actual audit process itself, did that change in any material way?

45 MR TOYNE: Yes, '06 to '12, it was just further development of audit programs and --

MS CAHILL: But in terms of the approach to audits, did it change in a sort of general way?

MR TOYNE: I'm not sure I understand what you're getting at.

5 MS CAHILL: Whether the purpose of them changed, whether the fundamental way in which they were conducted, did that change at all?

10 MR TOYNE: The only thing I can say as a supervisor is that what I noticed amongst the inspectors, because we also employed a new bunch of inspectors in that period who were receiving on-the-job training. There was a tendency for inspectors to tick and flick, rather than conduct meaningful long-term surveillance.

MS CAHILL: To tick and flick means looking at a checklist without really turning one's mind to a substantive evaluation of what's going on?

15 MR TOYNE: Yes.

MS CAHILL: And looking at the risks and understanding them and whether they need to be addressed?

20 MR TOYNE: Yes.

MS CAHILL: So if you filled out, ticked the boxes in the form, that was enough?

25 MR TOYNE: That was the opinion of some inspectors, yes.

MS CAHILL: Did you become aware in this period, '06 to 2012, of the existence of the Riverbank account?

30 MR TOYNE: No.

MS CAHILL: Do you know whether it was ever inspected, audited or reviewed in any way by the Department during this period?

35 MR TOYNE: I don't know. The first time I became aware of Riverbank and Southbank was when I read it in the media.

40 MS CAHILL: Do you recall if you became aware at any time during this period '06 to 2012 of any practice by the operator aggregating several deposits made in (inaudible audio) to a bank account by the same depositor?

MR TOYNE: No, I wasn't aware of it at all.

45 MS CAHILL: In the period '06 to 2012, did the general approach to or nature of investigation work change?

MR TOYNE: It changed to the extent that the inspectors at the casino were always doing --- were only involved in operation audit activities on a day-to-day basis at the

casino. So it changed to the extent that, given that we were not there as much, there was less investigations done.

5 MS CAHILL: Overall, in relation to the inspection, audit and investigation functions of inspectors during the period '06 to 2012, would you say there were enough resources to adequately undertake those tasks?

MR TOYNE: No.

10

MS CAHILL: And by little or a lot?

MR TOYNE: By a lot.

15 MS CAHILL: Now, the Chief Casino Officer from about 2007, is that Ms Belling or Mr Connolly?

MR TOYNE: I think it's Ms Belling. Again, there was a number of restructures. In the beginning it was the Director of the Casino Control Division, quite appropriately, as the Chief Casino Officer and then we had one restructure, it was the Director of Operations, we had another restructure, it was the Director of Licensing and then finally when Mr Connolly returned, it became this position.

20

MS CAHILL: You remember from 2007 it was Ms Belling?

25

MR TOYNE: I remember Ms Belling as the Chief Casino Officer.

MS CAHILL: And she was one of the less-approachable ones, in your view?

30 MR TOYNE: No, Ms Belling, her background was licensing and particularly liquor licensing. The difference between 1985 and 2007 was that somewhere along the line, it appeared to me, anyway, that the Department separated the roles, if you like, of the licensing function and the compliance function of the Chief Casino Officer.

35 MS CAHILL: Yes.

MR TOYNE: So when Ms Belling was Chief Casino Officer, she was really only concerned with the licensing function and any investigations or whatever would be conducted by the Compliance section at either their own instigation or our suggestion.

40

MS CAHILL: So let me understand that. So is what you're saying, that you assume the Chief Casino Officer had responsibility for both compliance and licensing in relation to casino regulation?

45

MR TOYNE: As I said, I started in 1985 and the Chief Casino Officer was responsible for all of the roles assigned to the Chief Casino Officer in the *Casino Control Act which involved instigating investigations and enquiries into the casino.*

02:07PM

MS CAHILL: So compliance and licensing?

MR TOYNE: Yes.

5

MS CAHILL: And then your sense is that that changed by the time Ms Belling got into the role?

MR TOYNE: Yes.

10

MS CAHILL: So that the Chief Casino Officer was only dealing with licensing issues?

15

MR TOYNE: If something went to the Gaming Commission to do with an investigation, it may or may not be signed off by the position of Chief Casino Officer, but it doesn't necessarily mean that that position instigated or conducted the investigation.

20

MS CAHILL: Substantively responsible for that function?

MR TOYNE: That's right, yes.

MS CAHILL: As opposed to being a formal conduit up to the GWC?

25

MR TOYNE: Yes.

30

MS CAHILL: I understand. Can I just finally, in relation to the broad period 2006 to 2012, if we come back to your CV, which is DLG.0001.0004.0016, page 3, and we're looking at the acting positions that you had during this period, so we're down in the last quarter of this table. You have several instances where you're acting in the role of Deputy Director Licensing Occasionals.

MR TOYNE: Yes.

35

MS CAHILL: Was that limited to liquor licensing, particularly occasional liquor licences?

40

MR TOYNE: No. It was again one of the many restructures. The specific areas under my control in that time were the issue of gaming permits for community gaming and the issue of occasional licences for liquor and referring --- for example, if an organisation applied for a community gaming permit and we hadn't seen that organisation before, I may refer it to Compliance for a bona fide check to ensure that they're an organisation that qualified to have a gaming permit.

45

MS CAHILL: Did you have, in that acting role, Deputy Director Licensing Occasionals, did you have any responsibility for casino regulation?

02:10PM

MR TOYNE: No.

MS CAHILL: Did you perform any casino regulation in that acting role?

5

MR TOYNE: No.

MS CAHILL: When you were acting in the role of Deputy Director Licensing Occasionals, did you perform the job of Senior Inspector Compliance at the same time?

10

MR TOYNE: No.

MS CAHILL: Now, that role, Manager Compliance Liquor, what did that entail? That's a permanent position, not an acting one?

15

MR TOYNE: Yes. So that was ---

Ms CAHILL: (Overspeaking) liquor section?

20

MR TOYNE: Yes.

MS CAHILL: Can I take you back to your witness statement please, at page 0008.

25

MR TOYNE: Yes.

MS CAHILL: Helpfully we also have 0007 on the screen, highlight paragraph 22 where you are referring to an agenda paper?

30

MR TOYNE: Yes.

MS CAHILL: You've given a particular Bates number, I'm going to provide another one to be brought up on the screen, but it should be the same document. I'll just ask you to verify that. GWC.0002.00016.0001_0337. So that's the document, the front page of the document, to which you refer?

35

MR TOYNE: Yes.

MS CAHILL: Now, this is dated February 2010.

40

MR TOYNE: Yes.

MS CAHILL: So your permanent position at that point was Senior Inspector Compliance?

45

MR TOYNE: Yes.

MS CAHILL: And I understand at 22 of the witness statement, you are very clear in

your recollection ---

MR TOYNE: Absolutely.

5

MS CAHILL: --- and in your evidence that you did not prepare that paper?

MR TOYNE: That's right.

10 MS CAHILL: And you didn't see it before you prepared your witness statement to this Royal Commission?

MR TOYNE: I saw it when I was preparing the witness statement.

15 MS CAHILL: But not before this Royal Commission commenced?

MR TOYNE: That's right.

20 MS CAHILL: And is it also your evidence --- is it the case that you were not aware of the existence of this agenda paper or its contents before this Royal Commission commenced?

MR TOYNE: Exactly.

25 MS CAHILL: So you --- the material contained within this agenda paper, you learned of for the first time after this Royal Commission commenced?

MR TOYNE: Yes.

30 MS CAHILL: Before I ask you more questions about the agenda paper, can you describe to me what the process was, in fact, for approving junkets between 2006 and 2010? That's immediately before the repeal of the regulations.

35 MR TOYNE: That was a licensing function so, as I say, the inspectors would gather the information, inspectors and licensing staff, would gather the information that was required by the regulations.

MS CAHILL: And is this as you described before lunch, without the involvement of the police?

40

MR TOYNE: Yes.

MS CAHILL: So it was an interview?

45 MR TOYNE: Probably by that stage we weren't doing interviews even because ---

MS CAHILL: This is what I'm interested to know. So most recently the position before the repeal ---

MR TOYNE: Essentially, we were collecting paperwork.

MS CAHILL: Now, what was that paperwork?

5

MR TOYNE: Financial information from the applicant, passport information, police --- sorry, police certificates from the country of origin.

MS CAHILL: What's the financial information that you were collecting?

10

MR TOYNE: Information that the junket representative provided to show that he was a person with financial means.

MS CAHILL: What did that involve? Bank statements or ---

15

MR TOYNE: No, just declaration made by the junket operator representative.

MS CAHILL: So, in effect, a police certificate, criminal record certificate ---

20

MR TOYNE: Yes.

MS CAHILL: --- of some description from an overseas jurisdiction?

MR TOYNE: Yes.

25

MS CAHILL: Passport details?

MR TOYNE: Yes.

30

MS CAHILL: And a declaration as to solvency, I guess?

MR TOYNE: Yes.

MS CAHILL: Anything else?

35

MR TOYNE: Not that I can recall.

MS CAHILL: No interview?

40

MR TOYNE: By that stage, because again we didn't have powers to make further enquiry, there seemed to be very little point in conducting an interview.

MS CAHILL: That was going to be my next question. What was the point of this --- so, sorry, there was no point in conducting an interview. When did that drop off as a requirement?

45

MR TOYNE: Around about 2009 or '10.

MS CAHILL: And who made the decision to no longer require an interview?

5 MR TOYNE: I believe it was the Director of the division responsible for Compliance.

MS CAHILL: Was that Ms Belling? Sorry, you said compliance. You said licensing had the responsibility for collecting this information.

10 MR TOYNE: Yeah, possibly that was Ms Belling, yes.

MS CAHILL: Do you know?

15 MR TOYNE: No, I don't know, not that specifically.

MS CAHILL: And what was the point, do you know, at this stage of gathering the information that you did?

20 MR TOYNE: Because the regulations required it.

MS CAHILL: Did you do anything with the information?

25 MR TOYNE: We provided it to the Licensing Department. I don't know what they did with it.

MS CAHILL: And the information obviously wasn't shared with any --- with WAPOL or any agency?

30 MR TOYNE: I believe WAPOL still conducted a probity check in the sense that was this person known in Australia, but ---

MS CAHILL: So through information provided by the Department or GWC?

35 MR TOYNE: Yes, but that information would only have been the name and details of the individual. They weren't actually given the paperwork.

40 MS CAHILL: Let me be clear. When you say the police conducted a probity check, was that because the Department provided the name and passport details of the person involved?

MR TOYNE: Yes.

45 MS CAHILL: Was there any information gathered about individual junket participants?

MR TOYNE: Well, as far as I can recall, the only information was basically when they arrived in the country, so we had a pre-arrival advice with details of the junket

participants and their passport details --- excuse me --- but that's about all the information that was on junket players.

5 MS CAHILL: And again, you don't know what information, or what was done with that information by licensing?

MR TOYNE: No.

10 MS CAHILL: In terms of other relevant personnel of the Department in February 2010, the message in the paper was put up to ---

MR TOYNE: Yes.

15 MS CAHILL: Ms Belling was the Chief Casino Officer and the Director of Licensing, wasn't she?

MR TOYNE: When the agenda paper was put up, there was an acting director.

20 MS CAHILL: All right. Now, just in terms of who was in that permanent position, it was Ms Belling?

MR TOYNE: Yes.

25 MS CAHILL: And she was on unpaid leave, was she, as at February 2010?

MR TOYNE: I don't know if it was unpaid. She was on leave because Mr Del Prete was acting in her position.

30 MS CAHILL: She had been on leave for some several months, had she, at that time?

MR TOYNE: Quite possibly.

MS CAHILL: You don't remember?

35

MR TOYNE: No.

MS CAHILL: So Mr Del Prete acted in her absence?

40 MR TOYNE: Yes.

MS CAHILL: As both Chief Casino Officer and Director of Licensing?

MR TOYNE: Can't say 100% but I would imagine he was, yes.

45

MS CAHILL: Could it have been Mr Connolly acting as Chief Casino Officer?

MR TOYNE: I think in 2010 he had gone to Fisheries.

MS CAHILL: By February?

MR TOYNE: I'm not sure.

5

MS CAHILL: Now, if we come back to the agenda paper ---

MR TOYNE: Yes.

10 MS CAHILL: --- and we go to page 0347, this is attached to the back of the agenda paper.

MR TOYNE: Yes.

15 MS CAHILL: And it's obviously a letter to Mr Connolly, that's why I asked you about him, it's dated 4 December and he's designated as the Chief Casino Officer. It's a Crown document.

MR TOYNE: Yes, yes.

20

MS CAHILL: They appoint to that position, so it might be right, it might not. It's a question of whether ---

MR TOYNE: Yeah, that's correct. I wasn't sure what month in 2010 Mr Connolly went off to Fisheries.

25

MS CAHILL: Now, this letter in substance and in terms, is seeking approval for the removal of the requirement to have junket operators and representatives approved by the Commission.

30

MR TOYNE: Yes.

MS CAHILL: Did you see this letter at any time before the commencement of this Royal Commission?

35

MR TOYNE: No.

MS CAHILL: Were you aware, in February 2010, that Mr Connolly had had discussions with the casino operator about that topic?

40

MR TOYNE: No.

MS CAHILL: Mr Connolly hadn't spoken to you about that topic?

45 MR TOYNE: No.

MS CAHILL: Between December 2009 and February 2010, did anybody ask you,

anybody within the Department, or GWC, ask you to prepare an agenda paper recommending the repeal of the regulations requiring junket operators and representatives to be approved by the Commission?

