

PARLIAMENT OF NEW SOUTH WALES  
LEGISLATIVE COUNCIL

STANDING COMMITTEE ON  
PARLIAMENTARY PRIVILEGE AND ETHICS

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REPORT

ON

INQUIRY INTO THE  
CONDUCT OF THE  
HONOURABLE  
FRANCA ARENA MLC

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**APPENDICES**

**REPORT NO. 6**

**JUNE 1998**

**VOL. 2 OF 3**

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# Appendix 1

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## **TERMS OF REFERENCE TO COMMISSIONER WOOD (CONSOLIDATED)**

**REPRODUCED HERE IN THE ORIGINAL REPORT IS A COPY OF:**

Terms of Reference to Commissioner Wood (Consolidated) -  
Royal Commission into the NSW Police Service, *Final Report - Volume III: Appendices*, May  
1997, Appendix 4

## **Appendix 2**

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**SPEECH BY THE HON FRANCA ARENA, MLC**

**17 SEPTEMBER 1997**

**EXTRACT FROM**  
***PARLIAMENTARY DEBATES, LEGISLATIVE COUNCIL, 17 SEPTEMBER 1997***

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**The Hon. FRANCA ARENA** [5.27 p.m.]:

We should all be grateful to John Hatton, a former member of Parliament, for the establishment of the Royal Commission into the New South Wales Police Service, which was set up following a motion moved by him in another place on 11 May 1994. It is strange that this important initiative came from an Independent member and not a member of one of the major parties. However, it was not until my parliamentary colleague the Hon. Deirdre Grusovin agitated strongly about paedophilia that the terms of reference of the Wood royal commission were extended. I put on the record my personal gratitude, and that of the community, to Deirdre Grusovin for the excellent work she has done throughout the years on behalf of the children of this State. Deirdre, we owe you a great debt.

Paedophilia, the use of children to gratify adult sexual desire, is a terrible crime and has affected children more profoundly than any plague has affected humanity throughout the centuries. At a recent conference organised by the Australian Institute of Criminology on Paedophilia, Policy and Prevention, which was held at the University of Sydney, it was stated by various speakers that a paedophile can be anyone. If you think you can somehow distinguish a paedophile by his or her appearance and general behaviour, then you are sadly incorrect. Paedophiles are often the most cunning and devious human beings one could ever meet. Many start young, are long-term recidivists and almost always have a trial for multiple offences and multiple victims. Most paedophiles are male, and they generally start offending around the age of 17 years. These are statistics given by academics who have done studies on the subject.

One can never tell a paedophile just by looking at him. He could be your family doctor, the local policeman, your member of Parliament, your priest, or a close family member, such as your father or your uncle. A paedophile is unlikely to be a female. Victims of paedophiles are not always raped. Children are coerced and emotionally destroyed by paedophiles. Very often paedophiles do not use violence, they use a technique of seduction. Often they use drugs and alcohol, and children then are afraid to report them for fear of not being believed, because of fear of the offender, shame and embarrassment. The offering of drugs and alcohol to victims can turn the victims into addicts. The usual response of the paedophile to accusations against him is then, "How could you believe the statement of this drug addict or this alcoholic? I am a member of this society and he or she is only a drug addict." So very often victims are not believed.

There is also the problem that has been mentioned many times, that if the child is under five and is abused the child cannot be regarded as a credible witness. So the message for the paedophile is: get your victims young and you will get away with it because children cannot remember details and therefore do not make reliable witnesses. So this is why paedophiles get away with abusing

young children. During the past 12 months I have received an enormous amount of mail from victims, and the message is always the same, "We want to see the perpetrators charged, we want to see justice" - not revenge, not a vendetta, but simple justice!

These children, the victims of paedophiles, have to suffer not only the indignity of being abused, but very often the indignity of not being believed by the authorities, or having to put up with the humiliation of being made fools of in court by clever lawyers. The royal commission, despite its failings - and I will speak about those - has presented with its report a blueprint for the future. If the royal commission recommendations are going to be implemented, we will certainly see a frontal attack on this terrible crime.

I think the commission has done a good job in exposing paedophilia in institutions such as churches or government departments such as community services and education and in the health system. We have seen how government departments, both State and Federal, the churches and various institutions have been more concerned about avoiding bad publicity about their own structures and institutions than finding out the truth and eradicating unacceptable and intolerable behaviour. This can be said also of political parties.

Paedophiles are amongst the most cunning people you can ever meet and they will often look for employment in areas where they know they can find their victims. We are grateful to the royal commission for documenting some of the networks and places where child abuse has gone unchecked for many years, such as Costello's at Kings Cross; the Pleasure Chest Club at Kings Cross; the Bevan group connected with the former Lord Mayor of Wollongong; the Orchid Club, formed in the United States but with a flourishing Australian membership; the Children's Liberation Railway in Glebe; and the Blaze Group, formed in 1987 along the lines of the Victorian group. But who frequented these clubs? The commission was too shy to tell us.

The Blaze Group produced its own publication called "The Blaze", which, as stated in the commission's report on page 642, promoted man-boy sex and offered support for men who had sex with boys. Its aim was to legalise paedophilia, mainly sexual relationships between adults and children, and in particular between men and boys. All of these groups had connections with other paedophile groups in Australia, in the United Kingdom, in the United States of America and in other parts of the world.

The commission's report on page 643 cites the Rene Guyon Society, whose infamous motto was "Sex before eight or it is too late". These animals have gone unchecked for years, preying on young, vulnerable children, often wards of the State, often children from broken families. They know how to select their victims. They know that if they abuse children of professional people such as doctors, lawyers, dentists, judges or other eminent people, there is a much bigger risk of their being charged. Does that not say something about our society? I refer to the 1985 Sturgess report in Queensland, which documented well the vulnerability of children. That report states:

Throughout this inquiry nothing has been made clearer than this: if children are removed from or denied the shelter of a good home, they are at grave risk of sexual abuse. Many of them really do not have anything else to sell except their bodies and there is no shortage of persons who will take advantage of them.

Some paedophiles choose their victims carefully, mainly the most vulnerable and least protected children in our community. I ask all honourable members, "What if these had been your own children?" I ask all honourable members to look into their souls and ask themselves this question: what if it had been my children - abused, photographed, handed around different men as if they were pieces of meat and not innocent children? Shame, shame, shame! I ask all honourable members to read what happened in the Mr Bubbles case, one of the case studies in the Wood report: police corruption, incompetence and worse; children scarred for life and the perpetrators getting away with it. Shame! We must never ever let it happen again.

Today's *Sydney Morning Herald* carries an article by Ben Hills, which is sympathetic to some of the people who were involved. I was disgusted with it, and I intend to tell Mr Hills what I think of his article. I will not go through the commission's timetable; it is well recorded in the report, but there are a few things I need to put on the parliamentary record. In a few years, the whole Wood royal commission will fade into oblivion and it is important that those who read the parliamentary record in the future can know how the whole issue was perceived by me and by others. Readers of this record will make up their minds if I have been wrong or if other people have been wrong. As I have said previously, there are important matters that I want to put on the record. On 17 March 1996 the *Sun-Herald* published an article by Alex Mitchell, a well-respected journalist. The article stated:

Prominent People to be Named - Pedophile bombshell.

At least two MPs, a judge, several senior police officers, lawyers, doctors, a socialite businessman and priest will be exposed in the police royal commission's pedophile inquiry starting tomorrow.

The allegations are so grave that they will send shock waves through State Parliament and the judiciary and show that police corruption is even more depraved than imagined.

If any of the named child sex practitioners are from the Labor side, it has the potential to oust the Carr Government which is in office by a majority of just one seat.

Premier Bob Carr is believed to have received confidential information last week about the explosive new stage of commissioner James Wood's inquiry.

He has invited Opposition leader Peter Collins to a private meeting in his office on Thursday at 4pm "to discuss the royal commission.

"I am certainly interested to hear what he has to say," Mr Collins said.



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We have had only two formal meetings since he became Premier and they were to discuss the Olympic Games."

The impending revelations, as well as the alarm bells from the March 2 federal election, have propelled Mr Carr into a pro-active damage control mode.

Last Friday he offered to restore some of the cuts to the Department of Agriculture which has caused outrage in rural communities.

And mindful of the fatal blow Queensland independent, Liz Cunningham, dealt to the Goss Government in Queensland, Mr Carr held detailed talks with Clover Moore, the Bligh Independent, last Wednesday.

He promised to consider her nine-page "wish list" and to hold regular consultations during the year.

By wooing Ms Moore and Manly Independent Peter Macdonald, Labor strategists are hoping for their support in the event of losing an MP as a casualty of the royal commission.

In private, Liberals fear that they may suffer a casualty as well with at least one name doing the rounds in an increasingly panicky Parliament House.

Over the past nine months Wood's investigators have gathered volumes of devastating evidence, including:

- \* The sworn testimony of police officers who have "rolled over";
- \* Affidavits from victims of secret pedophile networks;
- \* Videos of pedophiles in sex acts with children under the age of 14;
- \* Computer disc evidence giving the names, addresses and venues of pedophile networks;
- \* "Kiddy porn" magazines published in Australia and imported from overseas.

One of the senior officers involved in child sex activity was traced on the Internet to Sydney Police Headquarters.

At the start of its inquiry, the royal commission was specifically interested in corruption allegations that police officers had taken massive bribes not to prosecute men caught committing child sex offences.

Fearful of the exposure of prosecution and imprisonment, many of the wealthy and well-connected offenders were willing to pay large sums of money to avoid court.

As the investigation deepened, Wood's "untouchables" found that a small group of policemen were actively involved in the pedophile networks.

When they were forced to "roll over", the inquiry made ground-breaking headway into the world of one of Australia's most shameful secrets.

Did that not give us a lot of hope that things would change? But what happened? The next day Bob Carr's office denied that such a meeting was ever going to take place, but it is fair to assume that a meeting did indeed take place when the furore had died down. There was also another meeting which took place here at Parliament House late the following Sunday between Bob Carr; the General Secretary of the Australian Labor Party, John Della Bosca; party president, Terry Sheehan; and other important figures in the ALP. Are these people going to deny the meeting took place?

I had confirmation by security officers and others unable to talk about it publicly who could testify to it but are in fear of losing their jobs. I believe it was all to organise damage control. Following the meeting with Peter Collins and the late meeting at Parliament House, the Premier met with Justice Wood. What happened at the meeting between Justice Wood and Carr I do not know. No information was leaked, but I am bold enough to presume that an agreement was reached to ensure that people in high places would not be named as it would have been too traumatic for the community to realise how many of its so-called upstanding citizens were involved in criminal activities.

The result was that the whole paedophilia inquiry went into another stage. Despite the continuation of public hearings, we never heard of a single high-profile paedophile being named or exposed. I believe that this is due to the fact that it was decided that it was too damaging for the community to have members of Parliament and judges exposed. And so the whole matter was swept under the carpet. The royal commission has failed the community by failing to ask for the prosecution of some of the high-profile paedophiles in our community on whom it had evidence and witnesses. If Justice Wood had said in his report, "We diligently set up all sorts of covert and overt operations to catch paedophiles about whom we had received reliable information, but despite all our efforts we were unable to get any evidence that they were paedophiles and for this reason nobody has been named in the report", we could have accepted that, but the reality is that the commission did not even try.

I have no doubt that there has been a massive cover-up and the community is angry and distressed. The system is protecting itself. The commission unmasked corrupt policemen and paraded such corruption on a video to the community. We applauded its work. This is the reason the commission was established: to uncover the guilt in our midst. But for the untouchables in our society there is a different standard; no covert or overt surveillance for them, no hidden videos or secret microphones for them. I know that I will be strongly criticised for making these statements, but I believe it is my duty to put them on the parliamentary record. In the short term I will surely be criticised and even marginalised by my own party, but I know I will be eventually proved right.

It is imperative for me to discharge my responsibilities as an elected member of Parliament. I have my responsibilities to the community. There has always been a reluctance on the part of the powers that be to extend the royal commission's terms of reference in a way that was needed. We never understood why. Do not forget that this royal commission cost the community \$70 million, it employed more than 230 staff and during its operations it accumulated incredibly important evidence. It was a once-in-a-lifetime opportunity to look in depth at the question of paedophilia. However, this opportunity has been lost and we have seen a massive cover-up as far as important people in our community are concerned. I place on the parliamentary record the sequence of events that took place in 1996. On 22 October 1996 the Australian Labor Party caucus, after heated discussion that demanded an extension of the paedophile inquiry, unanimously supported a motion moved by me and seconded by Bob Harrison which stated:

[That Caucus] Unequivocally supports the Royal Commissioner and the Royal Commission and acknowledges that the creation of the Royal Commission was supported by the Labor Party whilst in opposition.

In view of the fact that the present terms of reference restrict the work of the Royal Commission investigating all aspects of paedophilia, the Government has agreed to:

- 1) amend the terms of reference of the Royal Commission,
- 2) extend the duration of such Royal Commission, and
- 3) increase the investigative staff available to the Royal Commission in order to deal with new extended terms of reference.

The passage of this motion was a great victory and many of us in the Labor caucus felt incredibly elated that the royal commission and its terms of reference had been extended. However, our elation was short-lived, as only one hour after the caucus meeting the Premier of New South Wales issued a press release that announced the extension of the terms of reference in a way that caucus members felt was a betrayal of the motion that had been accepted. The Premier's press release dated 22 October 1996 stated:

The Premier of NSW, Mr Bob Carr, announced an extension of the terms of reference of the Royal Commission into the NSW Police Service.

This followed discussions today with the Royal Commissioner, Mr Justice James Wood, who agreed to the new terms of reference.

They require the Royal Commission to inquire into and report upon:

1. Whether the existing laws prohibiting paedophilia are appropriate and sufficient to effectively prosecute and punish persons accused of paedophilia and other related crimes of sexual abuse.
2. Whether the penalties currently prescribed for the crime of paedophilia are appropriate and a sufficient deterrent to the commission of that crime.

3. Whether Government departments and agencies have sufficiently effective monitoring and screening processes to protect children in the care of or under the supervision of Government departments and agencies from sexual abuse; if not, what measures should be put in place to provide effective protection in this respect.
4. Whether Police Service investigatory processes and procedures and the criminal trial process are sufficient to effectively deal with allegations of paedophilia.

Mr Carr said that if the Commissioner required, the Government would ensure extra resources or an extension of time would be granted.

Many of us felt that the Premier had subverted the wishes of his own caucus and decided to call for a special caucus meeting. Twenty members signed the request to our Whip, as requested by caucus rules. The letter said:

We, the undersigned members of Caucus, request a special meeting of Caucus to take place tomorrow at 1.00 pm in the Caucus Room, to further discuss today's Caucus resolutions with regards to the extended terms of reference of the Royal Commission and the Premier's subsequent press release.

The extra caucus meeting took place on 23 October. At that meeting I moved that two paragraphs be added to my original motion, as I was very unhappy with the terms of reference released by the Premier, which did not reflect what caucus had wanted. The paragraphs to be added were as follows:

- 1) That the Royal Commission be tasked with conducting criminal investigations, at large, into substantial allegations of paedophilia or pederasty, whether or not connected with protection issues, arising either as the result of corruption, or as the result of system failure, or abuse of office by a public official.
- 2) Fully investigate and report paedophilia in New South Wales with particular reference to:
  - a) Any relationship between individual paedophiles, and/or paedophile networks,
  - b) The relationship between paedophile networks in New South Wales with other individuals and organisations in Australia and overseas.

This motion was moved by me, seconded by Bob Harrison and supported by only 12 people. I should like to put on the record the names of those people: Bill Beckroge, Mick Clough, Paul Crittenden, Deirdre Grusovin, Bob Harrison, Dorothy Isaksen, Jim Kaldis, Ian Macdonald, Janelle Saffin, Ann Symonds and Brian Vaughan. For this reason the royal commission received

the terms of reference issued by the Premier, which were more restrictive and did not reflect the will of caucus. The Premier had been at work that morning to ensure the defeat of my two additional paragraphs.

I will never know why the Premier did not want an extensive inquiry into all aspects of paedophilia. He claimed that Justice Wood was not prepared to hold such an extensive inquiry and, in effect, Justice Wood used the terms of reference issued by the Premier on 22 October as a shield every time the commission failed to uncover prominent paedophiles or shielded them. I remember very clearly the discussion I had at the time with Paul Whelan, Leader of the lower House, when I told him that neither I nor other members of caucus were happy with the terms of reference released by the Premier to Justice Wood. He replied, "Well, if Justice Wood does not want extensive terms of reference, we will be able to get another judge." Obviously, this idea, which was indeed the best solution, was vetoed by the Premier. The royal commission proceeded with terms of reference acceptable to both the Premier and Justice Wood.

These terms of reference, I emphasise again, were not as extensive as the community wanted, and many members of Parliament on our side were angry because we felt that the royal commission was a unique opportunity to look at the issue of paedophilia and a unique opportunity to deal with it in depth. Why were the terms of reference not as extensive as we wanted them? Why was the issue of paedophilia not dealt with in depth by the Wood royal commission? When will the next royal commission on paedophilia be held in this State? Why was the lid kept on this important issue? We have never been given an answer. But let me say that many of us have a fair idea why.

After all, the famous lawyer from the western suburbs was reported as saying, "If I go down, many others will go down with me". My two paragraphs became a motion which, on 23 October, was moved by Peter Collins in the lower House and also by Reverend the Hon. F. J. Nile in the upper House. This is the motion which I supported and which I voted for by crossing the floor when it was eventually put to a vote in the upper House and agreed to.

However, all of this was of no consequence as by the time the motion was passed in the upper House the Wood royal commission had practically closed its doors and thus ignored the will of the Parliament. It is important for me to put all of this on the parliamentary record, because I feel that we have lost a golden opportunity. Who is responsible for the loss of this unique opportunity? I leave that for the community to judge. No matter how many positive things may happen in the near future regarding paedophilia, there are people who will have to answer to future generations as to why important people such as judges and members of Parliament were given protection.

I want to state that the protection of our children is an issue which transcends party political affiliation, and this is the reason I want to put all of this on the record. I am very concerned about the cavalier fashion in which the commission has dismissed serious allegations which were made against judicial officers and members of Parliament. We know of judges being investigated by both the State and Federal police for their Australian and overseas activities, but the commission did nothing about it. Maybe I am naive, but I find it almost amusing to read at page 790, paragraph

7.236, in regard to a statutory declaration by a steward of the now defunct Imperial Services Club in York Street alleging paedophile activities by a member of this Parliament, which stated:

The politician was also called as a witness and denied ever having taken any children to the club, either for lawful or unlawful purposes. He was unable to ascribe any reason for the club employee either being mistaken or fabricating an allegation against himself. Moreover, he denied all knowledge of any paedophile conspiracy or ring of judges, politicians or persons in high places. He knew nothing of the matters concerning Mr Yeldham until their disclosure in the public hearings. In those circumstances, the Commission can take this matter no further, other than to observe that so far as it is aware, no other intelligence exists to suggest that this politician has engaged in paedophile activities, or that he has been in receipt of police protection.

This is an incredible assumption to be made by the royal commission. Did the commission expect the politician to admit to his paedophile activities? Did it expect him to admit that he has often used Parliament House as his private red district area? Is that what it expected of him? Either I am naive or the royal commission is very naive indeed. A lot of people know who this politician is, and I hope that his activities will be monitored very carefully by the police and the Child Protection Unit. The same goes for other judicial officers and members of Parliament who frequent The Wall and other places, and who do not care about the age of the young boys they pick up.

I have no doubt that in some cases the protection of a member of Parliament, or a judge, will prevail, and I want to say why I think that. Let us assume that the President of this Parliament, or one of our Ministers, or another high-ranking officer of the Parliament, leads a double life and is out there picking up young boys; not children, but young boys, certainly well under age, breaking the law. Of course, this is a purely hypothetical question. But do members really think that he would be prosecuted? Do you think that the powers that be would allow the institution of Parliament to be sullied publicly by his being charged? Of course not. If things became too hot, he would be told to go and retire at an early age, like Yeldham did.

In cases such as these there are massive cover-ups, both as far as judges and members of Parliament are concerned, and nothing, but absolutely nothing, will change my mind regarding this. It is enough to read the report carefully to understand what I mean. A lot has been written and said about Justice Yeldham. I did not want to revisit the whole issue, but I feel compelled to do so by the Wood report. Whether Yeldham was a poor homosexual looking for sex in public toilets, or whether he was a paedophile, or a pederast, I leave to the community to judge.

It is a matter of record, in the report, that he masturbated in front of a 15-year-old boy and he exposed himself to an 11-year-old boy. Last year a person came to see me regarding the judge's activities with his younger brother. This person certainly convinced me that Yeldham had sex with many young boys. I have released my correspondence with the commission on this matter and, as it is available, I will not go into it here. Please read paragraph 7.333 on page 806 of the report, in which Justice Yeldham denied that he was a paedophile, but admitted to sexual encounters. The

report stated that he:

- admitted to sexual encounters over the years in public toilets with various persons, of whose ages he had made no inquiries;

I repeat that, "of whose ages he made no inquiries". So it really did not matter what age the victims were, 10, 12, 15 or 21. It did not matter at all to Justice Yeldham. He also denied that he misled Justice Street in the early 1980s when confronted with the allegation that he had been stopped by police, and he acknowledged that he had been less than frank with the Chief Justice concerning his sexual activities. Lying did not seem to worry him. Can Justice Street and Justice Gleeson hold their heads high and assert that they did not cover up for Justice Yeldham? I leave it to others to judge. Let the Yeldham affair be a lesson to us all; to the police, to the judiciary, and to the community. Let us hope it never happens again. I have my doubts about that, but if we monitor the situation carefully maybe we can have some hope for the future.

I would like to commend the stationmaster at Wynyard and the railway transit police for their courage in coming forward and giving evidence. Shame on the Special Branch for covering up the disgraceful behaviour of one of our Supreme Court judges. I would like to commend Neville Ireland of Special Branch who, even though he originally lied to the commission, had the courage to admit to his lies and eventually tell the truth. Unless we acknowledge the shocking behaviour of this former Supreme Court judge holding one of the highest positions in our society, unless we acknowledge the corruption that has taken place all along regarding Justice Yeldham, we run the risk of it happening over and over again.

The reality is that because of the protection of Justice Yeldham and his shameful behaviour, he was able to retire without a blemish on his character, which meant that he became an assistant commissioner to the Giles royal commission. Theoretically he could have been appointed as an assistant commissioner to the paedophilia inquiry! Let me also remind honourable members that Justice Yeldham was the Director of the National Association for the Prevention of Child Abuse and Neglect - NAPCAN. Can you believe the hypocrisy of it all? I also want to put on the parliamentary record my deep concern about the behaviour of Mr Ian Temby, the former head of the ICAC, who in 1989 received a complaint about Justice Yeldham.

Apart from speaking to Justice Gleeson in his chambers about the complaint, Mr Temby did nothing about it. Shame on him as well, and shame on the Judicial Commission for its inaction. They all denied responsibility, but the community will judge their inaction. The present Commissioner of the ICAC, Mr Barry O'Keefe, another justice of the Supreme Court, has refused to hand over the file on Justice Yeldham to the parliamentary committee on the ICAC for perusal. As I have said, the whole matter has been an absolute cover-up and nothing will convince me to the contrary.

The people in charge made a deal to let Justice Yeldham retire well ahead of his time and to forget the whole business as it was too displeasing to have a Supreme Court judge charged. So Yeldham



retired at the tender age of 60 years and a couple of months, certainly one of the youngest judges of the Supreme Court ever to retire. Interesting, is it not, especially in light of the fact that we had to pass legislation to ensure that judges retire at the age of 72, as they used to stay on the bench until they nearly dropped dead. Justice Yeldham retired at 60, and in excellent health, good enough to go around toilets for many years to come. I will conclude my contribution on this part of the report by quoting from page 822, paragraph 7.415 of the commission's report:

If, as now appears to be the case, there was shared suspicion concerning Mr Yeldham's activities, then it would have been highly desirable for an official inquiry either by the Police Service, the ICAC or the Judicial Commission to be initiated.

Highly desirable for an official inquiry to be initiated! This must be the understatement of the year! I rest my case. My last comment on this disgraceful episode will be in the words of Justice Wood, who on the *ABC 7.30 Report* on 26 August 1997 said about Yeldham:

Justice Yeldham was involved in breach of the criminal law for a substantial period of time.

Is that not a nice, sanitised, kind way of putting it? One can practically hear his colleagues from the big end of town saying, "He is dead now, let us protect his reputation for the sake of his family." But I ask you, what about the victims? What about all the people that have been abused by paedophiles all these years? What about the children who have had their lives destroyed, ruined by drugs and alcohol, trying to forget the abuse?

This has been a very difficult period for me and my family but the one thing that has sustained me during this whole period has been the pain and sorrow of the victims, the people who have come to my office and told me their tragic stories, some of which I have already put on the parliamentary record. If I had the time and permission from the victims I would put many more on the record. I think of them, of the victims who do not have friends in high places, who do not have the protection of important people. I want to be able to say to them, "Rest assured that in our country, in beautiful Australia, there is equality before the law." But would that be the truth? It was always the thought of the victims that kept me going and also the fact that if there is one thing that is important in all of this, it is the truth. I am not an overtly religious person but I want to put on the record the words of Jesus as reported by John the Apostle: "You shall know the truth and the truth shall set you free."

The truth, I think, is the greatest casualty in the commission's report. The commissioner lifted the lid on paedophilia in high places and the smell of rot, the ugliness of the scene, was too much. So they put the lid back on, hoping that the whole issue would go away and that all we have to do is worry about the future. But that will not be so. Paedophilia in high places has to be dealt with or this festering wound will attack the health of the whole body of society. The creation of the Wood royal commission raised expectations that could not be fulfilled, but the community was entitled to see it try harder. We certainly have to look to the future, but we forget the past at our peril. The report contains 140 recommendations which need to be looked at in detail to ensure their implementation as quickly as possible. The most important recommendation concerns the

setting up of a children's commission with special powers, completely independent of government. This commission must be well funded. I think the Leader of the Opposition in this Chamber spoke about funding. This is a most important item, the funding of the commission, especially in its first years to ensure that many of the historical cases of sexual abuse are dealt with.

I will not go through all the recommendations as I am hoping that the Government will set up a special committee to supervise the implementation of the recommendations. It cannot be left to public servants. This is a once in a lifetime opportunity to see real reforms in this area and we must not miss it. I strongly support the setting up of a register of sex offenders. There are precedents for this both in Manitoba, Canada, and in the United Kingdom, where a register was set up, I believe, at the beginning of September. I expect that the Council for Civil Liberties and similar bodies will raise all sorts of objections regarding the register, and the civil liberties and privacy of the people whose names are on it. The interesting thing about all this is that, so far as I know, there was no reaction at all from the Council for Civil Liberties regarding the fact that people involved or suspected of being involved in criminal activities will be excluded from the Sydney casino. The editorial in the *Sydney Morning Herald* of 12 September said it all. It stated:

It seems that many of those directed by Mr Ryan to be excluded are well known as suspected drug dealers.

We know a lot of suspected paedophiles but, of course, we have to respect their privacy; we have to respect their civil liberties. When it comes to gambling, no, because money in this country is more important than children. I am disgusted by it all. I am really disgusted by the double standards. I have not heard a single boo from the free speech committee, which writes us letters all the time, regarding the right of the Minister for Police to make the statements he made a week ago about paedophiles, and the absurd decision of two judges to abort trials. Did the Minister not have the right to make his speech? Where are all the supporters of the free speech committee? Who is going to pay for the two aborted trials? Are the judges going to pay? To whom are the judges accountable? They decide what they like, how they like, and no-one can tell them anything, not even the New South Wales Attorney General.

I think it is not acceptable in our society. We should all be accountable to someone, as should the judges. They should not have an easy ride all the way. For too long now the law has been biased in favour of the offenders; for too long the victims have not been believed. It is time to redress this imbalance and ensure that justice is done. During the past 12 months I have worked tirelessly on this issue. I have been contacted by hundreds of people. I have been to Long Bay prison and to other correctional centres to speak to prisoners who had information for me. I have met abused people who have become offenders. I certainly believe in rehabilitation and feel we should offer that alternative to first offenders, but I have no time for cunning recidivists who have ruined children's lives. For them there must be much heavier sentences. The commission recommends the lowering of the age of consent. To include such a recommendation in a report on paedophilia is to send the wrong message to paedophiles and to the community.

The age issue is a separate issue, used as a red herring to divert attention from the real menace of paedophilia conduct. I will oppose such recommendations on the basis that already there are few prosecutions of offenders when victims are aged 17 or 18. Lowering the age to 16 will in fact mean an age of consent of 14 or 15. This is totally unacceptable to me and to the community in general. But I will speak on this when the private member's bill is introduced in Parliament. I think that we should move quickly and wisely to implement the worthwhile recommendations of the Wood royal commission because we have to ensure justice for our children. Let us not forget the words of Edmund Burke, who said:

All it needs for evil to prosper is for people of goodwill to do nothing.

## **Appendix 3**

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### **LIST OF WITNESSES AND SUBMISSIONS**

## List of Witnesses and Submissions

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### WITNESSES

17 December 1997	Mr Peter Ryan, Police Commissioner
21 December 1997	Mr Alex Mitchell, Associate Editor, <i>The Sun-Herald</i>
5 March 1998	The Hon Franca Arena, MLC
16 March 1998	The Hon Franca Arena, MLC
24 March 1998	The Hon Franca Arena, MLC
6 April 1998	The Hon Franca Arena, MLC
15 May 1998	Commander Clive Small
23 June 1998	Mr Philip Taylor of Counsel, legal adviser to Mrs Arena

### SUBMISSIONS

#### *Submissions from Mrs Arena*

30 January 1998	Submission*
16 February 1998	Supplementary submission*
6 May 1998	Submission concerning conduct (unpublished)
22 May 1998	Supplementary submission concerning conduct (unpublished)
9 June 1998	Submission on sanctions (unpublished)

\* An edited version was published by the Committee on 16 April 1998

*Other submissions*

16 January 1998	W26
1 February 1998	Mrs Helen Ferns
3 February 1998	Mrs Freddi Martin
3 February 1998	Ms Kate Wentworth
20 April 1998	Submission on behalf of the Hon RJ Carr MP, Premier, in relation to the issue of the conduct of the Hon Franca Arena MLC
20 April 1998	Submission on behalf of Justice Wood in relation to the issue of the conduct of the Hon Franca Arena MLC

## **Appendix 4**

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### **MATTERS RELATING TO PROCEDURAL FAIRNESS**

### **Mrs Arena's claims of lack of procedural fairness by the Committee**

1. Mrs Arena, at various stages during the inquiry has complained that, in conducting its inquiry into her conduct, the Committee itself, and on other occasions individual members of the Committee, treated her unfairly in making decisions on particular procedural issues.
2. As Mrs Arena has indicated she will complain further about procedural unfairness when the Report is debated in the House, the Committee considers that it is desirable to discuss in this Appendix Mrs Arena's complaints as to the lack of procedural fairness, to enable members of the House, and the community generally, to appreciate the basis of the Committee's decisions of which Mrs Arena has made complaint.

### **The Committee's decision to conduct hearings in camera**

3. Mrs Arena submitted to the Committee prior to the commencement of her evidence that its hearings should be held in public<sup>1</sup>. She also submitted that "codenames"<sup>2</sup> could be used where it was necessary to disguise the identity of persons just as the Royal Commission into the Police Service when conducting public hearings, had used codenames, where necessary, for individuals. Mrs Arena attempted to support this argument before the Committee by stating that as Mr John Della Bosca had commenced an action for damages against her for defamation, "most of the material will become public"<sup>3</sup>, as part of her defence to this defamation action.
4. The major difficulty of the Committee holding a public hearing was that in the 550 pages of submissions and annexures contained in Mrs Arena's various submissions to the Committee, she incorporated reference to many extremely serious allegations of child sexual abuse which had been made to her by others. The Committee concluded that if members of the public were present whilst questions were being asked concerning the matters in Mrs Arena's submissions, it was inevitable that members of the public would hear, and subsequently repeat in the community, some of the serious allegations made against particular citizens, regardless of how unjustified the allegation was. There was a real danger of further publication of names which were either unintentionally or otherwise, named by witnesses giving evidence before the Committee. Moreover, the Committee considered that the presence of members of the public at the hearing would make it difficult for the Committee to question Mrs Arena, and for her to satisfactorily respond, if there was an overriding anxiety that a name would be accidentally used, which might

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<sup>1</sup> Franca Arena, Evidence, 5 March 1998, *Transcripts*, p. 41.

<sup>2</sup> *ibid.*

<sup>3</sup> *ibid.*



subsequently be mentioned or published so as to damage unfairly that person's reputation.

5. The Committee, however, decided that as much evidence as possible, both written and oral, should be published as soon as possible after each hearing day, subject to necessary editing by the Committee in order to avoid causing unnecessary damage to the reputation of any individuals, compromising ongoing police investigations or prejudicing any matters currently before the Courts.