5

MR TOYNE: No. But can I qualify it by saying in mid to late January 2010, I broke my ankle whilst at work and I was off on sick leave until the beginning of March. But to answer your question, no, nobody spoke to me about that.

10 COMMISSIONER JENKINS: Mid-December, did you say?

MR TOYNE: Mid-January 2010.

COMMISSIONER JENKINS: Until?

15

MR TOYNE: Early March 2010.

MS CAHILL: And did you work at all during that period of sick leave?

20 MR TOYNE: No, not at all. No.

MS CAHILL: That letter, again, it's not a Department document, it's a Crown document.

25 MR TOYNE: Yes.

MS CAHILL: Do you see in that first paragraph it refers to "most recent discussions between Mr Joshua Preston", gives his position, Mr Paul --- is that Hulme?

30 MR TOYNE: Hulme, yes.

MS CAHILL: Who is an ex-Department chap now working for Crown?

35 MR TOYNE: Yes, Mr Hulme commenced the same day I did as one of the original Government Inspectors.

MS CAHILL: And they designate here in this letter, Mr Del Prete as Acting Director Compliance. I understood you to say a moment ago he was Acting Director Licensing.

40

MR TOYNE: He was Acting Director Licensing.

MS CAHILL: So that's an error?

45 MR TOYNE: Yes. As I say, we had so many restructures that even the operator got confused with positions.

MS CAHILL: Mr Connolly, whether he was or wasn't acting ---

MR TOYNE: He was, he was.

5 MS CAHILL: --- Casino Officer at this stage, did he have another acting role at December '09?

MR TOYNE: Not as far as I'm aware. There was no Deputy Director-General of that position.

10 MS CAHILL: And you don't remember precisely when Mr Connolly moved to the Fisheries Department?

MR TOYNE: Not what month. I knew it was 2010.

15 MS CAHILL: Early or late?

MR TOYNE: I think it was mid, maybe.

20 MS CAHILL: Do you recall Mr Manino being in the position of Acting Director Compliance while Ms Belling was on leave?

MR TOYNE: Yes, possibly, yes. Well, I do remember he acted in that position, yes.

25 MS CAHILL: Just coming back again to your acting roles in your CV, so that's --- I'll have to call it up again, DLG.0001.0004.0001 at 0003. You will see there that between 21 December '09 and 12 March 2010 ---

MR TOYNE: Yes.

30 MS CAHILL: --- you were Acting Deputy Director, Licensing Occasionals.

MR TOYNE: Yes.

35 MS CAHILL: That didn't involve any casino regulation?

MR TOYNE: No.

40 MS CAHILL: And in any event, between mid to late January and March, you were on sick leave?

MR TOYNE: Yes.

MS CAHILL: Not working.

45 MR TOYNE: Worker's Compensation it turned out in the end, yes.

MS CAHILL: Do you know who was fulfilling your job as Senior Inspector

Compliance, while you were in that acting role?

MR TOYNE: I believe it might have been an inspector called John Busby.

5

MS CAHILL: And do you know while you were on sick leave who filled your Acting Deputy Director Licensing Occasionals role?

MR TOYNE: I don't know if anyone did.

10

MS CAHILL: So if we come back to the agenda paper at page 0337 ---

MR TOYNE: Yes.

15

MS CAHILL: --- you're designated as the author in the role of Acting Deputy Director Licensing.

MR TOYNE: Yes.

20

MS CAHILL: And would that have been --- if you had actually been at work at the time, would that have been a correct way to designate (inaudible).

25

MR TOYNE: That was the title acting --- sorry, Deputy Director Licensing, so it would have been acting. However, it would be unusual for an agenda paper of that nature not to be written by the Director.

MS CAHILL: Why do you say that?

30

MR TOYNE: Because we're talking about amending legislation. That's a fairly high-level matter.

MS CAHILL: And were there any policies or rules around who wrote which papers?

35

MR TOYNE: No, there was not. No.

MS CAHILL: So who would you have expected this paper to have been written by, acknowledging that Ms Belling's on leave?

40

MR TOYNE: Well, especially once I was shown the information at the Royal Commission, given that Mr Del Prete was present at meetings with the operator about this, given Mr Del Prete was present at the meeting that discussed the agenda paper, given that he was the Acting Director, I would expect Mr Del Prete to have prepared that agenda paper.

45

MS CAHILL: All right. And Mr Del Prete has never spoken to you about this paper?

MR TOYNE: No.

MS CAHILL: I'll just show you something else in this set of papers, this is if we go to GWC.0002.0016.0017 --- sorry, I'll restate that. GWC.0002.0016.0001. And then we go to page 0017. So this is in the agenda pack for this 23 February meeting of
5 which that paper we've just been discussing was part and here is another agenda paper. It's got Mr Radis' name as author, and he's also designated as Acting Deputy Director Licensing. You chuckle, but was that something that occurred from time to time, that two people held the same position?

10 MR TOYNE: No, that would have been when I was off on sick leave.

MS CAHILL: So in your mind, that provides an explanation as to who was doing your acting job?

15 MR TOYNE: Yes.

MS CAHILL: While you were on sick leave?

MR TOYNE: Yes.

20

MS CAHILL: If we come back to 0337 and we go down to --- sorry, before I do that, I go back to the document that I was just at. Sorry about that. So that's GWC.0002.0016.0001. And if we go to page 0018, see there that there are some initials on the left, that would seem to be Mr Radis' initials?

25

MR TOYNE: Yes, I recognise them as Mr Radis', yes.

MS CAHILL: Any idea about the origin of the initials on the right, whose those might be?

30

MR TOYNE: To me they look like Mr Del Prete's.

MS CAHILL: If we go to the next page, 0019, this is an attachment to Mr Radis' paper that we just saw and you will see there that you're designated as the author, but dates several months before, so that's November 2009.

35

MR TOYNE: Yes.

MS CAHILL: Before your illness?

40

MR TOYNE: Yes.

MS CAHILL: Now, do you recall preparing this paper?

45 MR TOYNE: I don't specifically recall it.

MS CAHILL: Just go over the page ---

MR TOYNE: Yes.

MS CAHILL: --- to 0020, it just seems to end there.

5

MR TOYNE: Any agenda papers I prepared, I always signed.

MS CAHILL: So just coming back to the page 0019. Can you say confidently whether that's a paper you prepared or not?

10

MR TOYNE: I can't say confidently that I prepared it. It's not signed, so ---

MS CAHILL: Can you say confidently that you didn't prepare it?

15

MR TOYNE: If it's not signed by me, then I didn't prepare it.

MS CAHILL: That was an invariable rule of yours, was it?

MR TOYNE: Absolutely.

20

MS CAHILL: Now, if we come back to your witness statement, this is the page 0008, paragraph 22. This is the point that you make in the last couple of sentences:

The agenda paper does not contain my signature, which I would always put on *agenda papers that I prepared*.

25

MR TOYNE: Yes.

MS CAHILL: So if we go back to page 346 of the February agenda paper, I know it's difficult. Obviously, somebody's signed ostensibly on your behalf?

30

MR TOYNE: Yes.

MS CAHILL: Any idea whose those initials might be?

35

MR TOYNE: No idea, whatsoever.

MS CAHILL: So you've never seen some initials or a signature like that?

40

MR TOYNE: No.

MS CAHILL: In all work you've done with the Department?

MR TOYNE: I can confidently say that in the 36 years I worked at the Department, I never saw those initials.

45

MS CAHILL: Now, you had no knowledge of this paper or its contents prior to the

commencement of this Royal Commission?

MR TOYNE: Yes.

5

MS CAHILL: But you were obviously aware when you came back after your sick leave and when you resumed your work, that the requirement for approval of junkets had been removed?

10 MR TOYNE: Yes.

MS CAHILL: And I suggest you must have been told how that came about?

MR TOYNE: I would have been informed if the regulations had been repealed.

15

MS CAHILL: You would have been, sorry?

MR TOYNE: Informed.

20 MS CAHILL: That what?

MR TOYNE: That the regulations would have been repealed.

25 MS CAHILL: When you put it in that passive way of "I would have been informed", do you have an actual recollection of that occurring?

MR TOYNE: Not specifically.

30 MS CAHILL: So you're speculating that that's how it must have happened?

MR TOYNE: Well, I either came back to work and the regulations were no longer in existence or somebody told me they were no longer in existence, I'm not suggesting that that was necessarily a member of the executive staff, it might have been another inspector.

35

MS CAHILL: And you were not interested to enquire how that came about?

MR TOYNE: The office environment wasn't conducive to making those sorts of enquiries.

40

MS CAHILL: What do you mean by that, Mr Toyne?

45 MR TOYNE: In my opinion, Mr Sergeant and Mr Connolly had a very autocratic management style and it wouldn't have been conducive to question the process; it had occurred. I wasn't aware of it, it had been put under any name. I was just informed --- I just learnt that the regulations had been repealed.

MS CAHILL: I'm not suggesting that you might have challenged it, but rather, you

might have just enquired as to how it had come about that the regulations were repealed.

5 MR TOYNE: Well, I may --- I can't say for sure, but obviously it would have been ultimately a decision of the Gaming and Wagering Commission.

MS CAHILL: But you understood, didn't you, that the Gaming and Wagering Commission acted on recommendations from the Department?

10

MR TOYNE: Yes.

MS CAHILL: Usually presented by way of a briefing paper?

15

MR TOYNE: Yes.

MS CAHILL: And you weren't interested to ascertain how this transpired, what sort of discussion there had been in a briefing paper about the removal of the requirement for the approval?

20

MR TOYNE: I don't know if I necessarily came back to that position, I might have gone back to a compliance position. But I --- I didn't enquire.

MS CAHILL: Even if you had gone back to Senior Inspector Compliance, it would have been very relevant to your job, wouldn't it, because you would no longer be requiring to provide information to the Licensing Division so that they could approve junkets?

25

MR TOYNE: As I say, I may have been --- well, I would have been aware that the regulations had been appealed but as to why and the process, it wasn't --- it was a decision of the Commission and that was it.

30

MS CAHILL: Did you understand when you came back to work, or thereafter, the reason why the GWC had made the decision to remove the requirement for approval?

35

MR TOYNE: Not the reason the GWC --- no, I was only aware that we were collecting a lot of information that we did very little with.

MS CAHILL: After the regulations were repealed, was there any regime that the Department or procedure that the Department or GWC followed in relation to continuing to monitor or gather information in respect of junket operators or tours that replaced the procedure for approval?

40

MR TOYNE: I'm not aware of any.

45

MS CAHILL: It just stopped completely?

MR TOYNE: Yes, as far as I recall.

MS CAHILL: No information provided?

5 MR TOYNE: I think they were still providing details of the junket players. Once the regulations were repealed, we simply stopped collecting that information.

MS CAHILL: Including as to the junket participants?

10 MR TOYNE: Formally, I think, yes.

MS CAHILL: By "formally" you mean there was no section 24 direction, no policy, no direction in the Casino Manual and no regulation?

15 MR TOYNE: That's right.

MS CAHILL: So, informally, some information was collected?

20 MR TOYNE: It may have been. An inspector could go and ask who the participants of the junket were.

MS CAHILL: So do you mean that when an inspector was down at the casino, they might enquire into the identities of people playing there in the International Room?

25 MR TOYNE: Yes.

MS CAHILL: Who were there on a junket tour?

MR TOYNE: Yes.

30 MS CAHILL: Was that the extent of the information that was collected?

MR TOYNE: As far as I can recall, yes.

35 MS CAHILL: So when you had an inspector down at the casino visiting the International Room, did they ever gather information about the tour operator?

MR TOYNE: After --- no, I don't think so, no.

40 MS CAHILL: And this remained the position until you moved into Liquor Licensing in 2012?

MR TOYNE: Yes. Sorry ---

45 MS CAHILL: Sorry, you go.

MR TOYNE: The junkets generally didn't play in the International Room itself. They played in private gaming rooms. So it was unlikely that an inspector would go

to a private gaming room, attend the gaming room and watch the activities that were going on there. It was generally that you would do that by camera surveillance.

5 MS CAHILL: Why is that?

MR TOYNE: They're Government men, so the junket players and junket representatives maybe felt a little uncomfortable. We didn't have to wear ID. And governments are a lot different in countries of origin of a lot of these people.

10

MS CAHILL: So it had an off-putting effect, was your surmise?

MR TOYNE: Yes.

15 MS CAHILL: Coming back to your witness statement at the end of paragraph 22 at page 0008, I had asked you about that last sentence, but before I do, you will appreciate, obviously, the effect of your evidence is that an agenda paper was prepared and presented, it seems on its face, as if it was your paper when it was not?

20 MR TOYNE: Absolutely.

MS CAHILL: And can you offer --- sorry, we'll go back a step. Have you ever known of that to happen before in your time at the Department?

25 MR TOYNE: I've known papers to be signed "per", but only if, for example, the person wasn't available to sign the paper on the day it was set up as the agenda. But to actually claim somebody authored it when they didn't, I've never known that.

30 MS CAHILL: And are you able to offer any insight or impression that you may have as to how that occurred or why it occurred on this occasion?

MR TOYNE: The only connection that I can see is that I participated in the National Competition Review and in that review was a section that talked about those --- section 25A could be removed from the Casino Control Act as it represented a barrier to competition.

35

MS CAHILL: And that's your only ---

40 MR TOYNE: Connection, that I can see. As I said to you, I'm surprised it wasn't prepared by the Director of Licensing or Acting Director of Licensing at that stage.

MS CAHILL: But are you even more surprised that it was prepared as if you were the author when you weren't?

45 MR TOYNE: I was quite outraged when I saw it, yes.

MS CAHILL: Now, nevertheless, what you say in the last sentence at paragraph 22 was that the paper was consistent with the work that you did on the National

Competition Review. You've read the paper now.

MR TOYNE: Yes.

5

MS CAHILL: Are there any part of the contents with which you disagree?

MR TOYNE: If I was instructed a director to write that agenda paper, had I been there, I would have written it along the same lines because it was quite clear that the Director-General wanted the junket regulations repealed.

10

MS CAHILL: You say it was quite clear that that's what Barry Sergeant wanted?

MR TOYNE: Yes.

15

MS CAHILL: And he communicated that to you?

MR TOYNE: No. Okay, so I have to go back a little bit here. I reviewed the principal directions at the request of Mr Sergeant through the Director of Operations at the time, Mr Halge, whose sole brief was to remove inspectors from operational day-to-day activities.

20

COMMISSIONER OWEN: This was 1996, I think you said?

MR TOYNE: Yes. So the whole process sort of commenced then. One of the, if you like, stumbling blocks of that review was, at the time, was the requirement to attend junket buy-ins, initial buy-ins and every buy-in. So it was going to be a sticking point to get --- to remove inspectors from the casino when the principal directions required them to partake in that activity. So in the review of the principal directions, when I did the review of the Gaming Commission Act, that was when it was first mooted about the removal of any obligations to do with the junket, but the Minister responded to that review with, okay, you can change the directions but you've got to promulgate regulations. National Competition Policy indicated that we should remove those restrictions. So 10 years down the track, it pops up as a strategy.

30

35

MS CAHILL: You attribute it to Mr Sergeant?

MR TOYNE: Yes, I --- I was co-author of the National Competition Review, with a contracted economist, but I was under --- any strategic decisions, I was under instructions from Mr Sergeant.

40

MS CAHILL: So at the time you completed the Competition Review paper, Mr Sergeant was instructing you that the regulations ought to be repealed?

45

MR TOYNE: No. The National Competition Review was identifying the restrictions to competition and you basically had to justify the retention of them or you were expected to consider removing them. In that --- in relation to 25A, I was

instructed that it was a barrier to competition that could be removed.

MS CAHILL: By Mr Sergeant, who so instructed?

5

MR TOYNE: Yes. Yes.

MS CAHILL: And did he give you any such instruction, any such similar instruction after that?

10

MR TOYNE: No, I was just --- did the National Competition Policy review.

MS CAHILL: Now, you talk about that National Competition review here.

15

MR TOYNE: Yes.

MS CAHILL: And I will ask you a couple more questions about it. First of all, I want to ask you about some other papers we've identified in paragraphs 6 and 7 of your witness statement, papers that you've authored, amongst other things ---

20

MR TOYNE: Yes.

MS CAHILL: One is the publication through the Department of Racing, Gaming & Liquor called the "History of Gaming in Western Australia."

25

MR TOYNE: Yes.

MS CAHILL: I will just pull that up, DLG.0001.0004.0015. Now, do you recall approximately when you wrote this paper?

30

MR TOYNE: This is the introduction to the National Competition Policy Review.

MS CAHILL: Yes.

35

MR TOYNE: So it would have been when I was assigned that. The reason it became a paper on our Departmental website was we were getting a lot of requests from students for information about how the gaming legislation got to be how it was. So it seemed appropriate to me and directors and Mr Sergeant agreed that that could be a standalone paper as a resource for students on our website.

40

MS CAHILL: So this was produced by you in the late '90s, was it?

MR TOYNE: Probably '98. It definitely was part of my National Competition Review.

45

MS CAHILL: And then released on the website or published on the website as a separate paper some time after that?

MR TOYNE: Yes, yes, only as a resource for students.

MS CAHILL: Were you a casino --- you were a Gaming Inspector at this time?

5

MR TOYNE: Yes.

MS CAHILL: So not directly involved in casino regulation?

10 MR TOYNE: That's right.

MS CAHILL: And can you recall why you were given the task of preparing this document? The wider document?

15 MR TOYNE: That was a requirement --- so National Competition Review was driven by the Federal Government in each State and in WA at least, Treasury took over all leadership across every Government department. So they had certain requirements as to how it would be formatted and one of the requirements was to give a brief background into how the legislation came into being.

20

MS CAHILL: Just on this first page, in the first paragraph, we might just zoom in to that first paragraph and you see the first sentence talks about various Acts form part of a package.

25 MR TOYNE: Yes.

MS CAHILL: It says in the second sentence:

30 *This framework reflects the attributes of gaming and the assessment that where these issues are concerned the market will generally fail to protect the interests of consumers; will be unable to ensure limitation of criminal activities; and will encourage unacceptably high levels of gambling in the community with associated social costs.*

35 MR TOYNE: Yes.

MS CAHILL: Do you remember where you go the information or statement for that proposition from?

40 MR TOYNE: That would have been the --- in those terms, the economist who was also contracted to co-author the paper.

MS CAHILL: I see. Go to page 0008. Now there's, towards the bottom, if we just blow up the last third to quarter of the page, there's this heading "Overview of
45 Current Legislative Position".

MR TOYNE: Yes.

MS CAHILL: In the first paragraph, last sentence, there's a reference there to policy that's been shaped from enquiries being reflected in the current Western Australian gaming legislation.

5

MR TOYNE: Yes.

MS CAHILL: Is the balance of this section of the paper then devoted to explaining what that policy is and the reasons for it?

10

MR TOYNE: Yeah, I think so, yes.

MS CAHILL: Where did you get the information from about the policy that you say in this paper is reflected in the legislation?

15

MR TOYNE: From the various enquiries. There was a gaming report in 1981, there was --- I know that it will be enquiries and reports that occurred.

MS CAHILL: And you assumed that those enquiries and reports were reflected in the legislative framework?

20

MR TOYNE: I assumed they were.

MS CAHILL: All right. If we go over the page, at about point 4, we see that paragraph commencing "Of particular significance for gaming is the possibility of manipulation." Halfway through that paragraph there's a reference to the gaming industry being a cash industry.

25

MR TOYNE: Yes.

30

MS CAHILL: And a consequence of that being that it's susceptible to criminal activity at various levels.

MR TOYNE: Yes.

35

MS CAHILL: An incentive for organised crime to attempt to become involved.

MR TOYNE: Yes.

40

MS CAHILL: Who did you get that information from?

MR TOYNE: I was aware of the possibility of manipulation, the wording to do with "once transactions occur, they are gone", would have come from the economist.

45

MS CAHILL: But to that idea of it being a gaming industry being a cash industry provides an incentive for organised crime to attempt to become involved, do you say that is one of the policy reasons driving the framework of the legislation in WA?

MR TOYNE: Consumer protection is, yes.

5 MS CAHILL: Well, is one of the objects of the legislation, do you say, to mitigate that incentive for organised crime to attempt to become involved in gaming as a cash industry?

MR TOYNE: Yes.

10 MS CAHILL: Now in the next paragraph after this one, dealing with cash industry, a reference to regulation of the industry because of certain --- in all jurisdictions because of certain characteristics, amongst others, and then you go on to summarise those characteristics.

15 MR TOYNE: Yes.

MS CAHILL: And, again, was it your position in this paper, if I understand it, that these characteristics drive the policy behind the West Australian legislative framework?

20

MR TOYNE: Yes.

MS CAHILL: So there's "1" and "2" on this page and then if we go to "3" and "4" over the page, blow up "3", "Criminal activity". It's this same point, isn't it? Cash nature of gambling provides strong incentive for organised crime to become involved.

25

MR TOYNE: Yes.

30 MS CAHILL: And in the last sentence there in "3" it says."

Policing illegal activities involves significant costs, intervention may occur in a market to detect illegal activities, and also to reduce the transaction costs associated with detection and prosecution.

35

MR TOYNE: Yes.

MS CAHILL: What do you mean by that?

40 MR TOYNE: Those were --- those four points were, again, authored by the economist.

MS CAHILL: But do you understand what that last sentence is about?

45 MR TOYNE: Yes.

MS CAHILL: What do you say it means, in simple terms?

MR TOYNE: It may be that the --- the way I understand it that this is the role of the regulator because the operator may not be robust in its policing of illegal activities. So it's part of the justification of the strict licensing regime.

5

MS CAHILL: To reduce the costs of detection and prosecution and others intervening?

10 MR TOYNE: No, no, no. Policing illegal activities got significant costs. Can you trust the operator to police the illegal activities and do the policing themselves? And the proposal is you can't trust the operator and that there has to be a regulatory activity involved with that.

15 MS CAHILL: Just in relation to number paragraph 4 where it's a characteristic of the gaming industry that it has a tax base, that's obviously only in a regulated environment, isn't it?

MR TOYNE: Yes.

20 MS CAHILL: When you wrote the paper, was it your position that the existing legislative framework in respect of casino regulation in Western Australia (inaudible) to money laundering and criminal associations that you identify in this paper?

25 MR TOYNE: That was the stance of the Director-General.

MS CAHILL: That was his position?

MR TOYNE: Yes.

30 MS CAHILL: I didn't ask you about his position. I was asking about your position?

MR TOYNE: I took instruction from the Director-General.

35 MS CAHILL: I'm asking you about your position, Mr Toyne.

MR TOYNE: If you had police involvement in the monitoring of that activity, I would think it would be, yes.

40 MS CAHILL: You know what use was made of this paper, if any, by the Department once you had completed it, apart from publishing it on the website?

MR TOYNE: This particular section?

45 MS CAHILL: Yes.

MR TOYNE: Other than publishing it on the website, no.

MS CAHILL: I tender that document, Commissioner. DLG.0001.0004.0015.

COMMISSIONER OWEN: The document that's just been identified will be admitted into evidence as an exhibit.

5

EXHIBIT #DLG.0001.000.0015 - HISTORY OF GAMING IN WESTERN AUSTRALIA PUBLICATION

10 MS CAHILL: Thank you, Commissioner.

Now, another document you mention in your witness statement is a 2009 submission to the Productivity Commission Inquiry into Australia's Gambling Industries.

15 MR TOYNE: Yes.

MS CAHILL: But you'd written another paper about 10 years earlier for the same purpose in (inaudible).

20 MR TOYNE: Yes.

MS CAHILL: Let me show you, if you're hesitating. DLG.0001.0004.0004. Can you go over to the next page, please? See some text, go to 0004. This is your document, isn't it ---

25

MR TOYNE: Yes.

MS CAHILL: --- that you prepared?

30 MR TOYNE: Yes.

MS CAHILL: You were a Compliance Inspector at the time that you prepared this document?

35 MR TOYNE: Yes.

MS CAHILL: Do you know why you were asked to prepare this report? As opposed to anybody else in the Department?

40 MR TOYNE: Excuse me. Because I had reasonable knowledge of both the Gaming *Commission Act and Casino Control Act*.

45 MS CAHILL: I'm not going to ask you about the whole report but I do want to ask you about one part of it, at 0049. It's the section on how State gambling revenues are expended. It refers to 1% of Burswood Casino being paid to the Burswood Park Board for upkeep of the Park, the paying of that annual licence fee to the Gaming Commission to defray its running costs. Now, you use in the next paragraph, which

is the fourth paragraph on the page, the language of "revenue hypothecation" to describe this arrangement, by which you mean, do you, tying parts of the revenue stream, relevantly, of the casino operation to specific Government expenditure?

5

MR TOYNE: I didn't write that part of the paper. I've never heard the term "hypothecation".

10 MS CAHILL: Do you understand that concept, though? Did you understand that concept at the time that you co-authored the paper? Someone wrote this with you?

MR TOYNE: Well, there was inputs from various sections, for example, Lotterywest prepared the section to do with lotteries conducted by Lotterywest, like games ---

15

MS CAHILL: Who wrote this section?

MR TOYNE: That may have come from a Policy Section. I'm not sure. I wasn't privy to that information.

20

MS CAHILL: Did you understand this section on revenue hypothecation, or do you understand it now?

MR TOYNE: I understand it, yes.

25

MS CAHILL: See in the second last paragraph of this page, so we'll go to paragraph above, it talks about, as I understand it, the benefits of revenue hypothecation.

MR TOYNE: Yes.

30

MS CAHILL: And then it then says in the next paragraph, "On the other hand", there's some criticisms of the hypothecation of State revenues. And one is that "it affords a privileged budgetary position to specified functions", does that mean, for example, the GWC gets this revenue stream from the licensing fee, whether it requires that amount to do its work or not?

35

MR TOYNE: Yes, now that I've had a chance to look at it and you've mentioned a few things, I believe this section of the paper was written by Treasury. One of Treasury's concerns at the time was that Lotterywest had a discretionary position to allocate resources through their grants program and Treasury believed that Treasury was the organisation that should determine what way Government money and consolidated revenue is spent.

40

MS CAHILL: So it was effectively losing control because the agency would then have the power to direct its expenditure from that revenue stream?

45

MR TOYNE: And also organisations may double-dip, apply to the Government for a grant and also apply to Lotterywest for a discretionary grant.

MS CAHILL: Can we turn to the "Conclusion" at page 0059, please. Now, in substance in this "Conclusion" section, relevantly, you identify or whoever wrote this section, identifies three areas of investigation that they say would be useful to undertake. You can see that in the second-last paragraph, that discussion begins.

MR TOYNE: Yes.

MS CAHILL: Was it your work here or somebody else's?

MR TOYNE: I think that's somebody else's.

MS CAHILL: Now, the second-last paragraph on that page talks about the real extent of --- the data as to the real extent of problem gambling in Australia.

MR TOYNE: Yes.

MS CAHILL: And its real social costs is somewhat limited. Do you know where the data was drawn from in relation to problem gambling and its social costs, for the purposes of this report?