**The Committee's decisions as to the editing of the transcript of evidence for publication**

6. Mrs Arena complained that the transcripts of the proceedings were edited unfairly<sup>4</sup> in that certain passages in her evidence were not published. It is not appropriate to discuss in this Report particular examples of the editing decisions made by the Committee, as to do so would undermine the purposes behind the decision not to publish. However, it should be noted that in all cases, the editing decisions were made by the Committee, only after each member of the Committee had considered the transcript, the Committee had received recommendations, and if necessary, supporting argument, from its legal advisers concerning proposed deletions from the transcript, and the Committee had received submissions on behalf of Mrs Arena, Mr Carr and Justice Wood in response to the Committee's provisionally intended changes. The Committee's final decisions as to editing were reached after lengthy consideration, and in the majority of cases were unanimous.
7. The Committee found that in editing the transcript the protections sought to be obtained by the editing process were not always achievable by simply substituting codenames or initials in place of particular names wherever they occurred. The Committee recognised that in some cases a wider area of the transcript had to be withheld from publication, because the details or sequence of questioning concerning a particular allegation would provide circumstantial clues as to the identity of the person in respect of whom a serious allegation of child sexual abuse had been made. The differences of opinion between the Committee and Mrs Arena as to editing decisions were in many cases attributable to the greater sense of caution which the Committee felt needed to be observed in order to protect the reputations of presumptively innocent citizens, where untested allegations against them were referred to in Mrs Arena's submissions, annexures or evidence.
8. Mrs Arena also complained that the Committee released for publication the edited transcript of her cross-examination prior to it releasing the edited copy of her submission of 30 January 1998, and of her supplementary submission of 16 February 1998, together

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<sup>4</sup> Franca Arena, submission concerning conduct, 6 May 1998, p. 14.

with all relevant annexures<sup>5</sup>. However, as the Committee Chair explained to Mrs Arena<sup>6</sup>, the task of editing Mrs Arena's submissions and attachments, which totalled some 550 pages, was extremely difficult and time consuming. As the Committee took the view that the public interest required that it release the edited transcript for publication as soon as possible after evidence was given, it should do so, without waiting a longer period until there had been completed the much more difficult task of editing Mrs Arena's submissions and annexures for publication.

### **The rights of legal assistance given to Mrs Arena and other affected parties**

9. Mrs Arena complained that although she had legal assistance, her legal advisers were not given a full right of legal representation, whereby they could examine and cross-examine witnesses, make objections, and put oral arguments to the Committee<sup>7</sup>. The Committee acted upon the advice of the Clerk of the Parliaments in concluding that under Standing Orders it did not have the power to grant Mrs Arena the full right of legal representation which she sought. Therefore the hearing was one which in accordance with Standing Orders and established precedent, was conducted by the Committee itself, as distinct from being conducted by lawyers for various parties, appearing before the Committee. However Mrs Arena and her legal advisers were able to provide to the Committee written submissions of evidence from Mrs Arena and other proposed witnesses; to propose in writing questions to be asked by the Committee of the witnesses who were called before the Committee; and to put detailed written submissions to it concerning procedures, the evidence, and the Committee's ultimate conclusions. Further, the Committee permitted Mrs Arena's legal adviser, Mr Philip Taylor, the opportunity to address the Committee on 23 June 1998 in order to orally explain and expand upon his written submissions.
10. Mrs Arena objected to the Committee's decision to permit Mr Carr, Mr Collins and Justice Wood, and the legal advisers of each of them, to be present during the in camera hearings of the Committee.<sup>8</sup> The Committee concluded, however, because on one view serious allegations of corrupt behaviour had been made against Mr Carr, Mr Collins and Justice Wood, it was appropriate to grant leave to these persons to attend themselves, or through their legal advisers, the in camera hearings of the Committee.
11. Mr Carr, Mr Collins and Justice Wood did not seek to exercise their entitlements which the Committee granted to them, to attend any of the hearing sessions of the Committee.

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<sup>5</sup> Franca Arena, Evidence, 24 March 1998, *Transcripts*, pp. 189-192.

<sup>6</sup> *ibid* p. 205.

<sup>7</sup> Franca Arena, unpublished submission on sanctions, 9 June 1998, p. 20.

<sup>8</sup> Franca Arena, Evidence, 5 March 1998, *Transcripts*, p. 43.; Franca Arena, Evidence, 16 March 1998, *Transcripts*, p. 186.

Mr Collins did not take up the invitation extended by the Committee to have his legal representatives present during the hearing, but Justice Wood and Mr Carr did.

12. The Committee adopted the procedure that the legal representatives of Mr Carr and Justice Wood could not ask questions of Mrs Arena or any witness, but could submit to the Committee a written list of proposed questions to be asked by the Committee if the Committee so decided. The Committee, from the lists of questions submitted by the legal representatives of Mr Carr and Justice Wood, only asked those questions which it considered were sufficiently relevant to the Committee's inquiries as to warrant being asked by the Committee. The task of putting these submitted questions was undertaken at stages on a broadly rotational basis by each individual member of the Committee, after the Committee had resolved that the particular question submitted on behalf of Mr Carr or Justice Wood should be asked by the Committee.
13. As Mrs Arena had been granted leave to have her own legal advisers present at in camera hearings, the Committee considered that fairness to Mr Carr and Justice Wood required that they also have the entitlement to have their legal advisers present at the Committee's in camera hearings. Both Mr Carr and Justice Wood had been legally represented before the Nader Inquiry and in the various hearings in the NSW Supreme Court, Court of Appeal and the High Court of Australia which arose out of the response by the Parliament to Mrs Arena's speech on 17 September 1997.

#### **The Committee's decisions to disallow certain questions**

14. Mrs Arena objected that "The Committee has refused to ask many of the important questions provided to them by me"<sup>9</sup>. This criticism would appear to be directed to the Committee's hearings on 15 May 1998 where Commander Clive Small gave evidence. After Committee members had asked a number of relevant questions submitted by Mrs Arena, she sought to have a further set of questions put by the Committee members to Commander Small.<sup>10</sup> Some of the proposed questions were directed to Commander Small's knowledge of the conduct of the investigation by the NSW Police Service into allegations of child sexual abuse made against "**Mr E**".
15. The Committee adjourned the hearing of Commander Small's evidence at this stage, in order to consider in deliberative session whether Commander Small should be questioned concerning all of the matters contained in Mrs Arena's written list of questions.<sup>11</sup> Having taking legal advice concerning these proposed questions, the Committee concluded that

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<sup>9</sup> Franca Arena, unpublished submission on sanctions, 9 June 1998, p. 20.

<sup>10</sup> Clive Small, Evidence, 15 May 1998, *Transcripts*, p. 341.

<sup>11</sup> *ibid.* p. 342.

it should not ask all of these questions as Mrs Arena had requested, as they did not fall within the scope of the particular purpose for which Commander Small had been called before the Committee, and did not fall within the Terms of Reference of the Committee.

16. Commander Small had been called by the Committee to give evidence concerning a conversation he had with Mrs Arena on 19 March 1997, and subsequent statements which he had made as to that conversation on 21 March 1997 to Mr Crooke QC (Senior Counsel assisting the Royal Commission into the NSW Police Service), Ms Bergin (Junior Counsel assisting) and Mr Finnane QC (Senior Counsel for the NSW Police Service) at the Royal Commission. The Committee's purpose in calling Commander Small was to establish what Mrs Arena was alleged to have said to him in March 1997, concerning her beliefs as to the purpose and occurrence of meetings between Mr Carr and Justice Wood. This evidence was capable of shedding light on Mrs Arena's beliefs and understanding when she made the relevant allegations against Mr Carr, Justice Wood and others in her speech on 17 September 1997. The Committee did not consider it appropriate that Mrs Arena should be permitted to ask questions of Commander Small, related to subject matter which fell outside the Terms of Reference. Mrs Arena appeared to be seeking Commander Small's evidence on these questions for a different purpose.
17. Accordingly the Committee resolved unanimously that the questions which Mrs Arena proposed to the Committee should be asked of Commander Small concerning "**Mr E**", would not be permitted to be asked.<sup>12</sup> However the Committee did allow other questions on Mrs Arena's list of questions, and the Committee proceeded to ask these questions of Commander Small.

#### **Mrs Arena's requests that the Committee call additional witnesses**

18. Mrs Arena complained that she was given no right to call witnesses<sup>13</sup> and that the Committee refused to call the witnesses whom she requested to be brought before the Committee, particularly Justice Wood and Mr Carr.<sup>14</sup>
19. An inquiry by a Privileges Committee is not a legal proceeding, with the traditional features associated with a Court, namely that parties who are legally represented have the active role of conducting their cases and producing evidence before a largely passive decision-maker. It is long established practice in the conduct of House Committees that the mode of procedure which is to be observed, in the absence of a contrary order by the House, is one whereby the Committee, and not the persons appearing before it, determines

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<sup>12</sup> *ibid.*

<sup>13</sup> Franca Arena, unpublished submission on sanctions, 9 June 1998, p. 20.

<sup>14</sup> *ibid.* p. 9.

which witnesses it will summons and call, conducts the inquiry and asks the questions. The fact that Mrs Arena was not given the right to call witnesses was the inevitable outcome of the traditional limits on the Committee's powers to allow persons before it to be legally represented (as distinct from legally advised), and to call evidence or cross-examine witnesses. It did not lie within the Committee's power to permit her to call witnesses of her choosing. However, Mrs Arena had the right, which she exercised, to make submissions to the Committee as to which witnesses the Committee itself should call before it.

20. The Committee's power to determine which witnesses should be called did not confer upon it an unlimited discretion as to which witnesses should be called, nor did it permit the Committee to simply adopt a compliant role and call whichever witnesses Mrs Arena indicated she wished the Committee to call before it. The responsible exercise of the Committee's power to summons witnesses to appear, and to require them to give evidence before it necessarily depended upon the Committee being first satisfied that the proposed testimony of such witnesses fell within the Terms of Reference, and truly constituted material evidence of real probative value in determining the particular issues before the Committee.
21. The Committee wished to ensure that the hearings for it were not diverted by the calling of irrelevant witnesses, into an inquiry into a wider class of issues falling outside the Terms of Reference to the Committee, and were not misused by persons who merely wished, by attempting to attach their own causes to Mrs Arena, to advance their own personal agendas on collateral or irrelevant issues falling outside the Terms of Reference. Accordingly the Committee proceeded on the basis that any person who wished to give evidence before it must first send to the Clerk of the Committee, a full statement setting out the material facts which were sought to be brought before the Committee on matters falling within the Terms of Reference. The Committee also had regard to the names of persons Mrs Arena submitted the Committee should consider as witnesses, and other persons whose allegations were referred to by Mrs Arena in her submissions, and in the numerous attachments to the submissions.
22. The Committee throughout the inquiry gave careful consideration to the question as to what further witnesses should be called before the Committee. This process involved continuing review by the Committee in the light of the evidence in deciding which further witnesses should be called, the Committee took the approach that it should postpone reaching any final conclusions until after Mrs Arena had completed giving her evidence, at which stage the Committee would have a clearer picture as to what additional witnesses needed to be called. This course, for example, avoided the potential cost and burden of calling additional witnesses proposed by Mrs Arena to corroborate her on matters where ultimately Mrs Arena's explanations in her oral evidence before the Committee was seen to address satisfactorily the particular concerns of the Committee,

and rendered it unnecessary for the Committee to call additional witnesses on that particular aspect.

23. However, the Committee recognised at all stages that because it was the conduct of Mrs Arena, and not that of other persons, which constituted the focus of its inquiry under the Terms of Reference, it should not receive evidence which was directed to three separate questions, namely:
- 23.1 whether the Royal Commission into the Police Service ought to have sought, or have been given by the Government, wider Terms of Reference for its Paedophile segment;
  - 23.2 whether the Royal Commission ought to have acted differently in its investigations and reporting tasks;
  - 23.3 whether any individuals, against whom allegations of child sexual abuse had been made, deserved to have the allegations which are made against him more thoroughly investigated.
24. Having completed the taking of Mrs Arena's evidence, the Committee gave careful consideration to the question of what additional witnesses it should call. For this purpose it took into consideration the recommendations of its legal advisers, and fully debated the need to call as additional witnesses, the persons whose names at various stages had been put forward by Mrs Arena, or who otherwise appeared to be capable of shedding light on some particular matter.
25. Mrs Arena requested that the Committee call Mr Carr and Justice Wood as witnesses before it.<sup>15</sup> The Committee weighed Mrs Arena's arguments as to the type of questions which should be asked by the Committee if Mr Carr and Justice Wood were to be called, and unanimously concluded that the proposed questions neither fell within the Terms of Reference of the Committee, nor were appropriate to produce any answers which would assist either the Committee or the House in examining the relevant questions concerning Mrs Arena's conduct.
26. The essential question for consideration by the Committee is whether, on the basis of the facts known or properly inferred by Mrs Arena at the time of her speech on 17 September 1997, Mrs Arena acted in accordance with the standards of conduct which the House was entitled to expect of a Member. This question, and the related question of appropriate sanctions, could not sensibly be answered by reference to the type of questions which Mrs Arena submitted should be asked by the Committee of Mr Carr and Justice Wood.

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<sup>15</sup> *ibid.*

27. The suspicion arose in the minds of some members of the Committee that Mrs Arena's purpose in seeking to call Mr Carr and Justice Wood was to divert the Committee's investigations and public attention into matters outside the Terms of Reference of the Committee, namely the political decisions made as to the Terms of Reference of the Royal Commission, and matters which Mrs Arena regarded as unresolved by the Royal Commission. However, the alternative possibility existed that Mrs Arena did not adequately appreciate the constraints imposed on the Committee by its Terms of Reference, or else took an unduly expansive view as to what those Terms of Reference meant.
28. The Committee holds a real concern that when this Report is debated before the House, Mrs Arena may adopt a position in defending her own conduct which involves a similar reluctance or inability to recognise the distinction between her conduct in the House in making the particular allegations on 17 September 1997, and the untested allegations made by others that specified persons have engaged in misconduct which, in Mrs Arena's view, the Royal Commission or the NSW Police Service have not yet effectively investigated.

#### **The questioning of Mrs Arena by the Committee**

29. Mrs Arena complained that the questioning of her by some Members of the Committee was unduly lengthy, irrelevant, vexatious and abusive, and in addition, involved excessive interruptions of her answers.<sup>16</sup> The Committee, without responding in detail to this complaint, points out that it was obliged to give Mrs Arena a full and thorough investigation by her peers, as she apparently accepted<sup>17</sup>. Moreover the length of the Committee's questioning of Mrs Arena was largely related to the apparent difficulty Mrs Arena displayed, at stages, in answering the question asked, as distinct from reading lengthy passages from her written submissions or making speeches. However, the Committee recognises that in some instances Mrs Arena was expressing the belief that she was not being treated fairly. Her reluctance at other stages to accept and comply with the procedural rulings of the Committee, and to accept the authority of the Chair, increased the length of the hearing of her evidence. Another difficulty was that in some cases Mrs Arena did not appear to be prepared to answer directly questions which she regarded as irrelevant, or else not to her liking.
30. The Committee concluded, after completion of Mrs Arena's evidence, that several witnesses proposed by her as witnesses should not be called. The Committee was fortified in these conclusions by the concessions made by Mrs Arena during her testimony, in which she accepted that the evidence some witnesses had previously indicated they would give

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<sup>16</sup> Franca Arena, Evidence, 24 May 1998, *Transcripts*, p. 227.

<sup>17</sup> Franca Arena, Evidence, 16 March 1998, *Transcripts*, p. 163.

was either unreliable, contrary to indisputable fact, or else had not stood up to investigation by the NSW Police Service.

31. The Committee decided that some particular persons who had been proposed by Mrs Arena as witnesses to be called could not assist the Committee by their originally proposed evidence. These persons included “**Mr G**”, “**Mr S**”, “**Ms A**” and “**Dr C**”. These persons made allegations to Mrs Arena which were referred to in her various submissions to the Committee in documents attached to her submissions. Mrs Arena put these submissions forwarded as a “representative sample” of material received by her, and which served to explain to the Committee why she made the speech on 17 September 1997<sup>18</sup>. Accordingly the Committee closely questioned Mrs Arena for the purposes of determining whether it was legitimate to rely upon the allegations made to her. The Committee’s purposes in doing so was to aid in the task of determining whether Mrs Arena, in making the particular allegations complained of in her speech on 17 September 1997, acted reasonably and responsibly.
  