MR TOYNE: The Australian Gambling Statistics, I think, which were produced by Tasmania.

MS CAHILL: Do you know if the data has been enhanced or further investigations as to the extent of problem gambling and social costs has been undertaken since 1998?

MR TOYNE: Not that I'm aware of, no.

MS CAHILL: What about in particularly in relation to the position in Western Australia?

MR TOYNE: Not that I'm aware of.

MS CAHILL: The last paragraph on that page talks about there being little available data on the economic costs of spending which has been foregone, money not being spent on retail or tourism or whatever in favour of money being spent on gambling. Do you know if any such investigation has been undertaken in Western Australia or Australia wide since 1998 on that topic?

MR TOYNE: I'm not aware anything in Western Australia. I wouldn't know about the rest of Australia.

MS CAHILL: If we turn over the page, please:

The third suggests area for further investigation relates to the social and

economic costs of the alternatives to the current approaches.

5 And it sets out some different ways of approaching the regulatory framework that could be considered. Do you know if any further investigative work is being done in Western Australia or Australia wide on that topic since 1998?

MR TOYNE: No, I'm not aware.

10 MS CAHILL: Was this document circulated within the Department, to your knowledge, once it was completed?

MR TOYNE: No.

15 MS CAHILL: Do you know if any use has been made of this document by your Department?

MR TOYNE: I don't specifically know. May have been made available to the Problem Gambling Officer, I don't know. I'm not aware of it.

20

MS CAHILL: Commissioner, I tender DLG.0001.0004.0004.

COMMISSIONER OWEN: That document is also admitted as an exhibit.

25

**EXHIBIT #DLG.0001.000.000 - PRODUCTIVITY COMMISSION INQUIRY:
AUSTRALIA'S GAMBLING INDUSTRIES**

30 MS CAHILL: Now, another document that you mention, I think you mentioned this in your earlier evidence was a review of the Gaming Commission Act that was published in June of 1996 which you authored, PUB.0004.0002.0129.

MR TOYNE: Yes.

35

MS CAHILL: Now, this is the report of the Minister?

MR TOYNE: Yes.

40 MS CAHILL: And it's responding to or commenting upon a review conducted by Mr Rodney Chapman into the Gaming and Wagering Commission Act.

MR TOYNE: Yes.

45 MS CAHILL: Under a now deleted provision that review was conducted?

MR TOYNE: Yes, yes.

MS CAHILL: Did you prepare this report for the Minister or did you help Mr Chapman prepare his initial review?

5 MR TOYNE: So I helped Mr Chapman prepare his initial review but I was under instruction and reported to the Director of Operations, Mr Halge.

MS CAHILL: But in relation to what, helping him with his initial review or preparing the report on the review on behalf of the Minister?

10

MR TOYNE: No, conducting the initial review ---

MS CAHILL: Did you have any involvement in this document which is the actual comment on the review to the Minister?

15

MR TOYNE: No.

MS CAHILL: So at page 0234 under the --- in the bottom quarter of the page you've got, "Section 24 - Directions to Casino Licensee in respect of casino gaming operations", and a subheading "Junket Operators". A discussion then ensues there about the then present requirement under a section 24 direction to require the Commission's approval for junket operators to operate junkets to Perth Casino, and then over the page, 235, the third paragraph mention is made of there being no legislative requirement, but it being a section 24, in effect, requirement for approval.

25

MR TOYNE: Yes.

MS CAHILL: And now down at the bottom of the page, it says:

30 The requirement that Junket Operators be approved originated with the police

Now, do you recall that being the position?

35 MR TOYNE: As far as I understand, we always required junket operators to be approved.

MS CAHILL: But was that an initiative of the police, do you recall, originally?

40 MR TOYNE: I don't know, I wouldn't have been involved in those discussions. That would have been in the original Casino Control Committee.

MS CAHILL: Now, this goes on to recommend that the section 24 direction be withdrawn. That was what Mr Chapman's review required. I think you gave some evidence about what were recommended and you gave some evidence about that a little earlier in your evidence today.

45

MR TOYNE: Yes.

MS CAHILL: But then at 0148, we see a Recommendation 46?

MR TOYNE: Yes.

5

MS CAHILL: You helped Mr Chapman formulate that recommendation? Did you?

MR TOYNE: No.

10 MS CAHILL: But you helped him with his review?

MR TOYNE: I've identified compliance issues and reported to the Director of Operations, the ultimate decision as to what was in this report was made by Mr Chapman.

15

MS CAHILL: Did you have any discussion with him about Recommendation 46?

MR TOYNE: No.

20 MS CAHILL: So you didn't have a view at the time about whether the section 24 direction requiring junket operators to be approved should be withdrawn or not?

MR TOYNE: Whilst the principal directions were in existence, I was in favour of junket approval processes. But that was --- we were based at the casino 24 hours a day so we had the ability to be present when junkets arrived and things like that.

25

MS CAHILL: Tell me if I've misunderstood your earlier evidence, but I thought you were saying that in relation to the removal of the requirement for approval, via a section 24 direction, it was Mr Sergeant who had effectively mandated that that requirement should be removed, yet the Minister had other ideas.

30

MR TOYNE: Well, I can't remember what date Mr Chapman and Mr Sergeant came. I thought Mr Sergeant came around '95. I didn't have a discussion with Mr Chapman about it, I only reported ---

35

MS CAHILL: Was Mr Chapman a permanent Department officer?

MR TOYNE: He was head of the Department, prior to Mr Sergeant.

40 MS CAHILL: And so you might have had your previous evidence a bit muddled in terms of the chronology?

MR TOYNE: When I did the National Competition Policy Review, Mr Sergeant was head of the Department.

45

MS CAHILL: Yes, but we're looking at a different document now. So this is a review of the Gaming Commission Act 1987 that was published in June ---

MR TOYNE: Okay, so that would have been Mr Chapman was head of the Department. That recommendation would have come via Mr Halge who is Director Operations.

5

MS CAHILL: And you had no view one way or the other?

MR TOYNE: I had a view that we should stay at the casino and we should continue with the processes under the directions.

10

MS CAHILL: I tender that document, Commissioner. PUB.0004.0002.0129.

COMMISSIONER OWEN: That document is admitted into evidence as an exhibit.

15

EXHIBIT #PUB.000.0002.0129 - 1996 REPORT ON THE REVIEW OF THE GAMING COMMISSION ACT 1987

20

MS CAHILL: Then we go to the 2009 Productivity Commission submission, DLG.0001.0004.0003.

COMMISSIONER JENKINS: Can I just ask, in 1996, when that previous document was prepared, were the police units still involved out at the casino?

25

MR TOYNE: I don't think so.

MS CAHILL: So now we have the 2009 submission.

30

MR TOYNE: Yes.

MS CAHILL: So this is about 10 years after your last submission.

MR TOYNE: Yes.

35

MS CAHILL: And did you produce this document yourself? It's just 20 pages, or was it contributed to by others?

MR TOYNE: I'd have to look at the document.

40

MS CAHILL: Let's go to an area I want to take you to which is page 0008 under the heading "Casino Gaming". I think you might have had a chance to look at this document overnight, Mr Toyne?

45

MR TOYNE: Yes.

MS CAHILL: So is this your document?

MR TOYNE: Yes.

MS CAHILL: Did others contribute to it or did you author it entirely yourself?

5

MR TOYNE: There was some input by Policy Section.

MS CAHILL: But can you speak to the contents?

10

MR TOYNE: Yes.

MS CAHILL: So under this "Casino Gaming" section, you are initially, and in essence, summarising the most essential features of casino-style gaming in Western Australia.

15

MR TOYNE: Yes.

MS CAHILL: One is that it's a single venue, not multiple venues.

20

MR TOYNE: Yes.

MS CAHILL: Another is that there is a prohibition on poker machines?

MR TOYNE: Yes.

25

MS CAHILL: It's a differentiating factor from other jurisdictions in Australia?

MR TOYNE: Yes.

30

MS CAHILL: You have EGMs only at the casino, that's another differentiating feature.

MR TOYNE: Yes.

35

MS CAHILL: There's a prohibition on gambling on credit?

MR TOYNE: Yes.

40

MS CAHILL: And is that a differentiating feature or to your knowledge is that similar to other jurisdictions?

MR TOYNE: That's similar to other jurisdictions.

45

MS CAHILL: ATMs are not located on the gaming floor.

MR TOYNE: Yes.

MS CAHILL: And these features are all directed to mitigating social harms?

MR TOYNE: Yes.

5

MS CAHILL: And I think when we go over the page, there's a discussion around changes that have occurred in relation to mitigating social harms even further to address problem gambling. So you have natural lighting that's been introduced since 1998 at the casino premises. And clocks that are put on the walls.

10

MR TOYNE: Yes.

MS CAHILL: Because it is often the case, isn't it, in other places that casino premises are designed without natural light or access to seeing the outside?

15

MR TOYNE: Absolutely, yes.

MS CAHILL: And no clocks so that a player doesn't have a perception of passing of time.

20

MR TOYNE: Yes.

MS CAHILL: So that's not the case for the Perth Casino or wasn't when you wrote this report?

25

MR TOYNE: That's right, yes.

MS CAHILL: Do you know what the position is today?

30

MR TOYNE: Yes, same position.

MS CAHILL: In the next paragraph, which is the last paragraph on this page ---

MR TOYNE: Actually, sorry, there was one --- the speed of play. That's altered.

35

MS CAHILL: Yes. Is that in relation to EGMs?

MR TOYNE: Yes.

40

MS CAHILL: I was just about to come to the EGMs in that last paragraph there, just before we get to the bullet points.

MR TOYNE: Yes.

45

MS CAHILL: And, again, what you're identifying here is that the Gaming and Wagering Commission is very aware of the potential social harms associated with EGMs.

MR TOYNE: Yes.

5 MS CAHILL: And I think you described back before lunch as one of the most addictive forms of gambling?

MR TOYNE: Yes.

10 MS CAHILL: And the significance of each of these bullet points is the way in which the features of the machine can increase the risk of social harm or mitigate it, depending which way it goes?

MR TOYNE: Yes.

15 MS CAHILL: Which of these bullet points are associated exclusively with poker machines but not EGMs?

20 MR TOYNE: Poker machines really, in the terms of what's in the Act, are spinning wheel slot machines.

MS CAHILL: Yes, but just in terms of these features of an EGM, which --- at risk of social harm, are any of them unique to poker machines or are they all shared with EGMs?

25 MR TOYNE: Well, in various jurisdictions they can be shared with EGMs.

30 MS CAHILL: You say in other jurisdictions. If we turn over the page, the point that's being made here, is it not, is that it can often be quite difficult to distinguish between technically what is a poker machine under the WA legislation and what an EGM?

MR TOYNE: Yes.

35 MS CAHILL: Sometimes that's a very fine line.

MR TOYNE: Yes.

40 MS CAHILL: Just based on your experience in casino regulations, is there a sort of a concern at a general level by the regulator that electronic gaming machines can effectively replicate some of the more harmful features that render poker machines undesirable?

MR TOYNE: Yes.

45 MS CAHILL: And that it's actually quite hard to distinguish between what is a poker machine under our legislation and what is not a poker machine?

MR TOYNE: Yes.

MS CAHILL: And in your opinion, does the legislation adequately distinguish between a poker machine and an EGM?

5 MR TOYNE: Probably when the Act was created in 1987. I don't think it's kept up with electronic advancements.

MS CAHILL: And you may have already answered the question. Do you consider that the current legislation is adequate to address the harmful aspects of gaming on
10 an electronic gaming machine?

MR TOYNE: The current ---

MS CAHILL: Legislation.
15

MR TOYNE: Yes, yes, the legislation, whether there's a rule to use it.

MS CAHILL: What do you mean by that?

20 MR TOYNE: Well, at the time of writing this report one of the, if you like, justifications for machines at the casino was the fact that there was a destination place, if you wanted to play electronic gaming machines. So, unlike say in New South Wales where you can walk to your local pub and there would be gaming machines there, there had to be active decisions made to travel to the casino and
25 attend the casino to play those electronic gaming machines. So by having a specific destination to go was considered a partial deterrent to becoming involved in electronic gaming.

MS CAHILL: There are no poker machines at the casino, are there?
30

MR TOYNE: Again, in terms of the legislation, generally speaking, poker machines were referring to spinning wheel slot machines. So there are games at the casino where --- an electronic gaming machine where you can play a hand of poker.

35 MS CAHILL: Yes.

MR TOYNE: That doesn't make it a poker machine.

MS CAHILL: So something that is a poker machine, you don't have those at the
40 casino?

MR TOYNE: No.

MS CAHILL: And when you're describing mitigating the social harms of electronic
45 gaming machines by concentrating them in the one destination ---

MR TOYNE: Yes.

MS CAHILL: --- what I'm coming to here is, is the continuing distinction between the conventional poker machine which is not allowed to be used at that destination, you know, even in that destination, and an EGM, is that a distinction that's still valid in your view?
5

MR TOYNE: Not really, because you don't get mechanical spinning reel slot machines any more.

10 MS CAHILL: I tender this document, DLG.0001.0004.0003.

COMMISSIONER OWEN: Document DLG.0001.0004.0003 is admitted into evidence as an exhibit.

15

EXHIBIT #DLG.0001.000.0003 - WESTERN AUSTRALIAN GOVERNMENT SUBMISSIONS

20 COMMISSIONER OWEN: Ms Cahill, could I just enquire, how long do you think you'll be?

MS CAHILL: Probably about 15 minutes.

25 COMMISSIONER OWEN: I'm not seeking to curtail this but I'm just wondering whether, if we do go past 4 o'clock, whether we should enquire of Mr Toyne whether he would like a break?

MR TOYNE: I don't need a break. I'd rather finish today than ---

30

COMMISSIONER OWEN: I can assure we will we finish today. If you would like a break?

MR TOYNE: Maybe just five minutes?

35

COMMISSIONER OWEN: We'll break for five minutes.

ADJOURNED

[3.20 PM]

40

RESUMED

[3.27 PM]

45 COMMISSIONER OWEN: Thank you, Mr Toyne. Yes, Ms Cahill.

MS CAHILL: Thank you, Commissioner.

A document for you, Mr Toyne, which is the Competition Review that you've

referred to a number of times.

MR TOYNE: Yes.

5

MS CAHILL: I'll call that up. PUB.0004.0004.0245. And you say that this is the document with which the February agenda paper, although you didn't author it, was consistent with?

10 MR TOYNE: Yes.

MS CAHILL: And Mr McLeod, whose name is at the very bottom of the paper, who you prepared it with, he's the economist that you were referring to?

15 MR TOYNE: Yes.

MS CAHILL: And so the focus of this report was very --- or submission was very specific, wasn't it?

20 MR TOYNE: Yes.

MS CAHILL: You had to --- it was looking at competition policy, in effect.

MR TOYNE: Yes.

25

MS CAHILL: So you had to identify where the relevant gaming legislation restricted an activity and a licence was required, that was the first thing.

MR TOYNE: Yes.

30

MS CAHILL: And you looked at the benefits and the disadvantages of the restriction?

MR TOYNE: Yes.

35

MS CAHILL: And then you assessed the public benefits of the restriction?

MR TOYNE: Yes.

40 MS CAHILL: You identified alternatives to the restrictions, if they were available?

MR TOYNE: Yes.

45 MS CAHILL: And then you offered a recommendation about whether the restriction should be removed, modified or maintained?

MR TOYNE: Yes.

MS CAHILL: And the bottom of page 0340, you discuss the requirement to licence junkets. That's 0340. And at this time, of course, there was the requirement for the approval of the Commission?

5

MR TOYNE: Yes.

MS CAHILL: And you identify a competitive advantage to attract junkets in jurisdictions where there are less demanding requirements?

10

MR TOYNE: Yes.

MS CAHILL: That was a conclusion you reached at the time?

15

MR TOYNE: Yes.

MS CAHILL: Page 0341, under the heading "Assessment of Public Benefits", last paragraph, you identify the objective of the restrictions pertaining to junkets and you say that they can be accomplished without the requirement for a formal approval?

20

MR TOYNE: Yes.

MS CAHILL: And the primary objective, you say, of the approval process is to ensure that junket operators or their representatives are fit and proper persons to be involved in this aspect of the gaming industry and to exclude the influence of organised crime?

25

MR TOYNE: Yes.

30

MS CAHILL: So you understood at this point, didn't you, that the infiltration of junkets by organised crime was a risk?

MR TOYNE: Yes.

35

MS CAHILL: Your conclusion was that mitigating this risk could be achieved through the Department of Immigration when considering applications for visas?

MR TOYNE: Mm-hm.

40

MS CAHILL: And you say it appears that those checks are duplicated through the Commission's approval process?

MR TOYNE: Yes.

45

MS CAHILL: What information did you draw upon to reach that conclusion?

MR TOYNE: Okay. Again, going back to my review of principal directions, I raised the concept of the Australian Customs and Immigration doing the checks. The

specific answer to your question is there was no further checks done. It was just raised as a concept and we ---

5 MS CAHILL: But this is your paper, isn't it?

MR TOYNE: I took strategic initiatives under instruction from Mr Sergeant.

MS CAHILL: This is your paper, isn't it?

10

MR TOYNE: Yes, yes.

MS CAHILL: And was it your position at the time that the Department of Immigration could achieve the same purpose of assessing whether a person was fit and proper to be involved in this aspect of the gaming industry? Last full sentence on that page?

15

MR TOYNE: Yes. That was the position.

20 MS CAHILL: Was it your position, Mr Toyne?

MR TOYNE: No, it wasn't my position.

MS CAHILL: Whose position was it?

25

MR TOYNE: The Director-General, Mr Sergeant.

MS CAHILL: So you had a different position?

30 MR TOYNE: I would have done further checks to see what sort of processes the Department of Immigration ---

MS CAHILL: Well, why didn't you do that, and then go back to Mr Sergeant and say "Well, you're right, the checks are exactly the same as what we do", or, "No, I've looked into it and you're wrong and we need to reconsider this position, that the Department of Immigration can achieve the same objectives as we do through our approval process"?

35

MR TOYNE: Essentially, I wasn't instructed to.

40

MS CAHILL: You weren't instructed not to, though, were you?

MR TOYNE: No, I wasn't instructed not to, no.

45 MS CAHILL: So was it actually the position that Mr Sergeant told you that the Department of Immigration could achieve the same effect in relation to assessing the probity of a junket tour operator through its checks?

MR TOYNE: Not specifically the Department of Immigration, but it was Mr Sergeant's position that other law enforcement bodies could conduct those checks, and if a person was allowed into the country, we should take comfort in the fact that those sorts of checks had been done.

MS CAHILL: Is it your evidence when you wrote this paper you included statements in it that you thought conformed to what Mr Sergeant expected you or wanted you to say?

MR TOYNE: Yes.

MS CAHILL: You exercised no independent judgment in that regard?

MR TOYNE: No.

MS CAHILL: You didn't exercise any independent judgment?

MR TOYNE: Not in relation to this subject, no.

MS CAHILL: Why ever not?

MR TOYNE: Don't know, can't help you there.

MS CAHILL: If we go over to page 0344. Yes, thank you. We get to the ultimate recommendation that's made in relation to this issue, of the requirement for the approval of junket tour operators and you see under that heading 8.4.5 "Recommendation", first paragraph is to do with the licensing of casino operators in the broad and then the second paragraph, the licensing of junkets is of doubtful merit.

MR TOYNE: Yes.

MS CAHILL: Was that your view at the time?

MR TOYNE: In 1998, we didn't have police involvement in the junket approval process, so my view was that the ability for us to do approvals and monitoring was -- for approvals was of doubtful merit because the information we were getting, we couldn't test the veracity of it.

MS CAHILL: That's not what you say here, is it? You say it's a doubtful merit and should be removed in favour of a less-restrictive form of monitoring that doesn't involve the formal approval process?

MR TOYNE: Yes, that was --- I was under instruction in relation to that recommendation.

MS CAHILL: From Mr Sergeant?

MR TOYNE: Yes.

5 MS CAHILL: And, again, you didn't exercise any independent judgment when formulating that recommendation?

10 MR TOYNE: I exercised independent judgment in that I was aware that the information we were collecting was not being used to conduct anything of meaningful veracity.

MS CAHILL: But do I understand your evidence correctly, Mr Toyne, that your position, in fact, was that the approval process should remain and it should involve the police?

15 MR TOYNE: That was my personal view, yes.

MS CAHILL: So rather than removing the requirement for approval, you actually wished it to be beefed up?

20 MR TOYNE: Yeah, I would want the police to be involved, yes.

MS CAHILL: So you authored a paper that reflected not your views, but you say Mr Sergeant's views?

25 MR TOYNE: Yes.

MS CAHILL: Why did you do that?

30 MR TOYNE: Because he was the Director-General of the Department and I was only a level 6 employee and I was instructed to.

MS CAHILL: You were instructed to reflect his views in the paper?

35 MR TOYNE: If Mr Sergeant came up with a recommendation, the recommendation was a recommendation.

MS CAHILL: Well, this is your recommendation.

40 MR TOYNE: It wasn't an independent process, I didn't write this paper off my own back.

MS CAHILL: Did you even try? Did you put a draft in front of Mr Sergeant that set out your position and debate it with him?

45 MR TOYNE: The removal of junkets had been a discussion point since 1995.

MS CAHILL: Can you just answer my question?

MR TOYNE: No, I didn't.

5 MS CAHILL: So you wrote a paper that you thought contained the views he would like to see expressed and the recommendations he would like to see made?

10 MR TOYNE: No, not --- no, during this whole process, I was reporting to Mr Sergeant and giving him drafts of sections of the report and he was viewing those and made changes where necessary.

MS CAHILL: But you didn't ever put your own views about this recommendation to him?

15 MR TOYNE: No.

MS CAHILL: It talks here about the licensing recommended to be removed in favour of a less-restrictive form of monitoring of junkets. What did you have in mind as a less-restrictive form of monitoring?

20 MR TOYNE: We do operational monitoring of junket activity.

MS CAHILL: What do you mean by that?

25 MR TOYNE: Well, just really their play.

MS CAHILL: Just their?

MR TOYNE: When they're gaming at the casino, we would monitor their play.

30 MS CAHILL: For what purpose?

MR TOYNE: To ensure compliance with the rules and procedures.

35 MS CAHILL: Just to remind you, though, that the primary objective you identified in this paper for requiring approval of junket operators was to ensure that they were fit and proper persons to be involved in this aspect of the gaming industry and to exclude the influence of organised crime in this sector market. So was that abandoned as an objective in terms of any monitoring you were contemplating continuing with?

40 MR TOYNE: It wouldn't have been monitoring of probity, no.

45 MS CAHILL: Was that what you were intending when you wrote this, that a less restrictive form of monitoring would not be directed towards assessing the probity of junket operators or excluding the influence of organised crime from junket operations?

MR TOYNE: Well, it was certainly not conducting probity checks of junket

operators.

5 MS CAHILL: And that was a position that you thought was appropriate at the time to recommend?

MR TOYNE: That was a position I was expected to recommend.

10 MS CAHILL: What do you mean by that?

MR TOYNE: The Department didn't want to be involved in the probity of junket operators.

15 MS CAHILL: When you use that generic term, "the Department", who are you referring to and how was that position articulated to you?

20 MR TOYNE: I'm referring to Mr Sergeant. The Department was collecting a lot of information, having to store a lot of information and we weren't really using it for any purpose.

MS CAHILL: But come back to the fact that you had identified the rationale for the approval process as checking into the probity of the people involved in the junkets and excluding the influence of organised crime.

25 MR TOYNE: Yes.

MS CAHILL: So the Department didn't want to be involved in either of those objectives, is that what your evidence is?

30 MR TOYNE: The Department didn't want to be involved in probity.

MS CAHILL: Well, didn't want to be involved in the probity of junket operators? Probity checks of junket operators?

35 MR TOYNE: Yes.

MS CAHILL: And it didn't want to be involved in excluding the influence of organised crime in the junket tour sector of the casino market?

40 MR TOYNE: There was other law enforcement bodies that were responsible for that aspect, such as the Federal Police and ---

MS CAHILL: And the Department of Immigration?

45 MR TOYNE: Well, more Australian Customs Service.

MS CAHILL: What involvement did they have? Did the Department ever check that?

MR TOYNE: Not as far as I know.

5 MS CAHILL: Now, when the regulations were repealed in 2010, I think you've already given evidence that there was nothing --- no sort of (inaudible) that replaced the approval process, was there?

MR TOYNE: No.

10 MS CAHILL: And was that your expectation in making this recommendation, that there really wouldn't be any substantive monitoring of junkets if regulation --- or section 25A is repealed?

15 MR TOYNE: In my understanding, the probity side of things would be dealt with by more other, more appropriate, law enforcement bodies.

MS CAHILL: Can we change topics now, please, and ask you about conflicts of interest.

20 MR TOYNE: Yes.

MS CAHILL: Sorry, I have to tender a document before I do that, which is the National Competition Review submission, that's PUB.0004.0004.0245.

25 COMMISSIONER OWEN: That document is admitted as an exhibit.

**EXHIBIT #PUB.0004.0004.0245 - NATIONAL COMPETITION REVIEW
SUBMISSION**

30

MS CAHILL: Thank you, Commissioner.

35 I just want to talk to you about conflicts of interest, page 0010 of your witness statement, paragraph 28.

MR TOYNE: Yes.

40 MS CAHILL: Under this section heading, at paragraph 28, you say "It has changed over the years."

MR TOYNE: Yes.

45 MS CAHILL: You're referring there to the Department's attitude to the existence (inaudible).

MR TOYNE: In relation to relation to relationship with casino employees, yes.

MS CAHILL: Do you mean it was a formal change, some policy document or a formal document was printed and circulated, or it's just that the Department's attitude on a case-by-case basis as to how it reacted to Department and casino people being
5 involved in relationships changed?

MR TOYNE: The latter.

MS CAHILL: Nothing formal was said, it was just they were tolerated?
10

MR TOYNE: Yes.

MS CAHILL: There was an increasing toleration for relationships between casino and Department staff over time?
15

MR TOYNE: Yes.

MS CAHILL: Did anything else change over the years in terms of the attitude of the Department of conflicts of interest, in fact, as opposed to formal documentation?
20

MR TOYNE: Not that I'm aware of.

MS CAHILL: You speak in this section of the witness statement about commencing a relationship with an employee at the casino who was a Table Games Inspector and that relationship commenced in 2004?
25

MR TOYNE: Yes.

MS CAHILL: Now this person ultimately married.
30

MR TOYNE: Yes.

MS CAHILL: You say by this point the Department was more tolerant of relationships between casino staff and Department staff?
35

MR TOYNE: Yes, prior to --- at that stage, I was aware of at least three inspectors who were married to casino employees and two inspectors, at least, that had direct family members employed at the casino.

MS CAHILL: So those three casino inspectors, who were married to --- what positions did they hold?
40

MR TOYNE: Dealers.

MS CAHILL: Those people were still working as dealers and the inspectors were still working as inspectors after they were married?
45

MR TOYNE: Yes.