32. The allegations made by “**Mr G**” included a particular allegation that “**Mr D**’s” name was in the green telephone book belonging to “**Mr K**”, a notorious paedophile, this being a book in which “**Mr K**” only kept names of clients. “**Mr G**” further alleged that “**Mr D**” had a particular codename in his dealings with “**Mr K**”. The Committee had considerable difficulties in giving any credence to any allegations which were said to have been made by “**Mr G**”, who was a convicted paedophile, with a long record of dishonesty and in respect of whom a considerable number of persons had expressed, in records which the Committee had obtained, severe criticism of his trustworthiness and honesty. Mrs Arena, of course, did not have these records available to her when she made her speech in the House. “**Mr K**” had been interviewed at length nine times by Royal Commission investigators without making any allegations concerning “**Mr D**”. Further, the Committee was provided with a report by the Commissioner of Police which clearly demonstrated that the “green telephone book” belonging to “**Mr K**”, which had been seized by officers of the Royal Commission and subsequently tendered at Royal Commission hearings had been examined by the unit working under the Police Commissioner’s command to investigate the allegations made by Mrs Arena. Commissioner Ryan reported that there was no entry in the green telephone book under either the name of “**Mr D**” or the codename or initial attributed to him by “**Mr G**”. The Committee confirmed the accuracy of this report by examining the green telephone book. Mr Ryan further reported that when his officers had subsequently interviewed “**Mr G**” in gaol concerning his allegations and their findings as to the green telephone book, “**Mr G**” admitted that he must have been wrong and mistaken in his allegations and withdrew these allegations.

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<sup>18</sup> Franca Arena, unpublished submission concerning conduct, 6 May 1998, p. 33.



33. After the Committee put these matters to Mrs Arena, she accepted that the allegation by “**Mr G**” had been shown by subsequent investigation to be mistaken. However she emphasised that the fact that such allegation had later been shown to be mistaken could say nothing concerning her conduct in not rejecting it initially<sup>19</sup>. Accordingly the Committee concluded that “**Mr G**” would not assist the Committee nor Mrs Arena’s position by giving evidence before the Committee.
34. Similarly, there are allegations by “**Dr C**” that “**Mr S**” was aware there was a videotape, which had been taken at a Sydney Hotel (“**Hotel A**”), which he named, of “**Mr D**” engaging in sexual activities with underage boys. Mrs Arena expressed the belief, based on material she had read, that “**Mr D**” frequently stayed as a paying guest at “**Hotel A**”. Mrs Arena, while conceding that she did not know whether this video existed or not, stated that she had been told by “**Dr C**” that she believed “**Mr S**” to be a “credible person”. Mrs Arena stated that “**Dr C**” was prepared to give evidence before the Committee. However, on further investigation, it appeared that “**Mr S**”, if he had truly made allegations against “**Mr D**” to “**Dr C**”, was totally untrustworthy. When interviewed by investigating police, “**Mr S**” contended that he had not made any claims to “**Dr C**” that a video existed depicting “**Mr D**” engaging in sexual conduct with children, and that he had no knowledge of the existence of any such video. Further the Committee obtained evidence from the Hotel Manager for “**Hotel A**” which established indisputably that the Hotel had no record and no knowledge of “**Mr D**” being a guest at “**Hotel A**”, and that the person with the same surname as “**Mr D**”, who was known by hotel staff as a guest, was in fact an interstate guest who stayed at “**Hotel A**” regularly when travelling to Sydney on business. Moreover, “**Mr AA**”, the Police Officer who investigated the alleged claims made by “**Mr S**”, stated that “**Mr S**” was in his view “an inveterate liar, a thoroughly untrustworthy and disreputable individual. I place no credence in his assertions.”<sup>20</sup> Mrs Arena stated that she accepted fully the findings made by “**Mr AA**” concerning “**Mr S**”. Accordingly, the Committee concluded that “**Mr S**” was a person who, despite Mrs Arena’s earlier suggestions that he be called as a witness, should not be brought before the Committee to give evidence.
35. Mrs Arena also included in her submission of 30 January 1998 an allegation which she had received from “**Ms A**”, whom “**Dr C**” had brought to her, that “**Judge B**” had sexually abused her as a child. Mrs Arena says that she was “deeply concerned” because of the allegation made by “**Ms A**” and also because “**Dr C**”, whom she regarded as a respected and “eminent” member of the medical profession thought the allegations as sufficiently serious to bring them to her. For this reason Mrs Arena stated she “was going to take them seriously.” “**Ms A**” gave her an incomplete statutory declaration. Neither document was sworn, signed or witnessed. She read both declarations closely. The Committee

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<sup>19</sup> *ibid.* p. 44.

<sup>20</sup> Franca Arena, Evidence, 6 April 1998, *Transcripts*, p. 271.

cross-examined Mrs Arena at length concerning the unreasonableness of placing any reliance upon the serious allegations made by “**Ms A**” in her declarations.

36. The Committee does not consider it necessary to discuss these declarations in detail, but notes that “**Ms A**” purports to have first recalled these events, which are said to have occurred between the ages of 3 and 11 when she was aged about 24 in 1992. Moreover there are marked inconsistencies between the two declarations, which in the Committee’s view, cannot stand together. The Committee further notes that in the first declaration she has belatedly “recalled” that a Magistrate, in whose Court she had recently unsuccessfully appeared, was in fact one of the persons who had sexually abused her as a child, and that in the second declaration she had only recently (in 1997) seen “**Judge B**” and recognised for the first time that he also had abused her as a child. There is no mention in the first declaration of any conduct by the person who she purported in the second declaration to have identified only recently as being “**Judge B**”. None of the graphic episodes of child sexual abuse or murder which she alleged in her second declaration involved “**Judge B**”; appear in the first declaration.
37. “**Ms A’s**” allegations in the second declaration include that “**Judge B**” murdered a fellow Judge with an axe in front of a crowd in Lane Cove National Park to obtain promotion in the ranks of Satanists<sup>21</sup>; that he bred blond children in a castle in Melbourne for use in choirs, death sacrifices and child sexual abuse rituals<sup>22</sup>; and that at the castle in Melbourne men and women were crucified, killed and their body parts thrown into bathtubs full of blood where Satan worshippers would bathe and force sex with the body parts.<sup>23</sup> Mrs Arena accepted that these allegations were not merely bizarre and “beyond one’s imagination”,<sup>24</sup> but also “absolutely incredible, unbelievable, stupid”.<sup>25</sup> The Committee, which agrees with these conclusions, and notes that the NSW Police Service has found nothing to support them, finds that these allegations against “**Judge B**” are false and without substance. However, Mrs Arena says that although “**MsA’s**” claims, being supported by “**Dr C**”, concerned her, they were not of any real significance in her speech of 17 September 1997. Further she states that “**Ms A’s**” claims “meant very little to me”<sup>26</sup> and that she did not make any allegations in her speech on 17 September 1997 based upon

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<sup>21</sup> Franca Arena, Evidence, 5 March 1998, *Transcripts*, p. 44.

<sup>22</sup> *ibid.* p. 46.

<sup>23</sup> *ibid.* p. 47.

<sup>24</sup> *ibid.* p. 53.

<sup>25</sup> *ibid.* p. 51.

<sup>26</sup> Franca Arena, unpublished submission regarding conduct, 6 May 1998, p. 58.

- “**Ms A’s**” allegations.<sup>27</sup> Accordingly the Committee, having received Mrs Arena’s explanation, concluded that there was no point in calling “**Ms A**” as a witness.
38. Mrs Arena requested the Committee to call “**Dr C**” as a witness.<sup>28</sup> “**Dr C**” also wrote to the Committee seeking to appear as a witness. Mrs Arena contends that she was relying upon “**Dr C**” at the stage when she included the allegations made by “**Mr S**” and “**Ms A**” in her submissions to the Committee.<sup>29</sup> She argues that it was not unreasonable for her to treat these allegations by “**Mr S**” and “**Ms A**” seriously at this earlier stage, because “**Dr C**”, whom she regards as a responsible medical practitioner, held their claims out to Mrs Arena as being believable.<sup>30</sup> Mrs Arena accepts that no reliance can now be placed upon the allegations by “**Mr S**” and “**Ms A**”, but contends that she did not act unreasonably at the stage when she prepared her submissions to the Committee in giving some weight to the fact that “**Dr C**” was putting these witnesses forward.<sup>31</sup>
39. The Committee has reservations about the motives of “**Dr C**” in bringing forward written allegations, and in seeking to give evidence before the Committee, but believes that no worthwhile purpose can be served by calling “**Dr C**” as a witness. Moreover, the Committee has concluded that “**Dr C’s**” name should not be revealed in this Report, in order to avoid unnecessary damage to her reputation, and so as to assist in preserving the anonymity of “**Ms A**”.
40. The Committee accepts Mrs Arena’s submissions that the allegations by “**Mr S**” and “**Ms A**” played no part in her decision to make particular allegations in her speech on 17 September 1997. Further, although it appears that Mrs Arena placed more faith in “**Dr C**” than subsequent investigations showed to be justified, the Committee should not draw any adverse inferences against Mrs Arena based upon her misplaced trust in “**Dr C**”. The Committee has further concluded that it would be wrong to conclude Mrs Arena’s speech was improperly founded merely because she erroneously trusted “**Dr C**”, or because what she understood at the relevant time to be the allegations by “**Mr S**” and “**Ms A**” have turned out, upon subsequent investigation, to be worthless.
41. Mrs Arena asked that the Committee call as witnesses some persons whom the Committee concluded were being put forward for the sole purpose of having the Committee ask questions concerning either their allegations of child sexual abuse against various citizens,

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<sup>27</sup> *ibid.*

<sup>28</sup> Franca Arena, Evidence, 5 March 1998, *Transcripts*, p. 51.

<sup>29</sup> *ibid.* p. 44.

<sup>30</sup> Franca Arena, unpublished submission concerning conduct, 6 May 1998, p. 59.

<sup>31</sup> *ibid.*

or else the history of investigations by the Royal Commission or the Police Service into allegations that those citizens were paedophiles. As the Committee concluded that it would not be a proper exercise of the Committee's powers to summons witnesses for these purposes, it declined to call these witnesses. The Committee does not propose to list the name of the persons whom Mrs Arena proposed should be called or the reasons why she considered they should be called.

### **Mrs Arena's specific complaints as to bias**

42. Mrs Arena at the commencement of her evidence on 5 March 1998 asked that the Committee Chair should "stand down" for the reason that legal representatives of Mr Carr had met with her two weeks before.<sup>32</sup> Mrs Arena's complaint was that if the legal representatives of Mr Carr needed information concerning the procedure for the conduct of the Committee's meetings, such information should have been sought from the Clerk to the Committee and not from the Chair.<sup>33</sup> The Committee declined the formal request by Mrs Arena that the Chair should stand down.<sup>34</sup> The Committee points out that its Chair permitted the legal representatives of Mr Carr to attend upon her for a meeting concerning procedures and timeframes in relation to the Committee's meetings only after Mr Gross QC, Counsel assisting the Committee, advised her that it was proper to do so, provided that he was present and that the meeting only involved discussions about procedures and timeframes.<sup>35</sup> The meeting was held as arranged and strictly in accordance with the terms of the advice given by Mr Gross QC as to what could be discussed at the meeting. The Committee rejects the allegation by Mrs Arena that its Chair exhibited bias by agreeing to the holding of such a meeting. The legal representatives of Mrs Arena had the same opportunity to have a procedural meeting of this type with the Chair, and subject to the same protections.
43. During the Committee's hearing on 6 April 1998, Mrs Arena complained, as evidence of bias, that on 17 March 1998 the Committee Chair was seen speaking to "**Mr E**" at a social occasion. Mrs Arena argued that because "**Mr E**" is a person in respect of whom she had alleged there has been inadequate investigation of serious allegations against him of child sexual abuse, the Chair could not fairly and impartially judge Mrs Arena's allegations against "**Mr E**".<sup>36</sup> Mrs Arena later repeated this argument in her written

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<sup>32</sup> Franca Arena, Evidence, 5 March 1998, *Transcripts*, p. 42.

<sup>33</sup> *ibid.*

<sup>34</sup> *ibid.*

<sup>35</sup> *ibid.*

<sup>36</sup> Franca Arena, Evidence, 6 April 1998, *Transcripts*, p. 327.

submission<sup>37</sup> by contending that in the hearing on 6 April 1998 the Chair “failed to deny the claim that she was “**Mr E’s**” ‘good friend’”.<sup>38</sup> The Committee, for the reasons set out hereunder, concluded that it was neither improper, nor a reasonable basis for inferring bias, that the Chair spoke, and was seen to be speaking, to “**Mr E**” at a social occasion.

44. Firstly, Mrs Arena’s submission does not take into account that the numerous attachments to her submissions contain many unverified complaints against a significant number of persons in all sections of the community, including persons with whom Members of the House, and of the Committee, will inevitably have contact at social, official or parliamentary functions.
45. Secondly, it should be emphasised that where allegations have been made against any person of commission of any criminal offence, including offences involving child sexual abuse, the presumption of innocence applies. Although this presumption applies particularly in courts, it also permits Members to treat with civility those against whom serious, but as yet unproven, allegations have been made.
46. Thirdly, the foundation of the claim of bias in Mrs Arena’s submission is that, as stated above, “the Chair could not fairly and impartially judge” Mrs Arena’s allegations against “**Mr E**”.<sup>39</sup> Since the Committee’s task is not to judge Mrs Arena’s allegations against “**Mr E**”, but rather to investigate and report upon Mrs Arena’s own conduct, any contact at a social function between the Chair and “**Mr E**” of which Mrs Arena complained, has not impaired the Chair’s capacity to participate fairly and conscientiously in the Committee’s performance of its investigative and reporting obligations. The Committee’s role, and that of the Chair, concerns a particular matter relating to parliamentary privilege, namely the conduct of Mrs Arena, and not any conduct of “**Mr E**”.

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<sup>37</sup> Franca Arena, unpublished submission concerning conduct, 6 May 1998, p. 15.

<sup>38</sup> Franca Arena, Evidence, 6 April 1998, *Transcripts*, p. 327.

<sup>39</sup> Franca Arena, unpublished submission concerning conduct, 6 May 1998, p. 15.

## Appendix 5

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### **EXTRACT FROM THE FINAL REPORT OF THE ROYAL COMMISSION INTO THE NSW POLICE SERVICE CONCERNING TERMS OF REFERENCE**

**REPRODUCED HERE IN THE ORIGINAL REPORT IS A COPY OF:**

Royal Commission into the NSW Police Service, *Final Report - Volume IV: The Paedophile Inquiry*, August 1997, p. 571.

# Appendix 6

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## MINUTES OF THE PROCEEDINGS



# Proceedings of the Committee

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Meeting No. 44

Monday, 24 November 1997

at Parliament House, Sydney at 10.00 am

## MEMBERS PRESENT

Dr Burgmann (in the Chair)

Mr Manson

Mr Kelly

Mr Johnson

Ms Gardiner

Mr Lynn

Mr Jones

Minutes of the previous meeting held 16 October 1997 were confirmed, on the motion of Mr Johnson.

The Committee deliberated.

**(i) Office of Profit inquiry**

Resolved, on motion of Mr Johnson: That, in relation to the Committee's Office of Profit inquiry, the Committee shall accept submissions received after the advertised closing date of Friday, 19 September 1997.

**(ii) Citizen's right of reply**

The Clerk circulated the terms of reference.

The Chair noted the recent editorial in the *Sydney Morning Herald*, and tabled a copy of a letter she had written to the *Sydney Morning Herald* noting a number of mistakes in the editorial. The Chair also informed the Committee that she had sent a copy of the letter to the Standing Orders Committee of the Legislative Council.

The Clerk outlined the role of the Committee and the terms of reference.

**(iii) Inquiry into sanctions in relation to the conduct of the Hon Franca Arena MLC**

The Clerk circulated the terms of reference and the Nader Report (including the confidential supplement), and indicated that the text of the Hon Franca Arena's speech was contained as Annexure A of the Report.

The Committee continued to deliberate.

Mr Kelly moved: That the Committee engage the services of Mr Bernard Gross QC, and Mr Joseph Catanzariti, from the firm of Clayton Utz, to provide legal advice to the Committee in relation to its inquiry into the conduct of the Honourable Franca Arena, MLC.

Debate ensued.

Question put and passed.

Mr Johnson moved: That Mr Bernard Gross QC, and Mr Joe Catanzariti have leave to attend meetings and hearings of the Committee in relation to this inquiry, as required.

Debate ensued.

Mr Jones moved: That the question be amended by inserting the words 'both public and in camera' before the word 'hearings'.

Question: That the amendment be agreed to - put and passed.

Original question, as amended, put and passed.

Resolved, on motion of Mr Lynn: That requests in relation to the services of Mr Bernard Gross QC, and Mr Joseph Catanzariti be made only by the Chair on behalf of the Committee, or by the Clerk as directed by the Chair.

Mr Bernard Gross QC, and Mr Joseph Catanzariti were admitted to the meeting.

The Committee considered a request from Reverend the Hon Fred Nile to attend the meeting of the Committee this day.

Resolved, on motion of Mr Kelly: That, in accordance with Standing Order 251, no Member of the Legislative Council, not being a member of the Committee, may be present during deliberative meetings of the Committee in relation to this inquiry.

The Committee continued to deliberate.

Mr Lynn moved: That all evidence in relation to the Committee's inquiry into the conduct of the Honourable Franca Arena, MLC be taken in camera, and that the Committee only authorise those sections of the evidence to be made public which it is satisfied will not cause unnecessary damage to the reputations of any individuals, compromise ongoing police investigations or prejudice any matters currently before the courts.

Debate ensued.

Question put and passed.

The Committee continued to deliberate.

Mr Johnson moved: That the Chair request advice from the Clerk concerning the appropriate body for the Honourable Franca Arena to approach in relation to the payment of her legal costs associated with her appearances before the Committee.

Debate ensued.

Question put and passed.

Resolved, on motion of Mr Johnson: That media statements concerning the deliberations of the Committee be made only by the Chair on behalf of the Committee.

The Committee confirmed that neither Mr Bernard Gross QC, nor Mr Joseph Catanzariti personally knew the Honourable Franca Arena.

The Committee continued to deliberate.

Resolved, on motion of Mr Jones: That any person, other than those invited by the Committee, wishing to appear and give evidence before the Committee in relation to this inquiry, must first provide a written submission to the Committee setting out the substance of the information he or she intends to put before the Committee. The Committee is then to decide, on the basis of such a written submission, whether to summon that person to attend a hearing of the Committee.

Mr Johnson moved: That, when in camera evidence is taken by the Committee, the original transcript is to be kept in a locked safe in the office of the Clerk of the House. The material must not be copied, but the witness providing the in-camera evidence and members of the Committee may read it in the Clerk's office and make corrections of inaccuracies in reporting. The Clerk of the House is to keep a register of persons allowed access to the evidence.

Debate ensued.

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Mr Jones moved: That the question be amended by inserting the words 'or copied from' after the word 'copied'.

Debate continued.

Question: That the amendment be agreed to - put and passed.

Original question, as amended, put and passed.

The Committee continued to deliberate.

The Chair tabled an outline of the events leading to the inquiry, together with a preliminary draft framework for the Report.

The Committee adjourned at 12.21 pm, until 10.00 am on Monday, 1 December 1997.

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Meeting No. 45

Thursday, 4 December 1997

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner  
Mr Johnson  
Mr Jones  
Mr Kelly

Mr Lynn  
Mr Manson  
Revd Mr Nile  
Mr Primrose

Minutes of the previous meeting held 24 November 1997, *as amended*, were confirmed, on motion of Mr Jones.

The Chair tabled the following correspondence:

*Correspondence sent:*

- (i) Letters from the Chair to the Police Integrity Commissioner (Judge Urquhart) and Police Commissioner Ryan, regarding access to files of the former Special Branch by the Police Commissioner. (2 December 1997)

*Correspondence received:*

- (i) Letter from W26 (codename given as witness before the Wood Royal Commission) of 26 November 1997 requesting to appear before the Committee to give evidence in relation to the inquiry into the conduct of Mrs Arena, together with copies of correspondence between Mrs Arena and Mr Debus, Minister for Corrective Services. The Chair read the letter from W26 and noted that, due to its sensitive nature, copies would not be made. The correspondence between Mrs Arena and Mr Debus would be distributed to members of the Committee.
- (ii) Letter of 2 December 1997 from Mr John Evans, Clerk of the Parliaments, referring the Report of Police Commissioner Ryan to the Committee in accordance with the terms of reference.

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- (iii) Letter (by fax) of 3 December 1997 from the Police Integrity Commissioner in response to Chair's letter of 2 December 1997.

The Committee deliberated.

The Chair noted that on 2 December 1997 the Clerk of the Parliaments referred the Report of Police Commissioner Ryan to the Committee, in accordance with the inquiry's terms of reference.

The Committee continued to deliberate.

Revd Mr Nile moved: That, on receipt of a written request, representatives of the media be permitted, for a maximum of 10 minutes, to take still photos and record 'file' footage, without sound, of the Committee meeting.

Debate ensued.

Question put and passed.

The Committee continued to deliberate.

Mr Bernard Gross QC addressed the Committee in relation to the report of Commissioner Ryan.

The Committee continued to deliberate.

Mr Jones moved: That the Chair write to Police Commissioner Ryan requesting clarification in relation to the Commissioner's assessment of the tabled documents and relevant files of the former Special Branch.

Debate ensued.

Question put and passed.

Revd Mr Nile moved: That, following confirmation from the Clerk of the necessary procedures to make the Report public, the Report be tabled in the House at 2.30 pm this day.

Debate ensued.

Question put.

The Committee divided.

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Ayes

Dr Burgmann  
Ms Gardiner  
Mr Johnson  
Mr Kelly  
Mr Lynn  
Mr Manson  
Revd Nile  
Mr Primrose

Noes

Mr Jones

Mr Jones expressed reservation about publishing Commissioner Ryan's Report, on the advice of Mr Gross QC that the Report did not comply with the terms of the Legislative Council resolutions of 21 October and 12 November 1997.

Question resolved in the affirmative.

Resolved, on motion of Ms Gardiner: That the Chair is authorised on behalf of the Committee to make statements in relation to the Report of Commissioner Ryan.

The Committee adjourned at 10.58 am, *sine die*.

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Meeting No. 46

Thursday, 4 December 1997

at Parliament House, Sydney at 2.15 pm

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner  
Mr Johnson  
Mr Jones  
Mr Kelly

Mr Manson  
Revd Mr Nile  
Mr Primrose

Apologies were received by Mr Lynn.

Mr Gross QC was also in attendance.

The Committee deliberated.

In accordance with the resolution passed at the last meeting of the Committee, the Clerk informed the Committee that Police Commissioner Ryan's Report could be published by the Committee in accordance with section 4(2) of the *Parliamentary Papers (Supplementary Provisions) Act 1975*.

The Committee continued to deliberate.

Revd Mr Nile moved: That, pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under authority of Standing Order 252, the Committee authorises the Clerk of the Committee to publish the Report of Police Commissioner Ryan.

Debate ensued.

Question put.

The Committee divided.



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Ayes

Dr Burgmann  
Ms Gardiner  
Mr Johnson  
Mr Kelly  
Revd Nile  
Mr Primrose

Noes

Mr Jones  
Mr Manson

Mr Jones expressed reservation about publishing Commissioner Ryan's Report, on the advice of Mr Gross QC that the Report did not comply with the terms of the Legislative Council resolutions of 21 October and 12 November 1997.

Question resolved in the affirmative.

The Committee adjourned at 2.29 pm, *sine die*.

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Meeting No. 47

Tuesday, 9 December 1997

at Parliament House, Sydney at 11.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner  
Mr Johnson  
Mr Kelly

Mr Jones  
Mr Lynn  
Revd Mr Nile

Apologies were received from Mr Manson and Mr Primrose.

Mr Gross QC was also in attendance.

Revd Mr Nile moved: That the Minutes of Meeting No. 45 be agreed to.

Debate ensued.

Mr Jones moved: That Minutes No. 45 be amended by inserting after the division list on page 3:

“Mr Jones expressed reservation about publishing Commissioner Ryan’s Report, on the advice of Mr Gross QC that the Report did not comply with the terms of the Legislative Council resolutions of 21 October and 12 November 1997.”

Question: That the amendment of Mr Jones be agreed to—put and passed.

Minutes of Meeting No. 45, as amended, were confirmed, on motion of Revd Mr Nile.

Revd Mr Nile moved: That the Minutes of Meeting No. 46 be agreed to.

Mr Jones moved: That Minutes No. 46 be amended by inserting after the division list on page 2:

“Mr Jones expressed reservation about publishing Commissioner Ryan’s Report, on the advice of Mr Gross QC that the Report did not comply with the terms of the Legislative Council resolutions of 21 October and 12 November 1997.”

Question: That the amendment of Mr Jones be agreed to—put and passed.

Minutes of Meeting No. 46, as amended, were confirmed, on motion of Revd Mr Nile.

The Chair tabled the following correspondence:

*Correspondence received:*

- (i) Letter dated 20 November 1997 from Peter Nagle, MP, Chair of the Legislative Assembly Standing Ethics Committee, in relation to co-operation between this Committee and the Ethics Committee on the issue of the implementation of a joint Code of Conduct.
- (ii) Letter from the Hon Franca Arena MLC dated 4 December 1997, requesting financial assistance for legal representation in relation to Mrs Arena’s appearance before the Committee; and also requesting an extension of time before Mrs Arena would be required to appear before the Committee.

The Committee deliberated.

Resolved, on motion of Mr Johnson: That representatives of this Committee meet with representatives of the Legislative Assembly Standing Ethics Committee toward the end of January 1998 for the purpose of joint deliberations on the issue of the implementation of a joint Code of Conduct, and that the Chair write to Mr Nagle informing him of convenient times in January 1998 for such a meeting.

The Committee continued to deliberate.

Mr Kelly moved: That the Chair write to Mrs Arena inviting her to meet informally with the Committee before Christmas for the purpose of discussing potential witnesses. In addition, the Chair in the same correspondence should request Mrs Arena to submit to the Committee, before the informal meeting, a written list of potential witnesses, together with a brief description of the relevance of each witness to this inquiry.

Debate ensued.

Question put and passed.

Resolved, on motion of Mr Johnson: That the Chair write to the President requesting that funding be provided to Mrs Arena, in accordance with the scale of fees normally applicable in relation to

ICAC and similar inquiries as set by the Attorney General's department, in relation to the cost of legal assistance required by Mrs Arena in connection with her appearance before the Committee.

Resolved, on motion of Mr Johnson: That the Chair write to Mrs Arena:

- (a) informing her that the Committee has requested funding, through the President, in relation to her request for financial assistance;
- (b) informing her that she will be notified of the outcome of this request as it is available; and
- (c) noting that such funding, if approved, will not cover costs incurred prior to official confirmation of the provision of such funding.

The Committee continued to deliberate.

Resolved, on motion of Mr Jones: That the Committee agrees to delay Mrs Arena's appearance before the Committee until Thursday 29 January, or later if required.

The Committee agreed that the Mrs Arena should be reminded of her right to attend hearings of the Committee, and advised of the dates of all hearings scheduled in relation to the inquiry into her conduct.

The Committee continued to deliberate.

Resolved, on motion of Mr Kelly: That the Chair write to Police Commissioner Ryan inviting him to appear and give evidence before the Committee in relation to its inquiry into the conduct of Mrs Arena, on Wednesday 17 December 1997 at 10.30 am, for the purpose of clarifying certain aspects of his Report.

Resolved, on motion of Ms Gardiner: That the Chair write to Mr Alex Mitchell, journalist with the Sun Herald newspaper, inviting him to appear on Monday 22 December 1997 at 11.00 am to give evidence before the Committee in relation to its inquiry into the conduct of Mrs Arena.

Resolved, on motion of Ms Gardiner: That the Clerk to the Committee compile and publish procedural notes relevant to the attendance of Mrs Arena before the Committee, prior to her attendance.

The Committee continued to deliberate.

Mr Bernard Gross QC addressed the Committee in relation to potential witnesses.

The Committee continued to deliberate.

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Resolved, on motion of Revd Mr Nile: That the Chair summons “**Mr G**” to appear on 22 December 1997 at 1.00 pm to give evidence before the Committee in relation to its inquiry into the conduct of Mrs Arena.

Resolved, on motion of Mr Johnson: That the Clerk circulate a memorandum to all Members of the Legislative Council, informing them of the terms of Standing Orders Nos 250 and 251, and advising that details of the Committee’s hearings are available from the Clerk to the Committee.

The Committee adjourned at 12.44 pm, until 10.00 am on Wednesday, 17 December 1997.

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Meeting No. 48

Wednesday, 17 December 1997

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner  
Mr Johnson  
Mr Jones  
Mr Kelly

Mr Lynn  
Mr Manson  
Revd Mr Nile  
Mr Primrose

Mr Gross QC was also in attendance.

The media was admitted to the meeting between 10.00 am and 10.10 am for the purpose of recording file footage, without sound, in accordance with the resolution of the Committee of 4 December 1997.

Minutes of the previous meeting held 9 December 1997 were confirmed on motion of Mr Johnson.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Letter dated 12 December 1997 from [details suppressed], requesting leave to be present during the taking of evidence from “Mr G”.
- (ii) Letter dated 15 December 1997 from the Hon. Franca Arena MLC forwarding a list of witnesses in accordance with the resolution of the Committee on 9 December 1997.

*Correspondence sent:*

- (i) Letter dated 9 December 1997 from the Chair to the President of the Legislative Council requesting funding for legal assistance for Mrs Arena in connection with her appearance before this Committee.

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- (ii) Letter dated 9 December 1997 from the Chair to the Hon. Franca Arena MLC informing her that the Committee has sought funding for legal assistance in connection with her appearance before this Committee.
- (iii) Summonses, dated 10 December 1997, to:
  - Mr Peter Ryan, APM, Commissioner of Police
  - Mr Alex Mitchell, Journalist with the Sun Herald
  - “Mr G”**
- (iv) Letter dated 10 December 1997 from the Chair to the Hon. Paul Whelan, MP, Minister of Police, informing him that the Committee will be taking evidence from the Commissioner of Police on Wednesday 17 December 1997.
- (v) Letter dated 10 December 1997 from the Chair to the Hon. Franca Arena MLC inviting her to attend the Committee on an informal basis to discuss potential witnesses in relation to this inquiry.
- (vi) Letter dated 10 December 1997 from the Chair to the Hon. Franca Arena MLC informing her that the Committee had agreed to postpone the hearing of her evidence until Thursday 29 January 1998, and advising that evidence would be taken from certain other witnesses on Wednesday 17 December 1997 and Monday 22 December 1997.
- (vii) Letters dated 10 December 1997 from the Chair to Dr Leo Keliher, Commissioner of Corrective Services, and *[details suppressed]*, advising them that the Committee had resolved to take evidence from **“Mr G”** on Monday 22 December 1997 at 1.00 pm.
- (viii) Memorandum to Members of the Legislative Council dated 10 December 1997 advising them that details of Committee hearings are available from the Clerk to the Committee.

The Committee deliberated.

Mr Johnson requested that an Attendant be stationed outside the door during all Committee hearings.

Revd Mr Nile moved: That, subject to the discretion of the Committee, for the purposes of this inquiry Mrs Arena be permitted to have identified legal advisers present with her during all in camera hearings of the Committee.

Debate ensued.

Question put and passed.

Mrs Arena was admitted.

Commissioner Peter Ryan, APM, was admitted and sworn.

Resolved, on motion of Mr Kelly: That Superintendent Grahame Smith, Chief of Staff to the Commissioner, be allowed to attend the in camera hearing of evidence by Commissioner Ryan.

Commissioner Ryan was examined in camera.

Evidence concluded, the witness and Superintendent Grahame Smith withdrew.

Mrs Arena withdrew.

The Committee continued to deliberate.

Mr Jones moved: That the Chair write to Mrs Arena informing her of the terms of the Committee's resolution in relation to potential witnesses, and requesting her to provide signed submissions from each proposed witness outlining what facts they have to present to the Committee which are relevant to this inquiry's terms of reference, specifically Mrs Arena's claims made in the House on 17 September 1997 regarding a cover up.

Debate ensued.

Question put and passed.

Resolved, on motion of Ms Gardiner: That the Clerk write to "**Mr G**" informing him that he is not required, at this time, to appear before the Committee.

Revd Mr Nile moved: That the Chair write to "**Mr G**" requesting him to provide further information outlining what facts he has to present to the Committee which are relevant to this inquiry's terms of reference, specifically Mrs Arena's claims made in the House on 17 September 1997 regarding a cover up.

Debate ensued.

Question put and passed.

Mr Gross QC addressed the Committee.

Mr Kelly moved: That, for the confidential information of the Committee, the Chair write to the Commissioner of Corrective Services and Commissioner of Police requesting any information concerning "**Mr G**"'s credibility as a witness, and that such information be assessed by Mr Gross QC, before it is reported to the Committee.

Debate ensued.

Question put and passed.

Mr Kelly moved: That leave be granted to Mrs Arena and her legal adviser to cross-examine Mr Mitchell during the taking of his evidence.



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Debate ensued.

Question put and passed.

The Committee continued to deliberate.

The Committee adjourned at 12.15 pm, until Monday, 22 December 1997 at 10.30 am.

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Meeting No. 49

Monday, 22 December 1997

at Parliament House, Sydney at 10.30 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner  
Mr Johnson  
Mr Jones  
Mr Kelly

Mr Lynn  
Mr Manson  
Revd Mr Nile  
Mr Primrose

Mr Gross QC was also in attendance.