MS CAHILL: You say that you declared your relationship to the Department?

5

MR TOYNE: Yes.

MS CAHILL: Did you do so before or after your marriage?

10

MR TOYNE: Before.

MS CAHILL: And you describe this as a perceived conflict of interest, this relationship; why do you say it's perceived and not actual?

15

MR TOYNE: Upon reflection after this statement was written, I believe it was both.

MS CAHILL: Why do you say that?

20

MR TOYNE: My wife's position at the casino was a table inspector, so she was responsible for the supervision of a number of dealers on tables. When I say perceived, it was if I was involved --- if I had been involved in an investigation to say with a patron complaint, that she was the inspector involved, there may be a perception that I would be biased. When I say actual, I made the decision myself that I wouldn't conduct audit programs on tables that she was responsible for supervision. When I think about it, that's an actual conflict of interest because I would have to inspect her, however I would ensure that follow-up inspectors, if that pit was to be inspected, an inspector other than me would do that inspection.

25

30

MS CAHILL: Do you think looking back now that was sufficient or whether one of you should have ceased employment with, respectively, the casino or the Department?

35

MR TOYNE: Okay, well, in the context that we weren't full-time presence at the casino by the time that I commenced the relationship, I might spend say three months there as a Casino Inspector and then nine months doing gaming and liquor work, so more recently I probably would say that I should have been excluded from working at the casino.

40

MS CAHILL: Or anything to do with casino regulation?

45

MR TOYNE: Not necessarily anything to do with casino regulation. It was more the operational aspect in that my wife worked on the casino floor. As far as when I was performing, say, the duty of a Senior Inspector, I didn't have any direct contact with her. There wasn't any way that I could influence the regulation of her tables.

MS CAHILL: Well, you could certainly influence the way in which the Casino Manual was amended or not to relax or tighten requirements in relation to how games are played (inaudible).

MR TOYNE: Certainly, yes.

5 MS CAHILL: So that would create a perception of a conflict of interest, would you agree?

MR TOYNE: Potentially, yes.

10 MS CAHILL: So, looking back, would you say it would be better for you not to be involved in casino regulation at all?

MR TOYNE: Yes.

15 MS CAHILL: So during your time working in casino regulation, you knew, didn't you, of circumstances in which Department employees were (inaudible).

MR TOYNE: Yes.

20 MS CAHILL: (Inaudible) for the Department?

MR TOYNE: There was, yes, two instances where casino employees were recruited.

25 MS CAHILL: But more common for Department employees to be recruited by the casino?

MR TOYNE: Yes, based on numbers. I can recall three Department employees that ended up working for the Casino.

30 MS CAHILL: Is it an extensive problem, or not that common?

MR TOYNE: The positions that ended up working in positions at the casino were two of them at least were fairly high -level positions and one of them at one time had acted as Senior Inspector Casino.

35 MS CAHILL: So my question was really directed to how frequently over the years have people moved from the Department to the casino?

40 MR TOYNE: Okay, so Michael Egan, so he was the original Chief Casino Officer. He left and joined the Department. Paul Hulme ---

MS CAHILL: He left to join the casino.

45 MR TOYNE: Sorry, he left to join the casino, yes. Paul Hulme was an original Government Inspector, left the Department to run his own business, came back to the Department as a regulatory officer and was recruited by the casino whilst he was in that position as a Regulatory Officer.

MS CAHILL: Are those are the only two you remember?

MR TOYNE: There was a Mr John Nicholls who was --- when ---

5

MS CAHILL: But he wasn't involved in casino regulations?

MR TOYNE: No. That is a company to do with James Packer. Mr Nicholls was a high-level advisor to the State Government on wagering matters and ended up working for Betfair.

10

MS CAHILL: And are they about the only examples you can remember?

MR TOYNE: Yes.

15

MS CAHILL: All right. Now, do you know what attempts, if any, were made to manage conflicts arising from the movement of an employee from the Department to the casino?

MR TOYNE: In the early days, '95 to '98, maybe even longer than that, there was a policy that an employee of the Division couldn't join the operator for a period of six months. So that precluded them, if you like, head-hunting an officer of the Department.

20

MS CAHILL: And that's no longer in place?

25

MR TOYNE: No.

MS CAHILL: So that was removed at around '98?

30

MR TOYNE: Yeah, possibly.

MS CAHILL: Do you know why?

35

MR TOYNE: No, no.

MS CAHILL: Do you know who initiated the relaxation of that ban?

MR TOYNE: No.

40

MS CAHILL: Were you aware during your time the casino regulation of a (inaudible).

MR TOYNE: Yes.

45

MS CAHILL: For how long were you aware of that relationship?

MR TOYNE: Well, I attended a few operations meetings as a Senior Inspector

Compliance, and it was fairly obvious at the meeting that there was a friendship.

MS CAHILL: Why do you say that?

5

MR TOYNE: Sorry?

MS CAHILL: How was it obvious?

10 MR TOYNE: Prior to the meeting started, there would be discussions of a friendly nature between Mr Hulme and Mr Marais, and Mr Connolly and Mr Preston.

MS CAHILL: In your mind, did that friendship create any issues in terms of the integrity of the regulation of the casino?

15

MR TOYNE: I didn't learn about fishing trips for quite a number of years, but when I did, I thought that friendships were inappropriate and I asked Mr Connolly about it and he told me he'd declared it to the ---

20 MS CAHILL: I'm not asking for that, Mr Toyne. I'm asking whether in your own mind, in your own viewpoint, it created any issues, this friendship, in terms of the integrity of the regulation function ---

MR TOYNE: In my own mind, I thought it was highly inappropriate.

25

MS CAHILL: Because?

MR TOYNE: Because of the level of the people involved.

30 MS CAHILL: Thank you, Mr Toyne.

I have nothing further, Commissioners.

COMMISSIONER OWEN: Thank you, Mr Garas?

35

MR GARAS: I have no questions, thank you.

COMMISSIONER OWEN: Mr Evans?

40 MR EVANS: No, I don't think so, thank you, Commissioner.

COMMISSIONER OWEN: Mr Malone?

MR MALONE: I have no questions.

45

COMMISSIONER OWEN: Commissioner Jenkins?

QUESTIONS BY THE COMMISSION

COMMISSIONER JENKINS: I always have questions, and can we start with where Ms Cahill left off and that is with the issue of the conflict of interest. First, with the
5 rule as you understood it, that in the early days a former casino officer could not work for the casino for a period of six months. Was that a rule for the casino, or as part of the contract or terms of employment of the casino officer by --- sorry, the inspector or whatever, by the Department? I'm just wondering how that was ---

10 MR TOYNE: How it came about?

COMMISSIONER JENKINS: Yes.

MR TOYNE: Surprisingly, originally, it was a position put forward by the Casino
15 Operator and the Department agreed with it. As far as I remember, it wasn't a formal written policy, but it was an understood policy.

COMMISSIONER OWEN: Can I just ask a follow-on question from that. Did it go to other areas for which the Gaming and Wagering Commission was responsible, like
20 racing or anything else?

MR TOYNE: No.

COMMISSIONER JENKINS: Then in respect of your relationship with your wife,
25 or partner, you say you declared it. Could you just tell us how you did that?

MR TOYNE: I gave a verbal report to a Senior Inspector and at the time the Director of Operations, Mr Halge.

30 COMMISSIONER JENKINS: And was there a formal form?

MR TOYNE: Not at that stage, no.

COMMISSIONER JENKINS: And when you made that declaration, did you
35 understand that there was any formal assessment of the --- not of the relationship, obviously, but of the possible effects of the relationship on your work and whether it did present a conflict or how ---

MR TOYNE: No, there wasn't a formal assessment.

40

COMMISSIONER JENKINS: And were any directions given to you by Mr Halge or anyone else as to how you should manage that conflict?

MR TOYNE: No, because I volunteered that I wouldn't be involved in investigations
45 concerning my wife and I wouldn't conduct inspections of tables my wife was at.

COMMISSIONER JENKINS: And that was sort of the end of it?

MR TOYNE: Yes.

5 COMMISSIONER JENKINS: I'm working backwards at the moment. So going then to the issue of the removal of junket approvals.

MR TOYNE: Yes.

10 COMMISSIONER JENKINS: Were you aware, when you became aware that the junket regulations were repealed in 2010, did you note that all the junket regulations were appealed --- were repealed, just as opposed to just those that required the pre-approval of junkets?

15 MR TOYNE: I was aware that all of them were repealed, yes.

COMMISSIONER JENKINS: Did it occur to you at that time that that was more than you had recommended, that that is that you had recommended a repeal of the requirement for pre-approvals but not for all monitoring of junkets?

20 MR TOYNE: It didn't occur to me. I just accepted the fact that the Commission approved the repealing of the regulations.

25 COMMISSIONER JENKINS: Now can I ask you some questions and, please tell me if you don't know the answers. We have a copy of the Burswood Casino Amended Directions and they refer to various amendments, for example, Direction 3E inserted by GC/ 10 on 16/03/93. What's "GC" stand for?

MR TOYNE: I would imagine it would be Gaming Commission.

30 COMMISSIONER JENKINS: Because then there are other references to them being amended by "DA", for example.

35 MR TOYNE: That's the Direction Amendment. It's possibly just different form of notation between those two timeframes.

COMMISSIONER JENKINS: And there's other references to amendments by "CCC". As I said, you're looking like you might not know anything about these different forms of amendment, I'm just wondering.

40 MR TOYNE: I know what DA stands for. I don't know what CCC stands for.

COMMISSIONER JENKINS: And do you know if there was and is a register of the amendments?

45 MR TOYNE: There was. I'm not sure if there still is.

COMMISSIONER JENKINS: And which area of the Department kept that?

04:00PM

MR TOYNE: The inspectors have their own register of amendments so that we could see what had changed and look back to the controls that were in place. I would imagine that there was one at head office but I couldn't say for sure.

5

COMMISSIONER JENKINS: I just wanted to clarify the issue of police support to the GWC. You gave evidence that you believed that there was a police unit and you called it something, didn't you?

10 MR TOYNE: Senior Investigation Unit, yes.

COMMISSIONER JENKINS: And there were two police officers in that unit?

MR TOYNE: Yes.

15

COMMISSIONER JENKINS: Now, when that ceased, was that the end of direct police support to the GWC or to the inspectors?

MR TOYNE: To the inspectors it was, yes.

20

COMMISSIONER JENKINS: So there was no longer a police officer or more than one police officer working at the casino or working with the inspectors?

MR TOYNE: That's right, yes.

25

COMMISSIONER JENKINS: Now, the directions I see are up on the screen and perhaps we could look at 3F of the directions.

MR TOYNE: It's just disappeared from my screen.

30

COMMISSIONER JENKINS: I can ask you some questions about that anyway. In one of the documents you prepared, you referred to the fact that credit was not able to be extended to players.

35 MR TOYNE: Yes.

COMMISSIONER JENKINS: Now, are you aware that under the directions there is a direction that the casino operator may provide a funds advance facility to a player if that player is identified as an international commission business player, who does not normally reside within Australia?

40

MR TOYNE: Yes.

COMMISSIONER JENKINS: Now, that 3F says it was inserted into the directions on the 30th of June 2005.

45

MR TOYNE: Yes.

COMMISSIONER JENKINS: Do you know whether before that time there was a similar provision or some other form of consent for the casino operator to provide credit to overseas players?

5

MR TOYNE: No, credit was strictly prohibited.

COMMISSIONER JENKINS: Until 2005, you believe?

10 MR TOYNE: Yes.

COMMISSIONER JENKINS: And do you know why that was then inserted in 2005?

15 MR TOYNE: The only thing I know is that it was --- that there was a request from the casino operator for that to be considered.

COMMISSIONER JENKINS: And do you know why it was considered appropriate to extend credit to overseas players but not Australians?

20

MR TOYNE: No, I don't, no. I must admit that it did cause some jocularly amongst the inspectors, that credit was called another name and --- so there was a prohibition on credit but there was not a prohibition on advanced funds drawn down.

25 COMMISSIONER JENKINS: Do you know whether there are any further restrictions on that? That is, whether interest was able to be charged and whether there was any kind of limit on what interest could be charged, anything of that nature?

30 MR TOYNE: No, I'm not aware.

COMMISSIONER JENKINS: Now, again, excuse me if I'm going beyond your area of knowledge, but you seem to be one of the few witnesses who have sort of given evidence about the prosecutorial function.

35

MR TOYNE: Yes.

COMMISSIONER JENKINS: And investigative function of the inspectors in the GWC.

40

MR TOYNE: Yes.

COMMISSIONER JENKINS: Was it your understanding that it was an offence for the casino licensee to breach the directions?

45

MR TOYNE: Yes, it --- yes.

COMMISSIONER JENKINS: Can you recall if there was any occasion when you

were involved in casino regulation in which the casino licensee was prosecuted for breaching the directions?

5 MR TOYNE: No. There were several levels of disciplinary action that could be taken and prosecution was the last avenue, if you like. One of the more stringent forms was a violation report which would go to the board of the licensee. There were letters of censures that could be issued, but in my knowledge, the Commission hasn't prosecuted the casino licensee.

10 COMMISSIONER JENKINS: You gave evidence about changes to the casino manual and who made those changes. The question I wanted to ask was who decided which proposed changes to the casino manual went to the GWC for approval and which ones were done by a delegate of the GWC?

15 MR TOYNE: So it would be essentially the director responsible, whether it be operations or whatever it was called at the time, but essentially the director responsible for that area and/or Mr Sergeant as Chairman of the Gaming Commission.