Minutes of the previous meeting held 17 December 1997 were confirmed on motion of Mr Manson.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Letter dated 16 December 1997 from the Hon. Richard Jones, MLC, referring documents from Mr Tony Paynter.
- (ii) Letter dated 17 December 1997 from the Clerk of the Parliaments advising that the Treasurer has approved of financial assistance to the Hon. Franca Arena, MLC.
- (iii) Letter dated 18 December 1997 from the Hon. Bob Debus, MP, Minister for Corrective Services, advising of certain actions relating to the appearance of “**Mr G**” before the Committee.
- (iv) Letter dated 19 December 1997 from the Clerk of the Parliaments advising that the resolution of the Committee granting leave to Mrs Arena and her legal advisers to question witnesses before the Committee was *ultra vires*.
- (v) Letter dated 19 December 1997 from Mrs Arena advising that she had engaged Mr Philip Taylor, Counsel, and Mr Peter Karp, Solicitor, of McCabes Lawyers.

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- (vi) Letter dated 22 December 1997 from the Commissioner of Police advising of corrections to his evidence before the Committee on 17 December 1997 and confirming his willingness for the evidence to be made public.

*Correspondence sent:*

- (i) Letter dated 17 December 1997 to the Hon. Franca Arena, MLC, advising of the Treasurer's approval for funding for legal assistance.
- (ii) Letter dated 17 December 1997 to Dr Leo Keliher, Commissioner for Corrective Services, advising that the Committee had resolved to defer hearing evidence from "Mr G" at this time.
- (iii) Letter dated 18 December 1997 to Mr Peter Ryan, Commissioner for Police, regarding corrections to his evidence before the Committee on Wednesday 17 December 1997.
- (iv) Letter dated 18 December 1997 to the Hon. Franca Arena, MLC, advising of various resolutions passed at the meeting held Monday 22 December 1997.
- (v) Letter dated 22 December 1997 to the Hon. Franca Arena, MLC, advising of her of the rights of Members who are not members of the Committee attending meetings of the Committee.

The Committee deliberated.

Resolved, on motion of Mr Johnson: That the Chair is authorised to speak to the media regarding the previous meeting and hearing of the Committee held on Wednesday 17 December 1997.

The Committee continued to deliberate.

Resolved, on motion of Revd Mr Nile: That the Committee adopt the advice from the Clerk in relation to the rights of Members who are not members of the Committee attending meetings of the Committee, and the conclusion that the Committee's resolution in relation to Mrs Arena and her legal advisers questioning witnesses before the Committee in relation to its inquiry into her conduct was beyond the Committee's powers.

Mrs Arena, accompanied by her legal advisers, Mr Phillip Taylor and Mr Peter Karp, was admitted.

The Chair informed Mrs Arena of her rights before the Committee and advised that any questions she wished to have put to the witness would have to be given in writing to Committee members to ask, and that it would be a matter for Committee Members to determine which questions they would put.

Mr Alex Mitchell, Journalist and Associate Editor with the *Sun Herald*, was admitted, took the affirmation, and examined in camera.

Evidence concluded, the witness withdrew.

The Committee met informally with Mrs Arena and her legal advisers, concerning the procedures of the inquiry.

Mr Taylor addressed the Committee in relation to certain parts of Mr Mitchell's evidence, giving reasons why those parts should not be made public.

Mrs Arena, Mr Taylor and Mr Karp withdrew.

The Committee continued to deliberate.

The Committee adjourned at 1.22 pm.

The Committee resumed at 2.30 pm.

The Committee continued to deliberate.

The Chair tabled a written submission from Mrs Arena concerning the non-publication of certain parts of Mr Mitchell's evidence.

Mr Kelly moved: That pursuant to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under authority of Standing Order 252, the Committee authorises the Clerk of the Committee to publish the evidence of Mr Alex Mitchell of 22 December 1997, except for certain references in his evidence, which, in the opinion of the Chair or the Clerk to the Committee could potentially compromise ongoing police investigations or prejudice matters currently before the courts.

Debate ensued.

Question put and passed.

Mr Gross QC addressed the Committee.

Mr Johnson moved: That Mrs Arena's submission to the Committee in relation to the non-publication of a section of Mr Alex Mitchell's evidence, be accepted as a formal submission, except for the last paragraph.

Debate ensued.

Question put and passed.

Resolved, on motion of Mr Kelly: That pursuant to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under authority of Standing Order 252, the Committee authorises the Clerk of the Committee to publish the evidence of Police Commissioner Ryan of 17 December 1997.

Mr Gross QC further addressed the Committee.

Mr Primrose moved: That the Chair write to Mrs Arena requesting that she provide the Committee by the close of business Friday 23 January 1998 a **full** written statement of the evidence she proposes to put to the Committee relevant to her allegations made in the Legislative Council on 17 September 1997 regarding a cover-up involving Mr Carr, Mr Collins, Commissioner Wood, Mr Sheahan and Mr Della Bosca.

Debate ensued.

Question put and passed.

Mr Primrose expressed his concern at the possible naming of people during the taking of evidence and suggested the use of pseudonyms.

Mr Primrose moved: That the Clerk examine the option of developing a short information sheet covering the rights of witnesses who have been summoned to appear before the Committee in relation to this inquiry.

Debate ensued.

Question put and passed.

Mr Kelly moved: That contingent on Mrs Arena making public her request to the Committee that certain evidence from Mr Mitchell not be made public, the Chair is authorised to publish Mrs Arena's submission, and to comment on it.

Debate ensued.

Question put and passed.

Resolved, on motion of Revd Mr Nile: That the Chair write to the Hon. Franca Arena, MLC, inviting her to appear on Thursday 29 January 1998 at 2.00 pm to give evidence before the Committee in relation to its inquiry into her conduct.

Revd Mr Nile moved: That the Chair is authorised to release the following information to the media, in relation to today's proceedings of the Committee:

- the Committee has authorised the publication of Police Commissioner Ryan's evidence of 17 December 1997;
- the Committee has authorised the publication of Mr Alex Mitchell's evidence of 22 December 1997, excluding certain parts, as soon as Mr Mitchell has had an opportunity to correct the transcript;
- the Committee has resolved to take evidence in camera from Mrs Arena on 29 January 1998; and

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- the Committee held an informal meeting with Mrs Arena Monday 22 December 1997 to discuss procedures in relation to the inquiry .

Debate ensued.

Question and passed.

The Committee adjourned at 3.59 pm, until Thursday, 29 January 1998 at 10.00 am.

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Meeting No. 50

Wednesday, 4 February 1998

at Parliament House, Sydney at 10.30 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner  
Mr Johnson  
Mr Jones  
Mr Kelly

Mr Lynn  
Mr Manson  
Revd Mr Nile  
Mr Primrose

Mr Bernard Gross QC and Mr Joe Catanzariti were also in attendance.

Minutes of the previous meeting held 22 December 1997 were confirmed on motion of Mr Johnson.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Letter dated 2 December 1997 (received 14 January 1998) from Mr Ian Hicks, Managing Editor, *Sydney Morning Herald*, on behalf of Mr John Lyons, Editor, concerning errors of fact contained in a newspaper article published last November concerning the proposed code of conduct for Members of Parliament
- (ii) Letter dated 23 December 1997 from Mr BJ Costigan requesting copies of the transcripts of evidence from Commissioner Ryan and Mr Alex Mitchell.
- (iii) Letter dated 29 December 1997 from “**Mr G**” concerning his summons to appear before the Committee.
- (iv) Schedule of fees dated 30 December 1997 from Clayton Utz, Solicitors and Attorneys, for professional costs for the period 19 November 1997 to 22 December 1997.
- (v) Letter dated 31 December 1997 from “**Mr G**” concerning an 18 December 1997 newspaper article regarding the appearance of “**Mr G**” before the Committee.

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- (vi) Letter dated 2 January 1998 (received 2 February 1998) from *[details suppressed]*, concerning “**Mr G**”.
- (vii) Report dated 8 January 1998 from Mr Stephen Bingle concerning allegations of public service and police corruption in Victoria.
- (viii) Letter dated 16 January 1998 from “**Mr G**”, in response to correspondence dated 23 December 1997 from the Chair, concerning his appearance before the Committee.
- (ix) Letter dated 20 January 1998 from Mrs Arena accepting the Committee’s invitation to appear, and requesting a list of the witnesses the Committee proposes to call.
- (x) Letter dated 23 January 1998 from Mrs Arena concerning her submission to the Committee.
- (xi) Letter dated 28 January 1998 from Mr Alan Corbett requesting access to Mrs Arena’s submission to the Committee prior to her giving evidence.
- (xii) Letter dated 29 January 1998 from Mr Ian Knight, Crown Solicitor, concerning the moderation of fees rendered by Mr Bernard Gross QC and Mr Joe Catanzariti.
- (xiii) Letter dated 30 January 1998 from Mr Peter Karp, Solicitor, requesting approval for a solicitor to attend and take a statement from a witness outside Sydney.
- (xiv) Letter dated 30 January 1998 from Mr Philip Taylor, Barrister, requesting that he be summoned to give evidence before the Committee.
- (xv) Letter dated 30 January 1998 from Mr Greg Keating, Solicitor, McClellands, making application on behalf of Mr Carr to represent him together with counsel when the Committee resumes its hearings into the conduct of Mrs Arena.
- (xvi) Letter dated 2 February 1998 from Mr Andrew Gray concerning the Code of Conduct for Members and allegations of harassment.
- (xvii) Submission dated 3 February 1998 from Ms Kate Wentworth, requesting to attend and give evidence before the Committee.
- (xviii) Submission dated 3 February 1998 from Ms Freddie Martin, requesting to attend and give evidence before the Committee.
- (xix) Submission dated 3 February 1998 from Ms Helen Fern, requesting to attend and give evidence before the Committee.
- (xx) Letter dated 4 February 1998 from Allen Allen & Hemsley, making application on behalf of Mr Collins to represent him together with counsel when the Committee resumes its hearings into the conduct of Mrs Arena.



- (xxi) Letter dated 4 February 1998 from Jan Cikos, of Greaves Wannan & Williams, Solicitors, making application on behalf of the Honourable Justice Wood to represent him together with counsel when the Committee resumes its hearings into the conduct of Mrs Arena.

*Correspondence sent:*

- (i) Letter dated 23 December 1997 from the Chair to “**Mr G**” informing him of the terms of the Committee’s resolution concerning witnesses before the Committee.
- (ii) Letter dated 23 December 1997 from the Chair to *[details suppressed]*, declining his request for representatives to be present during any examination of “**Mr G**”.
- (iii) Letter dated 24 December 1997 from the Chair to Mrs Arena requesting her to provide a **full** written statement of the evidence she proposes to put to the Committee relevant to her allegations made in the Legislative Council on 17 September 1997.
- (iv) Letter dated 5 January 1998 from the Committee Clerk to Members of the Committee forwarding a copy of the Commonwealth Newsletter.
- (v) Letter dated 7 January 1998 from the Senior Project Officer to Mr Alex Mitchell forwarding the transcript of his evidence before the Committee.
- (vi) Letter dated 20 January 1998 from the Committee Clerk to Mrs Arena regarding the tabling of her submission to the Committee.
- (vii) Letter dated 29 January 1998 from the Chair to Mr Alan Corbett regarding Mrs Arena’s submission to the Committee.
- (viii) Letter dated 2 February 1998 from the Clerk to Mr Philip Taylor regarding his request to appear before the Committee.
- (ix) Letter dated 3 February 1998 from the Clerk to Mr Peter Karp advising that the Chair had approved payment of a maximum of 2 days legal fees for another solicitor to attend and take a statement from a proposed witness on behalf of Mrs Arena.

The Committee deliberated.

The Committee considered Mr Alan Corbett’s request that Committee allow him to view Mrs Arena’s written submission prior to her giving evidence before the Committee.

Resolved, on motion of Mr Primrose: That Mrs Arena’s submission to the Committee not be made public to any Member of the Legislative Council other than those serving on this Committee, and that the Chair inform Mr Corbett of the terms of this resolution.

The Committee considered Mr Karp's request for payment of legal fees for approximately 2 - 5 days for another solicitor from the firm of McCabes to attend and take a statement from a proposed witness on behalf of Mrs Arena.

Resolved, on motion of Mr Johnson: That the Committee ratifies the Chair's decision to authorise payment for a maximum of 2 days legal fees for another solicitor from the firm of McCabes to attend and take a statement from a proposed witness on behalf of Mrs Arena.

The Committee considered Mr Philip Taylor's request that he be summoned by the Committee to give evidence in relation to certain legal matters contained in Mrs Arena's submission.

Resolved, on motion of Mr Kelly: That the Chair write to Mr Philip Taylor advising him that any legal argument relating to Mrs Arena's submission should be provided to the Committee in writing, and that a summons will only be issued if the Committee considers it necessary.

The Committee continued to deliberate.

Resolved, on motion of Revd Mr Nile: That the Chair forward a copy of Mrs Arena's submission to the Commissioner of Police to ascertain by Tuesday 10 February 1998 whether the publication of this document to certain named individuals would compromise ongoing investigations or prejudice any matters currently before the courts.

Resolved, on motion of Revd Mr Nile: That the Chair write to the Hon. Paul Whelan MP, Minister for Police, and the Hon. Bob Debus MP, Minister for Corrective Services requesting all departmental records, including psychiatric reports, on "Mr G".

Resolved, on motion of Mr Manson: That, subject to the discretion of the Committee, for the purposes of this inquiry legal advisers on behalf of the Hon. Bob Carr MP, Premier, the Hon. Peter Collins MP, Leader of the Opposition, and the Hon. Justice James Wood be permitted to be present during in camera hearings of the Committee.

Resolved, on motion of Revd Mr Nile: That the Chair is authorised to release the following information to the media, in relation to today's proceedings of the Committee:

- the Committee has agreed to defer hearing evidence from Mrs Arena for approximately 3 weeks due to the length of Mrs Arena's submission and the availability of members;
- in response to requests, the Committee has agreed to allow legal advisers to Mr Carr, Mr Collins and Justice Wood to be present during the hearing of in camera evidence; and
- the Committee has forwarded a copy of the submission from Mrs Arena to the Commissioner of Police, in line with the policy adopted by the House.

The Committee adjourned at 12.36 pm, until Wednesday 11 February 1998 at 2.00 pm.

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Meeting No. 51

Wednesday, 11 February 1998

at Parliament House, Sydney at 2.00 pm

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner  
Mr Johnson  
Mr Jones  
Mr Kelly

Mr Lynn  
Mr Manson  
Revd Mr Nile  
Mr Primrose

Mr Bernard Gross QC and Mr Joe Catanzariti were also in attendance.

Minutes of the previous meeting held 4 February 1998 were confirmed on motion of Mr Manson.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Letter dated 4 February 1998 from Mrs Arena, forwarding schedules of fees dated 30 January 1998 from Mr Peter Karp, McCabes Lawyers, and 4 February 1998 from Mr Philip Taylor, Barrister, for professional costs for the period 18 December 1997 to 31 January 1998.
- (ii) Submission dated 4 February 1998 from Mr Greg Keating, McClellands Solicitors, forwarding information [*details suppressed*].
- (iii) Letter dated 5 February 1998 from Mrs Arena forwarding a press release issued in her name on the same date and making certain requests in relation to the conduct of this inquiry.
- (iv) Letter dated 5 February 1998 from Mr Greg Keating, McClellands Solicitors, enclosing correspondence from Judge PD Urquhart, QC, authorising McClellands to divulge the information contained in their submission of 4 February 1998.
- (v) Correspondence dated 9 February 1998 addressed to Dr Burgmann, Mr Jones and Revd Mr Nile from Mr Trent Smith requesting that the Committee conduct its inquiry in public.

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- (vi) Letter dated 6 February 1998 from Mr Greg Keating, McClellands Solicitors, making application for access to the whole of Mrs Arena's submission to the Committee.
- (vii) Letter dated 10 February 1998 from Superintendent Grahame Smith on behalf of Mr Ryan, Commissioner of Police, in response to our correspondence of 4 and 5 February 1998 concerning Mrs Arena's submission and his proposed further attendance before the Committee.
- (viii) Letter dated 10 February 1998 from Mrs Arena requesting the confidential supplement of the Nader Special Commission of Inquiry, and requesting information concerning her appearance before the Committee.
- (ix) Letter dated 2 February 1998 (received 10 February 1998) from "Dr C" concerning her possible appearance as a witness before the Committee.
- (x) Letter dated 6 February 1998 from Clayton Utz, waiving the charge for stationery in their account number 273365.
- (xi) Letter dated 9 February 1998 from the Crown Solicitor concerning payment for moderation of fees of representation before the Committee.

*Correspondence sent:*

- (i) Letter dated 2 February 1998 from the Clerk to Clayton Utz requesting clarification of an item in their statement of fees.
- (ii) Letter dated 4 February 1998 from the Chair to Mr Peter Ryan, Commissioner of Police, forwarding a copy of Mrs Arena's submission to the Committee in order to ascertain whether the publication of the submission to certain named persons would compromise ongoing investigations or prejudice any matters currently before the courts.
- (iii) Letter dated 5 February 1998 from the Chair to Mr Peter Ryan, Commissioner of Police, advising that the Committee may resolve to call either himself or his nominee to give evidence in relation to the contents of the documents contained within Mrs Arena's submission.
- (iv) Letter dated 6 February 1998 from the Clerk to Mr Ian Knight, Crown Solicitor, forwarding the statement of fees from Mr Philip Taylor and Mr Peter Karp for moderation.
- (v) Letter dated 6 February 1998 from the Chair to Mr Alan Corbett advising that the Committee had resolved not to release Mrs Arena's submission to the Committee to any Members of the Legislative Council other than members of the Committee.