20 COMMISSIONER JENKINS: Was SYCO, the software finance management software of the casino, introduced whilst you were involved in casino ---

25 MR TOYNE: I think towards the end of my involvement, yes.

COMMISSIONER JENKINS: Do you know whether the regulator, that's the GWC, had any input into the development of SYCO so as to ensure it accurately recorded the financial information from the casino operations?

30 MR TOYNE: Maybe not so much the development of SYCO, but when SYCO was introduced, there would have been an assessment conducted and if it was deficient we would have asked for enhancements to it and that person, more than likely, would have been Mr Connolly.

35 COMMISSIONER JENKINS: You gave evidence that you didn't develop an appropriate risk treatment plan for problem gambling. Would you agree that the first task in approaching that issue is to do a risk assessment to determine what the extent of problem gambling is at the casino?

40 MR TOYNE: Yes.

COMMISSIONER JENKINS: And do you know whether the GWC ever did a risk assessment for problem gambling at the casino?

45 MR TOYNE: I don't know. In comparison to other jurisdictions, West Australia has a very low percentage of problem gamblers. That I only know from documentation that's been around for a long time.

COMMISSIONER JENKINS: So what sort of documentation would tell you that?

5 MR TOYNE: Well, information from problem gambling bodies, information from the Australian gambling statistics. WA was somewhere in the region of about 3.8% in comparison to New South Wales which was in double digits. And this was reflective of gaming machines in the community at large.

10 COMMISSIONER JENKINS: But in terms of determining the actual extent of the problem at the casino, do you know whether there was any work done by the regulator to determine the extent of the problem, if there was one?

MR TOYNE: Not at the time that I was there, no.

15 COMMISSIONER JENKINS: You gave evidence that you went to some casino operations meetings?

MR TOYNE: Yes.

20 COMMISSIONER JENKINS: Where the anti-money laundering program was discussed.

25 MR TOYNE: No, I didn't attend. I went to some operations meetings when --- to answer questions in relation to the approval of electronic gaming machines but I was not involved in any meetings to discuss anti-money laundering.

COMMISSIONER JENKINS: I thought you were present when there was some discussion took place. I thought that was your evidence?

30 MR TOYNE: No.

COMMISSIONER JENKINS: Can I just clarify some basic details. When were you last an inspector on the floor of the casino?

35 MR TOYNE: 2000 and --- well, until I got promoted to Manager Compliance in 2006.

40 COMMISSIONER JENKINS: And up until then, did you ever see patrons present at the casino with large amounts of cash in unusual circumstances?

MR TOYNE: Patrons on the main gaming floor, yes.

45 COMMISSIONER JENKINS: And when you saw that, did you report that to anyone or think that it was your job to do so?

MR TOYNE: I would --- if I was given the opportunity, I would discuss it with members of the Casino Investigation Unit police officers.

COMMISSIONER OWEN: With whom?

5 MR TOYNE: Police officers involved in the Casino Investigation Unit. It wasn't considered to be --- I didn't consider it to be my job per se to report it to my boss or the Gaming and Wagering Commission, but a general intelligence gathering role that we conducted informally with the Casino Investigation Unit.

10 COMMISSIONER JENKINS: Once the Casino Investigation Unit was disbanded ---
MR TOYNE: Yes.

COMMISSIONER JENKINS: --- what would you do then?

15 MR TOYNE: Well, I wouldn't report it to anyone.

COMMISSIONER JENKINS: In relation to the layout of the casino, you referred to them being --- there being private gaming rooms.

20 MR TOYNE: Yes.

COMMISSIONER JENKINS: The inspectors would not go into those rooms physically?

25 MR TOYNE: Yes.

COMMISSIONER JENKINS: Or do so on a minimal basis, is that right?

30 MR TOYNE: Yes.

COMMISSIONER JENKINS: So would you be aware if there were, say, large amounts of cash in those rooms?

35 MR TOYNE: It would be by surveillance, yes.

COMMISSIONER JENKINS: How often --- first of all, did the cameras, say, in those rooms show the whole of the room?

40 MR TOYNE: Yes.

COMMISSIONER JENKINS: And how often would, say, an inspector who was monitoring the cameras be looking at, say, one of the private rooms, gaming rooms?

45 MR TOYNE: If a junket was on premises, an inspector would predominantly be looking at the junket activity and less look at activity on the main gaming floor.

COMMISSIONER JENKINS: And in respect of the cameras in --- on the cages, including the satellite cages, does the cameras have full vision of the whole of the

cage?

MR TOYNE: Yes.

5

COMMISSIONER JENKINS: You said that the money laundering was difficult at the casino, that was your --- do you recall saying that?

MR TOYNE: Yes.

10

COMMISSIONER JENKINS: You do? And you said that that was because the casino only paid out winnings.

MR TOYNE: Yes.

15

COMMISSIONER JENKINS: In relation to electronic funds, which were deposited into casino accounts ---

MR TOYNE: Yes.

20

COMMISSIONER JENKINS: --- do you know whether the casino permitted gamblers to redeem their electronic funds in cash as opposed to chips?

MR TOYNE: At junket settlement, there would be cash maybe given at the junket settlement, yes.

25

COMMISSIONER JENKINS: But do you think not otherwise?

MR TOYNE: I think not otherwise, yes.

30

COMMISSIONER JENKINS: Why do you think they couldn't do this?

MR TOYNE: Again, it was the casino wanted to know their win/loss figure. So they would deposit --- sorry, the junket players would deposit funds electronically in the casino and be given what's called cheque credits which are bits of paper with amounts on them and as they wanted chips they would hand those to the dealer and the dealer would give them that money in chips. So they didn't settle until the end of the junket activity. There wasn't walking up to the cage and exchanging chips for cash. It was all done at the junket settlement.

35

40

COMMISSIONER JENKINS: So that's junkets, say we're not talking about junkets, we're talking about premium players that have privileges that other gamblers may not have.

45

MR TOYNE: Yes.

COMMISSIONER JENKINS: Was there anything to --- that you understood either in the Directions or the Casino Manual which would prevent the casino permitting a

premium player from taking out electronic funds in cash as opposed to chips or cheque credits?

5 MR TOYNE: Yeah, the premium players, players in the International Room weren't normal players. They could buy in with cash and exchange their chips for cash. Again, the casino would track them to see --- the casino would track them to see that they had won an amount of money.

10 COMMISSIONER JENKINS: No, but if they had put in some front money, so to speak, they had deposited money through a gaming bank account, a casino bank account supposedly for them to use to gamble at the casino, was there any direction or Casino Manual provision which prevented the casino from allowing that person simply to withdraw that money in cash as opposed to withdrawing in chips or cheque
15 credits?

MR TOYNE: As far as I'm aware, the only people required to deposit funds electronically was junket players. So a premium player who is an Australian-based premium player, there was no requirement for them to deposit front money.

20 COMMISSIONER JENKINS: What about an overseas premium player that was not participating in a junket?

MR TOYNE: I can't recall any of those. There were either junket players or they
25 were local players.

COMMISSIONER JENKINS: And were there any directions or Casino Manual provisions which prevented third parties from redeeming electronic deposits which were made on a gambler's behalf? Sorry, you may not understand that. If a gambler
30 deposited money electronically to use for gambling, was there any direction or Casino Manual provision which prevented their agent from coming to redeem that money?

MR TOYNE: Not as far as I'm aware of, as long as they provided some evidence
35 that they were authorised to collect their money.

COMMISSIONER JENKINS: You spoke about the junket buy-in and settlement and I think you said that junkets deposited their money electronically rather than in cash?

40 MR TOYNE: Yes.

COMMISSIONER JENKINS: If it was electronically, did you ever note into which casino bank account the money was deposited?

45 MR TOYNE: No.

COMMISSIONER JENKINS: Did you ever see that level of record?

MR TOYNE: No.

5 COMMISSIONER JENKINS: So where did you see that money --- that amount of money recorded?

10 MR TOYNE: There was a casino gaming account that the money would be deposited into and we would see the initial buy-in, initial transfer of that money into that account.

COMMISSIONER JENKINS: I thought you just said that you wouldn't see the bank statement itself?

15 MR TOYNE: Not the --- the gaming account was an account held internally within the casino.

COMMISSIONER JENKINS: So it was just a ledger with that heading, was it?

20 MR TOYNE: Essentially, yes.

COMMISSIONER JENKINS: If a line of credit was being given to a junket operator, how would you know how much had actually been --- with front money, that is, the junket had presented and provided to the casino and how much was being provided by way of a line of credit?

25 MR TOYNE: By the time advanced sum drawn downs was --- I don't think inspectors were involved in junket buy-in processes.

30 COMMISSIONER JENKINS: Thank you, Mr Toyne. They were the questions I had.

COMMISSIONER OWEN: Mr Toyne, I will start with that same subject, the buy-ins and the cash-outs, I think they're called.

35 MR TOYNE: Yes.

COMMISSIONER OWEN: Correct me if I'm wrong, but I understood you to say the process that was in operation when you were on the floor in '85 to '88 had changed a bit in the late '90s, through to the early 2000s?

40 MR TOYNE: Yes.

COMMISSIONER OWEN: Were the inspectors physically present in the cage for the buy-ins and the cash-outs, take the early stage.

45 MR TOYNE: In the early stage, yes. Yes, they were, yes.

COMMISSIONER OWEN: I'm interested in that process because as, to my rather simplistic mind, I understood that it would be that you were there and you would actually take out of your pocket the trusty Hewlett-Packard 12C and start totting up what there was and do the same, and then you would create a calculation, a document. The casino would do the same and unless the two bottom lines were the same, no one would leave the room until the difference had been sorted out, is that right?

10 MR TOYNE: A junket buy-in or settlement, we observed the casino conduct the junket settlement, we obtained the source documents and we verified that we --- we were present at the buy-ins so we recorded those and we would look at the document to ensure that it was the same figures that we had jotted down at the time we were present at the buy-ins.

15 COMMISSIONER OWEN: You were recording the buy-in by looking at what's called, in effect, the ledger entry from the casino account?

MR TOYNE: No, when a junket buy-in occurred, we actually were present and witnessed the junket operator say "I want X number of dollars in cheque credits to go and gamble on the tables."

20 COMMISSIONER OWEN: So the totting up, as I would call it, was of the cheque credit?

25 MR TOYNE: Each time it was the amount they bought in for.

COMMISSIONER OWEN: And at the cash out or the settlement ---

30 MR TOYNE: Yes.

COMMISSIONER OWEN: --- what was happening there?

MR TOYNE: We were verifying the commission rebate that was paid. Verifying if they had won, the winnings were correct according to the paperwork, so they weren't paid extra, if you like. Mainly it was the commission figure was correct.

35 COMMISSIONER OWEN: What changed? We come to the second period, which is the late '90s through to the early 2000s, mid-2000s, what changed in the role of the inspector in that process?

40 MR TOYNE: We stopped being involved in the buy-ins or the settlement.

45 COMMISSIONER OWEN: What do you mean by "we stopped being involved"?

MR TOYNE: Sorry, inspectors were no longer physically present.

COMMISSIONER OWEN: So what were you doing? What was the role of the

inspector in that second period?

MR TOYNE: We were doing other things and observing ---

5

COMMISSIONER OWEN: Sorry, in relation to the buy-ins and settlements?

MR TOYNE: There was no role.

10 COMMISSIONER OWEN: No role at all?

MR TOYNE: No.

15 COMMISSIONER OWEN: So there was no check on the cash credits or chips or whatever they were called on the buy-in and no check on the rebates at settlement?

MR TOYNE: We would receive the settlement paperwork after, the original source documents, and we would conduct that check then.

20 COMMISSIONER OWEN: Thank you. Now, just going to a different subject. If I could ask to be brought up on the screen the document, I don't have the number, it's the job description form, if someone can help me, it's the job description form for the Compliance Division.

25 MS CAHILL: It's GWC.0002.0002.0044.

COMMISSIONER OWEN: If that could be brought up? Now this is for the Compliance Division. Am I right in thinking that by this time, there were three divisions Compliance, Licensing and Regulatory?

30

MR TOYNE: Yes.

COMMISSIONER OWEN: So far as you are aware, would there have been a similar line structure for the other two divisions?

35

MR TOYNE: Yes.

COMMISSIONER OWEN: And as I understand it, you were on the line, Senior Inspector Compliance?

40

MR TOYNE: Yes.

45 COMMISSIONER OWEN: In relation to a number of the questions that Ms Cahill asked you, particularly about whether or not risk treatment plans had been developed, your answer on several occasions, or at least two, two or three that I can remember, was, well, that was Licensing or that was Regulation.

MR TOYNE: Yes.

COMMISSIONER OWEN: Can I ask you the simple question: did you ever speak to anybody along --- who's doing a similar job to you in either of other two divisions about those things?

5

MR TOYNE: Yeah, well, the three Senior Inspector Compliance.

COMMISSIONER OWEN: The three Senior Inspectors Compliance were the ones that were rotating?

10

MR TOYNE: Yes.

COMMISSIONER OWEN: But you have said, in answer to Ms Cahill, that in certain respects this was the job of Licensing or this was the job of Regulation, not of Compliance.

15

MR TOYNE: Yes.

COMMISSIONER OWEN: What I'm asking you is there any interchange or interaction between people at a similar level to raise issues, you had seen issues ---

20

MR TOYNE: Yes.

COMMISSIONER OWEN: --- to raise them with the body or entity or officer whom you thought had the primary responsibility?

25

MR TOYNE: No, it was more discussion within the division rather than between the divisions.

30

COMMISSIONER OWEN: One of the examples was problem gambling. I think you said that was within licensing. It was a particular officer within licensing.

MR TOYNE: Yes.