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- (vi) Letter dated 6 February 1998 from the Chair to Mr Philip Taylor advising that the Committee had resolved that any legal argument relating to Mrs Arena's submission be provided to the Committee in writing.
- (vii) Letter dated 6 February 1998 from the Chair to the Hon. Michael Egan, MLC, Treasurer, forwarding the schedule of fees from Mrs Arena's legal advisers, as requested in the Treasurer's approval for funding of the fees.
- (viii) Letter dated 6 February 1998 from the Chair to the Hon. Max Willis, MLC, requesting him to obtain formal approval from the Treasurer for special funding to meet legal costs incurred by the Committee and certain other interested parties.
- (ix) Letter dated 9 February 1998 from the Chair to Ms Jolan Cikos, Greaves, Wannan & Williams, advising that the Committee had resolved that, subject to the discretion of the Committee, for the purposes of this inquiry legal advisers on behalf of the Hon. Justice James Wood be permitted to be present during in camera hearings of the Committee.
- (x) Letter dated 9 February 1998 from the Chair to Mr Greg Keating, McClellands, advising that the Committee had resolved that, subject to the discretion of the Committee, for the purposes of this inquiry legal advisers on behalf of the Hon. RJ Carr, MP, Premier, be permitted to be present during in camera hearings of the Committee.
- (xi) Letter dated 9 February 1998 from the Chair to Mr Jim Dwyer, Allen Allen & Hemsley, advising that the Committee had resolved that, subject to the discretion of the Committee, for the purposes of this inquiry legal advisers on behalf of the Hon. Peter Collins, MP, Leader of the Opposition be permitted to be present during in camera hearings of the Committee.
- (xii) Letter dated 9 February 1998 from the Chair to the Hon. Bob Debus, MP, Minister for Corrective Services, requesting all departmental records, including psychiatric reports, on "Mr G".
- (xiii) Letter dated 9 February 1998 from the Chair to the Hon. Paul Whelan, MP, Minister for Police, requesting all departmental records, including psychiatric reports, on "Mr G".

The Committee deliberated.

The Committee considered correspondence from the Judge Urquhart concerning information held by the Police Integrity Commission.

The Committee considered correspondence from Mr Trent Smith requesting that the Committee conduct its inquiry in public.

Resolved, on motion of Mr Manson: That all correspondence addressed to individual members of the Committee concerning this inquiry be responded to by either the Chair or the Clerk.

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The Committee considered correspondence from Superintendent Grahame Smith, on behalf of Commissioner Ryan in response to the Committee's correspondence of 4 and 5 February 1998.

The Committee considered Mrs Arena's submission.

Mr Gross addressed the Committee in relation to Mrs Arena's submission.

The Committee considered Mrs Arena's request, dated 5 February 1998, that all hearings in relation to this inquiry be held in public.

Resolved, on motion of Mr Kelly: That the Chair inform Mrs Arena that the Committee has upheld its earlier resolution that all evidence will be taken in camera, and only those sections of the evidence which the Committee is satisfied will not cause unnecessary damage to the reputations of any individuals, compromise ongoing police investigations or prejudice any matters currently before the courts will be authorised to be made public.

The Committee considered the request by legal advisers on behalf on Mr Carr, Mr Collins and Mr Wood that they have access to Mrs Arena's submission to the Committee.

Resolved, on motion of Revd Mr Nile: That, pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under authority of Standing Order 252, the Committee authorises the Clerk of the Committee to provide Mrs Arena's submission, together with relevant attachments, to legal advisers for Mr Carr and Mr Wood, and the submission only to legal advisers for Mr Collins.

The Committee considered the date for the hearing of evidence from Mrs Arena.

Resolved, on motion of Revd Mr Nile: That the Committee invite Mrs Arena to attend and give evidence in relation to this inquiry on Thursday 26 February 1998 at 11.00 am, with Friday 27 February 1998 and Monday 2 March 1998 set aside as reserve hearing dates.

Resolved, on motion of Mr Jones: That the Chair write to the legal advisers for Mr Carr, Mr Wood, and Mr Collins advising them of the scheduled dates of the Committee's hearings and that questions, in writing, on behalf of their clients may be put to the witnesses through the Committee only after the members of the Committee have concluded their examination.

The Committee adjourned at 4.29 pm, until Thursday 19 February 1998 at 10.00 am.

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Meeting No. 52

Thursday, 19 February 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Mr Johnson	Mr Lynn
Mr Jones	Mr Manson
Mr Kelly	Mr Primrose

Apologies were received from Ms Gardiner and Revd Mr Nile.

Mr Bernard Gross QC and Mr Joe Catanzariti were also in attendance.

Minutes of the previous meeting held 11 February 1998 were confirmed on motion of Mr Primrose.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Letter dated 12 February 1998 from Mr Primrose, forwarding a request from Mr Bob Kijurina for a copy of any publicly available transcripts from the Committee's current inquiry.
- (ii) Letter dated 16 February 1998 from the Crown Solicitor's office requesting further information in relation to the moderation of Mrs Arena's legal advisers' memoranda of fees.
- (iii) Letter (undated) received 18 February 1998 from the Hon. Bob Debus, MP, Minister for Corrective Services, forwarding his Department's Head Office 'Offender' files relating to "Mr G".
- (iv) Letter dated 4 February 1998 from Mr Peter Ryan, Commissioner of Police, to McClellands, Solicitors, regarding the green telephone book belonging to Tony Bevan and certain allegations by "Mr G".

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*Correspondence sent:*

- (i) Letter dated 11 February 1998 from the Chair to Mrs Arena inviting her to attend the Committee and give evidence on Thursday 26 February 1998, and advising her that any supplementary material should be provided to the Committee by 5.00 pm Monday 16 February 1998.
- (ii) Letter dated 13 February 1998 from the Clerk to Ms Jolan Cikos, Greaves, Wannan & Williams, forwarding a copy of Mrs Arena's submission, together with relevant attachments.
- (iii) Letter dated 13 February 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding a copy of Mrs Arena's submission, together with relevant attachments.
- (iv) Letter dated 13 February 1998 from the Clerk to Mr Jim Dwyer, Allen Allen & Hemsley, forwarding a copy of Mrs Arena's submission.
- (v) Letters dated 16 February 1998 from the Clerk to Ms Kate Wentworth, Mrs Helen Ferns and Mrs Freddi Martin, acknowledging receipt of their submissions.
- (vi) Letter dated 18 February 1998 from the Clerk to Mr Stephen Bingle acknowledging receipt of his submission.
- (vii) Letters dated 18 February 1998 from the Clerk to Mr Trent Smith and "Dr C" acknowledging receipt of their letters.
- (viii) Letter dated 18 February 1998 from the Clerk to Mr Robert Quinn, Crown Solicitor's Office, forwarding further information in relation to the memoranda of costs from Mrs Arena's legal advisers.

The Committee deliberated.

The Chair instructed the Committee Clerk to ensure that documents are delivered to Members of the Committee in a prompt manner and that appropriate messages are left with Members' staff to ensure collection.

The Committee considered Mrs Arena's supplementary submission.

Resolved, on motion of Mr Johnson: That, pursuant to the provisions of section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and under authority of Standing Order 252, the Committee authorises the Clerk of the Committee to provide Mrs Arena's supplementary submission, together with relevant attachments, to legal advisers for Mr Carr, Mr Collins and Mr Wood.

Mr Gross addressed the Committee on the nature of the supplementary material and its relevance to the Committee's terms of reference.



Resolved, on motion of Mr Kelly: That the Chair forward a copy of Mrs Arena's submission to the Commissioner of Police for his assessment of the quality of the information of the material contained in the submission.

The Committee considered the date for the hearing of evidence from Mrs Arena.

Resolved, on motion of Mr Lynn: That Mrs Arena's appearance before the Committee be postponed from 11.00 am Thursday 26 February 1998 until 11.00 am Friday 27 February 1998.

Resolved, on motion of Mr Kelly: That Mr Gross, QC, liaise directly with the office of the Commissioner of Police in relation to their assessment of Mrs Arena's supplementary submission.

Resolved, on motion of Mr Primrose: That the Chair write to Police Commissioner Ryan inviting him to appear and give evidence before the Committee in relation to its inquiry into the conduct of Mrs Arena, on Thursday 26 February 1998 at 11.00 am.

Resolved, on motion of Mr Kelly: That "Mr G" be requested, through the Minister for Corrective Services, to sign a release authorising the Committee to access his case management files which contain various psychological reports.

Resolved, on motion of Mr Manson: That the Chair write to the Minister for Health requesting access for the Committee to relevant medical files on "Mr G".

Resolved, on motion of Mr Primrose: That the Chair is authorised to release the following information to the media, in relation to today's proceedings of the Committee:

- notice of the change of date for taking evidence from Mrs Arena
- notice of the hearing of evidence from the Commissioner of Police or his nominee on Thursday 26 February 1998.

The Committee adjourned at 11.12 am, until Thursday 26 February 1998 at 10.00 am.

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Meeting No. 53

Thursday, 26 February 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Revd Mr Nile
Mr Jones	Mr Primrose
Mr Kelly	

Apologies were received from Mr Manson.

Mr Bernard Gross QC and Mr Joe Catanzariti were also in attendance.

Minutes of the previous meeting held 19 February 1998 were confirmed on motion of Mr Primrose.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Letter (undated) received 19 February 1998 from the Treasurer to the President of the Legislative Council, agreeing to fund legal fees for the Committee submitted to date.
- (ii) Letter dated 17 February 1998 from Ms Jane Fitzgerald, A/Chief of Staff, Office of the Minister for Police, acknowledging receipt of our correspondence requesting departmental files on “**Mr G**”.
- (iii) Letter dated 23 February 1998 from the Crown Solicitor’s office forwarding a memorandum of costs for moderating legal fees for the Committee to date.

*Correspondence sent:*

- (i) Letter dated 19 February 1998 from the Chair to Mrs Arena inviting her to attend the Committee and give evidence on Thursday 5 March 1998, and advising her that the Committee would be taking evidence from the Commissioner of Police or his nominee on Monday 2 March 1998.

- (ii) Letter dated 19 February 1998 from the Chair to the Minister for Corrective Services regarding “**Mr G**”’s authorisation to release his case management files.
- (iii) Letter dated 19 February 1998 from the Clerk to Ms Jan Cikos, Greaves, Wannan & Williams, forwarding a copy of Mrs Arena’s supplementary submission, together with relevant attachments.
- (iv) Letter dated 19 February 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding a copy of Mrs Arena’s supplementary submission, together with relevant attachments.
- (v) Letter dated 19 February 1998 from the Clerk to Mr Jim Dwyer, Allen Allen & Hemsley, forwarding a copy of Mrs Arena’s supplementary submission, together with relevant attachments.
- (vi) Letters dated 19 February 1998 from the Chair to the Minister for Health requesting departmental medical records relating to “**Mr G**”.
- (vii) Letter dated 24 February 1998 from the Clerk to Ms Jan Cikos, Greaves, Wannan & Williams, advising of scheduled hearing dates for the Committee.
- (viii) Letters dated 24 February 1998 from the Clerk to Mr Greg Keating, McClellands, advising of scheduled hearing dates for the Committee.
- (ix) Letter dated 24 February 1998 from the Clerk to Mr Jim Dwyer, Allen Allen & Hemsley, advising of scheduled hearing dates for the Committee.

The Committee deliberated.

Resolved, on motion of Revd Mr Nile: That the Chair request the Clerk of the Parliaments to provide written advice on the procedural options available for dealing with the Committee’s report following its tabling in the House.

Mr Gross reported to the Committee on his discussions with Superintendent Grahame Smith, A/Chief of Staff for the Commissioner of Police.

The Committee considered the date for the hearing of evidence from the Commissioner of Police.

Resolved, on motion of Mr Primrose: That, at the discretion of the Chair and subject to the outcome of discussions between legal advisers for the Committee and the Police Commissioner, the Police Commissioner, or his nominee, be invited to appear and give evidence before the Committee in relation to its inquiry into the conduct of Mrs Arena, on Monday 2 March 1998 at 11.00 am.

The Committee considered the date for the hearing of evidence from Mrs Arena.

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Resolved, on motion of Mr Kelly: That Mrs Arena's appearance before the Committee be postponed from 11.00 am Friday 27 February 1998 until 11.00 am Thursday 5 March 1998.

Resolved, on motion of Mr Primrose: That Mr Gross, QC, and Mr Catanzariti review the material tabled in the House by Mrs Arena on Tuesday 21 October 1997 and advise the Committee on its contents.

Following discussion of the request from Mrs Freddi Martin that each member of the Committee write to her advising that they have personally received her submission, the Committee upheld its earlier resolution that the Chair or Clerk respond to all correspondence in relation to this inquiry.

The Committee extended its thanks to Ms Vicki Mullen for her efforts as Senior Project Officer during the last year.

The Committee adjourned at 11.35 am, *sine die*.

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Meeting No. 54

Thursday, 5 March 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Mr Johnson	Mr Lynn
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Apologies were received from Ms Gardiner and Mr Manson.

Mr Bernard Gross QC was also in attendance.

Minutes of the previous meeting held 26 February 1998 were confirmed on motion of Mr Kelly.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Letter dated 25 February 1998 from the Treasurer to the President of the Legislative Council, agreeing to fund legal fees for the Premier, the Leader of the Opposition and the Hon. Justice Wood to enable their representatives to appear before the Committee.
- (ii) Letter dated 2 March 1998 from Mr Jim Dwyer, Allen Allen & Hemsley, advising that the Leader of the Opposition, the Hon. Peter Collins, MP, does not presently intend to be legally represented before the Committee.
- (iii) Letter dated 4 March 1998 from Mr Bernard Gross QC to Dr Meredith Burgmann in response to a letter from McCabes Lawyers expressing concern over meetings between the Chair and legal representatives for the Premier, Mr Carr.
- (iv) Letter dated 4 March 1998 from McCabes Lawyers to Dr Burgmann expressing concern over meetings between the Chair and legal representatives for the Premier, Mr Carr.

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- (v) Letter dated 4 March 1998 from Mr Greg Keating, McClellands Solicitors, forwarding correspondence from *[details suppressed]*, and press clippings and other background material relating to “**Mr S**”.

*Correspondence sent:*

- (i) Letter dated 26 February 1998 from the Chair to *[details suppressed]*, forwarding a release to be signed by “**Mr G**” in relation to access to his case management files.
- (ii) Letter dated 26 February 1998 from the Chair to the “**Mr G**” requesting his authorisation to release his case management files to the Committee.
- (iii) Letter dated 26 February 1998 from the Chair to Mrs Freddi Martin advising her that the Committee had resolved that all correspondence to the Committee would be responded to by either the Chair or the Committee Clerk.
- (iv) Letter dated 26 February 1998 from the Chair to Mr Greg Keating, McClellands, advising that the Premier had agreed to fund the Premier’s legal costs in line with the scale of fees normally allowable for such inquiries.
- (v) Letter dated 26 February 1998 from the Clerk to Mr Jim Dwyer, Allen Allen & Hemsley, advising that the Premier had agreed to fund the Leader of the Opposition’s legal costs in line with the scale of fees normally allowable for such inquiries.
- (vi) Letter dated 26 February 1998 from the Chair to Ms Jolan Cikos, Greaves, Wannan & Williams, advising that the Premier had agreed to fund the Hon. Justice Wood’s legal costs in line with the scale of fees normally allowable for such inquiries.
- (vii) Letter dated 27 February 1998 from the Clerk to Mrs Arena, advising that the appearance of the Police Commissioner before the Committee had been deferred at this time.
- (viii) Letters dated 27 February 1998 from the Clerk to Mr Greg Keating, McClellands, advising that the appearance of the Police Commissioner before the Committee had been deferred at this time.
- (ix) Letter dated 27 February 1998 from the Clerk to Mr Jim Dwyer, Allen Allen & Hemsley, advising that the appearance of the Police Commissioner before the Committee had been deferred at this time.
- (x) Letter dated 27 February 1998 from the Clerk to Ms Jolan Cikos, Greaves, Wannan & Williams, advising that the appearance of the Police Commissioner before the Committee had been deferred at this time.

The Committee deliberated.

Resolved, on motion of Mr Primrose: That the Chair write to **“Mr G”** seeking his authorisation for the Committee to access his medical records.