35

COMMISSIONER OWEN: If you saw issues within the area of problem gambling, would you not have considered it appropriate to go to that officer and raise the issue?

MR TOYNE: Yeah, we would do that, yes.

40

COMMISSIONER OWEN: And was there any interchange?

MR TOYNE: We would raise an issue and report it through our Director or we would go and mention it to the Problem Gambling officer, but I didn't necessarily receive a formal response.

45

COMMISSIONER OWEN: Thank you. Going to a different subject. And it was along the --- in that same general area about risk treatment, and the development of

risk treatment plans and the --- you were asked whether --- you remember being shown item 1.5 of section 19 of the Casino Manual Operations which is the reporting to AUSTRAC and it was just a couple of lines, and you were asked whether or not
5 you ever audited compliance by the casino with that obligation and you said no.

MR TOYNE: Mm-hm.

COMMISSIONER OWEN: But the note I took was that you said you thought there
10 might have been an audit role for the Gaming and Wagering Commission itself in that respect. Did I take that note correctly?

MR TOYNE: So if there was a reportable transaction of over \$10,000, as an
15 inspector, you would see whether the process was followed that they reported that transaction. But you wouldn't go any further.

COMMISSIONER OWEN: But I'm interested in the differentiation between what you saw as the role of the inspector and the role of the Commission.

20 MR TOYNE: Did I see the role of the Commission as being responsible in that regard?

COMMISSIONER OWEN: Yes.

25 MR TOYNE: Yes, I did. Yes.

COMMISSIONER OWEN: That leads me then to the broader question, because that was the example. The broader question, you were an inspector and permanent
30 employee of the Department?

MR TOYNE: Yes.

COMMISSIONER OWEN: What did you see as your relationship with the Gaming
35 and Wagering Commission as an inspector?

MR TOYNE: As an inspector, to report matters to the Commission that were in accordance with the legislation, breaches of the rules, breaches of the game, illegal activity, that type of ---

40 COMMISSIONER OWEN: And what was the procedural process by which you would make a report to the Commission?

MR TOYNE: As an inspector, I would prepare a report and forward it to the Senior
45 Inspector and then the Senior Inspector would determine whether that was escalated to the Director and the Director would determine whether that went to the Gaming and Wagering Commission.

COMMISSIONER OWEN: By the "Director" there, are you talking about the

Director-General?

MR TOYNE: No, I'm talking about the Director of the specific division.

5

COMMISSIONER OWEN: Compliance or Licensing?

MR TOYNE: Yes.

10 COMMISSIONER OWEN: Did Regulation have a role in that process?

MR TOYNE: Yes.

15 COMMISSIONER OWEN: So it would go from you to the Senior Inspector, from the Senior Inspector to the Director and then from the Director to the Commission?

MR TOYNE: Yes.

20 COMMISSIONER OWEN: Take the period 1985 to 1988, was it still the committee at that stage?

MR TOYNE: Yes, yes.

25 COMMISSIONER OWEN: Was it a similar structure there, in terms of a relationship between the inspectors and the committee?

MR TOYNE: Yes. We would report through ---

30 COMMISSIONER OWEN: And coming forward, then, to the early 2000s, what --- did you ever have a direct relationship with the Commission?

MR TOYNE: No.

35 COMMISSIONER OWEN: Did you ever attend the Commission meetings?

MR TOYNE: I did, I performed some role as Executive Officer to the Commission sporadically.

40 COMMISSIONER OWEN: And on the occasions when you prepared reports for the Commission's consideration, and you say you would have given that to the Senior Inspector, who would have given it to the Director, who would have given it probably to the Director-General ---

MR TOYNE: Yes.

45

COMMISSIONER OWEN: --- and then into the Commission?

MR TOYNE: Yes.

COMMISSIONER OWEN: And what was the process of follow-up on those occasions?

5 MR TOYNE: Okay. So, in the early period after the Casino Control Committee, when the Gaming Commission was established, we would hold --- so I'm talking about the Compliance Division here, we would hold an operations meeting for inspectors the day after the Gaming Commission meeting, and our director would provide us with an update of what had been approved by the Commission and any
10 action to follow that an inspector might be involved in, such as commencing a prosecution if a prosecution had been authorised.

COMMISSIONER OWEN: I know it's a long time ago, but as you sit here now, can you remember any occasion on which details were given to you through this chain of
15 what the Commission had said and why?

MR TOYNE: Yeah, the Director may give us that information in the operations meetings because we might ask why the Commission had taken that particular approach. So, yes.

20 COMMISSIONER OWEN: Thank you. Moving to a different topic, you gave some evidence about the reduction in the physical presence of inspectors at the casino, and you said that you were not in favour of that change?

25 MR TOYNE: That's right.

COMMISSIONER OWEN: At the risk of being repetitious, can you just explain to me what was the basis of your opposition to that change?

30 MR TOYNE: Again, I considered it an essential part of the regulatory process that we had a presence at the casino 24 hours a day. And I used the analogy of the stewards at race meetings. The potential for manipulation by the Casino Operator of the outcome of games is so great that I believe you need a physical presence to inspect and observe at all times.

35 COMMISSIONER OWEN: Are there any other considerations that spring to mind?

MR TOYNE: Well, again, let's take illegal activity and I'm talking, as was referred to earlier, small stuff rather than money laundering and such like that. They may ---
40 it has been known for the casino to treat junket players different to a \$5 patron off the main gaming floor where a --- if the casino overpaid a player and detected that overpayment, a security officer would approach the player and be invited to the office and it would be explained to him by the Gaming Shift Manager that an overpayment had occurred and that he was obliged to repay the overpayment. A
45 Government Casino Inspector may view the videotape of that overpayment representing the patron to confirm, yes, indeed you've been overpaid, sir, and the casino wants their money back. The casino had a policy that nobody saw their surveillance video tapes, but

5 during the time I was at the casino I remember one occasion when a junket player was shown those videotapes to verify the overpayment, whereas as I say, the patron off the main gaming floor, even though they may ask to see it, would never be given that opportunity.

10 COMMISSIONER OWEN: Can I ask you about one other consideration? Did it ever come into your thinking, if I can call them this way, the industrial relations aspects of those sorts of changes, the change in conditions of employment of the inspectors, was that ever a factor for you?

15 MR TOYNE: Yes, it was. When inspectors --- I'll give you one example. When inspectors were multiskilled, if you like, and started doing all areas of the regulation, to begin with, we would send an inspector out to do a liquor inspection on his own but it was the inspectors' concerns for their own safety that resulted in us pairing up inspectors to do liquor inspections. So, yes, that type of ---

20 COMMISSIONER OWEN: We had heard evidence, and I will say that it's probably in relation to similar changes but at a different time to the early 2000s, that one of the considerations that was playing on the minds of people was the prospect of industrial action for changes to the conditions at work. Was that a matter that that was discussed at the time?

25 MR TOYNE: I can't recall ever a threat of industrial action by the inspectors but I can recall that we had a number of rosters and there was concerns raised by inspectors about the fact that most of the rosters would come up that were not family friendly and if you can appreciate, especially in the liquor field, your busy times are going to be the weekends, so inspectors were --- and nighttime rather than daytime -- - so inspectors were rostered mostly on the weekends and there was a feeling that
30 they weren't getting enough quality time with their family. So it ended up that inspectors worked ten-hour shifts so they could get more days off, if you like.

35 COMMISSIONER OWEN: Sounds like the life of a lawyer. The last matter that I wanted to raise with you is back to the question of junkets. The paper of which you were a co-author but of which, as I understand it you are now quite ambivalent, the 1998 National Competition Policy paper, the conclusion is that the pre-approval process should be disbanded, it was doubtful merit, and as I understood you to say, yes, you agreed it was a doubtful merit because the Department wasn't putting the information it was getting to any good use.

40

MR TOYNE: Yes.

45 COMMISSIONER OWEN: Now, as I understand it, looking at the regulations that were in place between 1999 and 2010, there were three aspects to those regulations. One was the pre-approval process, the approval of a junket operator.

MR TOYNE: Yes.

COMMISSIONER OWEN: Which, as I understand it, was essentially a once-off.

MR TOYNE: Yes.

5

COMMISSIONER OWEN: The second was the capacity generally, not just in relation to the approval process, for the Department or the Commission, actually, to obtain information from a junket operator, to assess ongoing probity.

10 MR TOYNE: Yes.

COMMISSIONER OWEN: And the third was the notification of junket parties, individual junket parties with the identity and passport details of the players.

15 MR TOYNE: Yes.

COMMISSIONER OWEN: Can you tell me, if you're able, when this was being controlled by directions, sorry, the period before the repeal of the directions in 1998 or 1999 ---

20

MR TOYNE: Yes.

COMMISSIONER OWEN: --- was that a similar process? Was it a once-off approval?

25

MR TOYNE: Yes.

COMMISSIONER OWEN: So if you --- I think I understood you to say that you were personally supportive of a pre-approval process, provided the information was being put to proper use?

30

MR TOYNE: Yes, I was supportive of the junket process whilst we still had the involvement of the police because they could provide us with valuable information to do with probity.

35

COMMISSIONER OWEN: Now, if we take the --- if we take the three aspects of the 1999 to 2010 process that I'd mentioned, which is pre-approval, further information and notification of individual junket parties.

40 MR TOYNE: Yes.

COMMISSIONER OWEN: Would a less-restrictive form of monitoring, which is the words, I think, of the 1998 report, would that have included, perhaps, still notification of individual junket parties?

45

MR TOYNE: Probably not.

COMMISSIONER OWEN: Why not?

MR TOYNE: Because, again, we didn't have involvement of the police to conduct the probity on those players. So we got a list of players but we didn't have any way of checking to see if they were known criminals or whatever.

5

COMMISSIONER OWEN: But would it not be important for you to have a formal mechanism to be ready for the arrival of a junket party, even if the junket operator no longer needed to be approved?

10 MR TOYNE: I think they always notified us of impending junkets.

COMMISSIONER OWEN: Was there a requirement that that happen?

15 MR TOYNE: There was under the directions and regulations. I don't know if it still occurs today, prior to junkets ---

COMMISSIONER OWEN: After the regulations were repealed in 2010, was there anything in place, to your knowledge, that required the casino licensee to give advice or to give notification of the pending arrival of a junket party?

20

MR TOYNE: I don't think there was anything formal in place, no.

COMMISSIONER OWEN: All right. Thank you. Ms Cahill, anything arising from that?

25

MS CAHILL: No, thank you, Commissioner.

COMMISSIONER OWEN: Ms Seaward?

30 MS SEAWARD: Thank you.

RE-EXAMINATION BY MS SEAWARD

35

MS SEAWARD: Just briefly. Mr Toyne, you were asked a series of questions about the roster changes.

MR TOYNE: Yes.

40

MS SEAWARD: So originally I think your evidence was there were four inspectors on a 24/7 roster?

MR TOYNE: Yes.

45

MS SEAWARD: Then you said it changed, I think it changed to two?

MR TOYNE: Yes.

MS SEAWARD: Roughly when did that occur?

MR TOYNE: Probably about 2005.

5

MS SEAWARD: And how many hours a day were there inspectors there once it went down to two inspectors?

MR TOYNE: They would have been working 10-hour shifts.

10

MS SEAWARD: Two 10-hour shifts, one after the other?

MR TOYNE: Not necessarily, no.

15

MS SEAWARD: So in a 24-hour period?

MR TOYNE: Sorry, when we were present in the casino until 3.00 in the morning, yes, there would have been one starting at 7.00. There may have been a crossover between the two of a couple of hours and we would go from 7.00 in the morning till 3.00 the following morning.

20

MS SEAWARD: And what was the position when you finished working in the casino area in 2012? Was that roster still in place or not?

25

MR TOYNE: I think the complete pull-out, if you don't mind the term, was 2015. So in 2012, I think we were rotating inspectors through the casino but there was always still two there, yeah.

MS SEAWARD: Still on that 7.00 to 3.00 in the morning?

30

MR TOYNE: Yes, as far as I can recall.

MS SEAWARD: When you say "rotating inspectors through", what do you mean?

35

MR TOYNE: So an inspector may spend some time in the gaming area, and then he would go to the casino for a period of time and do exclusively casino work. Then he would rotate into the liquor area and do exclusively liquor work.

MS SEAWARD: And you're not talking about in one shift there?

40

MR TOYNE: No.

MS SEAWARD: So if they were rostered as one of those two staff to be at the casino ---

45

MR TOYNE: Yes.

MS SEAWARD: --- they would be at the casino for their entire shift?

MR TOYNE: Yes.

5 MS SEAWARD: At several times in your answers to some of the questions, you said, "We were not full-time inspectors then in the casino." What did you mean when you used those words?

10 MR TOYNE: Okay. So we finished at 3 o'clock in the morning, the collection of drop boxes occurred at 4 o'clock in the morning. So we didn't --- we weren't present to watch the drop boxes come off the table. So there was a period, albeit that there might only be three or four hours, where there was no presence of a Government Inspector at the casino.

15 MS SEAWARD: So your reference to not full time is talking about the change from 24 hours to the ---

MR TOYNE: Yes.

20 MS SEAWARD: --- roughly 20-hour period?

MR TOYNE: Yes, yes.

MS SEAWARD: Nothing further, thank you.

25 COMMISSIONER OWEN: Thank you.

Mr Toyne, thank you very much for your assistance, it's appreciated and you're now free to go and we will adjourn to 10.00 am tomorrow.

30

THE WITNESS WITHDREW

35 **HEARING ADJOURNED AT 4.45 PM UNTIL WEDNESDAY, 26 MAY 2021
AT 10.00 AM**

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