Resolved, on motion of Mr Kelly: That the Chair write to the Commissioner of Police requesting him to produce to the Committee the following documents:

- 1. “Mr G”**  
**(D.3.5.5a)**
  - 1.1 Records of all arrests and convictions of **“Mr G”**
  - 1.2 All record of interview between Police and **“Mr G”** between 1 January 1995 and the present date.
  - 1.3 All statements (whether signed or unsigned) and statutory declarations obtained by the Police from **“Mr G”** between 1 January 1995 and the present date.
  - 1.4 Any tape recordings or video tapes of interviews between Police and **“Mr G”** between 1 January 1995 and the present date.
  - 1.5 All transcripts of interviews between Police and **“Mr G”** between 1 January 1995 and the present date.
  - 1.6 Original “worn green telephone book” kept by **“Mr K”** and subsequently obtained by the Child Protection Enforcement Agency from the Police Integrity Commission.
  - 1.7 All reports between 1 January 1995 and the present date concerning and retraction made by **“Mr G”** of any allegations made by him that any individual has been engaged in paedophile activity.
  
- 2. “Mr S”**
  - 2.1 Records of all arrests and convictions of **“Mr S”**
  - 2.2 All record of interview between Police and **“Mr S”** between 1 January 1991 and the present date.
  - 2.3 All statements (whether signed or unsigned) and statutory declarations obtained by the Police from **“Mr S”** between 1 January 1991 and the present date.
  - 2.4 Any tape recordings or video tapes of interviews between Police **“Mr S”** between 1 January 1991 and the present date.
  - 2.5 All transcripts of interviews between Police and **“Mr S”** between 1 January 1991 and the present date.
  - 2.6 File of former Special Branch concerning **“Mr S”**.
  
- 3. “Ms A”**
  - 3.1 Records of all arrests and convictions of **“Ms A”**.
  - 3.2 All records of interview or transcripts of interviews between the Police and **“Ms A”** between 1 January 1992 and the present date, concerning allegations by her against any person of engaging in paedophile activity.
  - 3.3 All statements (whether signed or unsigned) and statutory declarations obtained by the Police or provided to the Police from **“Ms A”** between 1 January 1992 and the present date concerning any allegations made by her against any person of engaging in paedophile activity.

**4. “Ms BR”**

- 4.1 Records of all arrests and convictions of “**Ms BR**”.
- 4.2 All records of interview or transcripts of interviews between the Police and “**Ms BR**” between 1 January 1992 and the present date, concerning allegations by her against any person of engaging in paedophile activity.
- 4.3 All statements (whether signed or unsigned) and statutory declarations obtained by the Police or provided to the Police from “**Ms BR**” between 1 January 1992 and the present date concerning any allegations made by her against any person of engaging in paedophile activity.

Resolved, on motion of Mr Kelly: That the Chair write to the Clerk of the Court, Wollongong Local Court, requesting him to produce to the Committee the following documents:

Transcript of proceedings in committal proceedings [*details suppressed*] involving allegations of sexual assaults against children by “**Mr AE**”, and in particular:

- (a) deposition or transcript of the evidence given by the witness known as W3;
- (b) the record of closing addresses made in those proceedings;
- (c) the record of the judgement or reasons for the decision of the presiding Magistrate in resolving the committal proceedings.

Resolved, on motion of Mr Kelly: That the Chair write to the Clerk of the Court, North Sydney Local Court, asking him to produce to the Committee the following document:

File concerning Proceedings [*details suppressed*] in which “**Ms A**” brought proceedings against her parents for an apprehended violence order, including all depositions or transcript of proceedings, exhibits or statements on file, correspondence concerning proceedings, and determination by Magistrate.

Resolved, on motion of Mr Kelly: That the Chair write to the Registrar of the Victims Compensation Tribunal asking him to produce to the Committee the following documents:

- (a) All files concerning any claim for victims compensation made by “**Ms A**”, including all claims for compensation, medical reports, evaluative reports, transcripts of proceedings from any Court or before the Tribunal itself, witness statements, correspondence concerning the claim and record of determination by the Tribunal together with any records concerning any appeal from the Tribunal’s decision.
- (b) All files concerning any claim for victims compensation made by “**Ms A**”, including all claims for compensation, medical reports, evaluative reports, transcripts of proceedings from any Court or before the Tribunal itself, witness



statements, correspondence concerning the claim and record of determination by the Tribunal together with any records concerning any appeal from the Tribunal's decision.

Resolved, on motion of Mr Kelly: That the Chair write to the Commissioner of the Police Integrity Commission asking him to produce to the Committee the following documents:

**(1) "Mr G"**

- 1.1 All records of interview between the Police Royal Commission Investigators and "Mr G".
- 1.2 All statements or records of conversations prepared by the Police Royal Commission Investigators in relation to "Mr G"
- 1.3 All statutory declarations by "Mr G".
- 1.4 Transcripts of any evidence given by "Mr G" before the Police Royal Commission.
- 1.5 All documents provided by "Mr G" to the Police Royal Commission, or tendered in relation to "Mr G" during evidence before the Police Royal Commission.
- 1.6 All correspondence between "Mr G" and the Police Royal Commission.
- 1.7 All psychological or other evaluation reports concerning "Mr G".
- 1.8 Original or copy of "worn green telephone address book" kept by "Mr K".

**(2) "Mr S"**

- 2.1 All records of interview between the Police Royal Commission Investigators and "Mr S".
- 2.2 All statements or records of conversations prepared by the Police Royal Commission Investigators in relation to "Mr S".
- 2.3 All statutory declarations by "Mr S".
- 2.4 Transcripts of any evidence given by "Mr S" before the Police Royal Commission.
- 2.5 All documents provided by "Mr S" to the Police Royal Commission, or tendered in relation to "Mr S" during evidence before the Police Royal Commission.
- 2.6 All correspondence between "Mr S" and the Police Royal Commission.
- 2.7 All psychological or other evaluative reports concerning "Mr S".

**(3) "Ms A" AND HER SISTER "Ms BR"**

- 3.1 All statements, records of interview and statutory declarations made by "Ms A".
- 3.2 All statements, records of interview and statutory declarations made by "Ms BR".
- 3.3 All reports by Police Royal Commission staff concerning conversations with "Ms A".
- 3.4 All reports by Police Royal Commission staff concerning conversations with "Ms BR".
- 3.5 All evaluative reports, including psychological reports, concerning "Ms A".
- 3.6 All evaluative reports, including psychological reports, concerning "Ms BR".
- 3.7 All correspondence between "Ms A" and the Police Royal Commission.
- 3.8 All correspondence between "Ms BR" and the Police Royal Commission.

- 3.9 All investigative files concerning allegations made to the Police Royal Commission by “**Ms A**”.
  - 3.10 All investigative files concerning allegations made to the Police Royal Commission by “**Ms BR**”.
  - 3.11 All correspondence between “**Dr C**” and the Police Royal Commission concerning “**Ms A**”.
  - 3.12 All correspondence between “**Dr C**” and the Police Royal Commission concerning “**Ms BR**”.
  - 3.13 All hospital or medical treatment records in relation to “**Ms A**”.
  - 3.14 All hospital or medical treatment records in relation to “**Ms BR**”.
  - 3.15 All documents provided to the Police Royal Commission by or on behalf of “**Ms A**”.
  - 3.16 All documents provided to the Police Royal Commission by or on behalf of “**Ms BR**”.
  - 3.17 Transcripts of any evidence given by “**Ms A**” before the Police Royal Commission.
  - 3.18 Transcripts of any evidence given by “**Ms BR**” before the Police Royal Commission.
- (4) THE HONOURABLE FRANCE ARENA, MLC**
- 4.1 All correspondence between Franca Arena and the Police Royal Commission.

The Committee continued to deliberate.

Mrs Arena was admitted and sworn.

Members of the Legislative Council were admitted.

Mr Philip Taylor, Barrister, and Mr Peter Karp, Solicitor, legal advisers to Mrs Arena, were admitted.

Mr John McCarthy QC, Mr Peter Skinner, Barrister, and Mr Greg Keating, Solicitor, legal advisers to the Premier, Mr Carr, were admitted.

Mr Brett Walker SC, Mr Richard Lancaster, Barrister, and Ms Jolan Cikos, Solicitor, legal advisers to the Hon. Justice Wood, were admitted.

Mrs Arena was examined in camera.

The Chair left the Chair at 1.05 pm.

The Committee resumed at 2.00 pm.

Examination of Mrs Arena continued.

Evidence concluded, the witness withdrew.

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Members of the Legislative Council and legal advisers to Mrs Arena, Mr Carr and Justice Wood withdrew.

The Committee deliberated.

Resolved, on motion of Mr Jones: That unedited copies of Mrs Arena's evidence be made available to members of the Committee, Mrs Arena and her legal advisers, and legal advisers to Mr Carr and Justice Wood.

Resolved, on motion of Mr Kelly: That any proposed questions from legal advisers to Mr Carr and Justice Wood be lodged with the Committee by 5.00 pm Thursday 12 March 1998.

The Committee agreed that the Chair advise the media that the Committee would be taking further evidence from Mrs Arena; the transcript of Mrs Arena's evidence would be made available on Tuesday 10 March 1998; and that the Committee supports the actions of the Chair in meeting with Mr Carr's legal advisers to discuss matters of procedure in relation to the Committee.

The Committee adjourned at 5.03 pm, until Monday 9 March 1998 at 12.00 p.m.

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Meeting No. 55

Monday 9 March 1998

at Parliament House, Sydney at 12.00 pm

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Primrose
Mr Johnson	Mr Lynn
Mr Jones	Mr Manson
Mr Kelly	

Apologies were received from Revd Mr Nile.

Mr Bernard Gross QC was also in attendance.

Minutes of the previous meeting held 5 March 1998 were confirmed on motion of Mr Primrose.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Letter dated 5 March 1998 from Judge P. Urquhart QC, Commissioner, Police Integrity Commission, forwarding documents in relation to “**Mr G**”, “**Ms A**”, “**Ms BR**” and Franca Arena MLC, requested by the Committee.
- (ii) Letter dated 6 March 1998 from the Registrar, Victims Compensation Tribunal, forwarding documents in relation to “**Ms A**” and “**Ms BR**”.
- (iii) Letter dated 6 March 1998 from Mr F. Hutchison, General Manager, Legal Services, NSW Police Service to Dr Meredith Burgmann advising that due to the volume of material required it was not possible to meet the 5.00 pm Friday 6 March deadline.
- (iv) Letter dated 6 March 1998 from Mr John Levett, Clerk of the Court, North Sydney Court, forwarding documents in relation to “**Ms A**”.
- (v) Letter dated 6 March 1998 from Mr Bill Wheeler, Clerk of the Court, Local Court Wollongong, forwarding documents in relation to “**Mr G**”.

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- (vi) Letter (undated) received 9 March 1998 from Mr Trent Smith requesting that the Committee send him copies of all press releases or news releases issued by the Committee.

*Correspondence sent:*

- (ii) Letter dated 5 March 1998 from the Chair to the Commissioner, Police Integrity Commission, requesting certain documents relating to “Mr G”, “Ms A”, “Ms BR” and the Hon. Franca Arena, MLC.
- (iii) Letter dated 5 March 1998 from the Chair to Mr Paul Smith, Clerk of the Court, Wollongong Local Court, requesting certain documents relating to “Mr G”.
- (iv) Letter dated 5 March 1998 from the Chair to Mr John Levett, Clerk of the Court, North Sydney Local Court, requesting certain documents relating to “Ms A”.
- (v) Letter dated 5 March 1998 from the Chair to Mr Peter Ryan, Commissioner of Police, requesting certain documents relating to “Mr G”, “Ms A” and “Ms BR”.
- (vi) Letter dated 5 March 1998 from the Chair to Mr Colin Crossland, Registrar, Victims Compensation Tribunal, requesting certain documents relating to “Ms A” “Ms BR”.
- (vii) Letter dated 6 March 1998 from the Clerk to Ms Jolan Cikos, Greaves, Wannan & Williams, forwarding the transcript of Mrs Arena’s evidence and advising of the next scheduled hearing date for the Committee.
- (viii) Letter dated 6 March 1998 from the Clerk to Mr Jim Dwyer, Allen Allen & Hemsley, forwarding the transcript of Mrs Arena’s evidence and advising of the next scheduled hearing date for the Committee.
- (ix) Letter dated 6 March 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding the transcript of Mrs Arena’s evidence and advising of the next scheduled hearing date for the Committee.
- (x) Letter dated 9 March 1998 from the Clerk to Mr Greg Keating, McClellands, advising that the Committee had resolved that any proposed questions to be put to Mrs Arena from legal advisers to Mr Carr and Justice Wood must be lodged with the Committee by 5.00 pm Thursday 12 March 1998.
- (xi) Letter dated 9 March 1998 from the Clerk to Ms Jolan Cikos, Greaves, Wannan & Williams, advising that the Committee had resolved that any proposed questions to be put to Mrs Arena from legal advisers to Mr Carr and Justice Wood must be lodged with the Committee by 5.00 pm Thursday 12 March 1998.

The Committee deliberated.

Resolved, on motion of Mr Manson: That the Clerk write to Mr Trent Smith advising that it is

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not the Committee's practice to supply copies of press or news releases and that such items are available from public deposit libraries and relevant media organisations.

The Committee continued to deliberate.

The Committee considered the transcript of Mrs Arena's evidence given on 5 March 1998 with a view to editing the transcript for publication.

The Committee agreed that the following meetings would be held:

**Monday 16 March 1998**

- |                       |   |  |
|-----------------------|---|--|
| 10.30 a.m.-11.30 a.m. | - | Deliberative meeting                   |
| 11.30 a.m. onwards    | - | Further in camera hearing of Mrs Arena |

**Tuesday 17 March 1998**

- |            |   |                                     |
|------------|---|-------------------------------------|
| 10.00 a.m. | - | Editing transcripts for publication |
|------------|---|-------------------------------------|

**Tuesday 24 March 1998**

- |            |   |                 |
|------------|---|-----------------|
| 10.00 a.m. | - | All day meeting |
|------------|---|-----------------|

**Thursday 26 March 1998**

- |            |   |         |
|------------|---|---------|
| 10.00 a.m. | - | Meeting |
|------------|---|---------|

Resolved, on motion of Mr Lynn: That the Chair write to North Side Clinic and St John of God Hospital, Lakemba, requesting copies of medical and psychiatric records of "Ms A".

The Committee adjourned at 4.42 p.m., until Monday 16 March 1998 at 10.30 a.m.

Meeting No. 56

Monday 16 March 1998

at Parliament House, Sydney at 10.30 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Primrose
Mr Johnson	Mr Lynn
Mr Jones	Mr Manson
Mr Kelly	Revd Mr Nile

Mr Bernard Gross QC and Joe Catanzariti were also in attendance.

Resolved, on motion of Mr Manson: That Minutes No. 55 be amended by inserting after “**Ms A**” the words “**Ms BR**” in the second last paragraph on page 2.

Minutes of Meeting No. 55, as amended, were confirmed, on motion of Mr Johnson.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Letter dated 13 March 1998 from the Hon. Franca Arena, MLC, forwarding the signed statement from “**Mr G**”.
- (ii) Letter dated 13 March 1998 from Ms Jolan Cikos, Greaves, Wannan & Williams, requesting an opportunity to examine the version of Mrs Arena’s evidence proposed for release prior to it being made public.
- (iii) Letter dated 16 March 1998 from “**Dr C**” requesting that a non-publication and non-disclosure order be put on any matters relating to her patient and her material.

*Correspondence sent:*

- (i) Letter dated 10 March 1998 from the Chair to Dr Leo Keliher, Commissioner of Corrective Services, forwarding the signed receipt acknowledging the receipt of five files relating to “**Mr G**”.

- (ii) Letter dated 11 March 1998 from the Clerk to Mr Trent Smith informing him that it is not the Committee's practice to supply copies of press or news releases on request.
- (iii) Letter dated 13 March 1998 from the Chair to the North Side Clinic, Greenwich, requesting certain documents relating to "Ms A" and "Ms BR".

The Committee deliberated.

Resolved, on motion of Revd Mr Nile: That the codenames agreed on by the Committee for the purpose of publishing the transcript of Mrs Arena's evidence be adopted in the Minutes of the Committee when the Minutes are published as part of the Committee's final report on this matter.

Mr Gross advised the Committee concerning two statements by "Ms A" included in the material tabled by Mrs Arena in the Legislative Council on 21 October 1997.

Resolved, on motion of Mr Jones: That the lawyers for Justice Wood, Mr Carr, Mr Collins and Mrs Arena be given a copy of the edited version of the transcript of Mrs Arena's evidence given on 5 March 1998 which the Committee proposes to authorise for publication.

Resolved, on motion of Mr Kelly: That the Chair write to "Dr C" informing her that the Committee has preserved the anonymity of all persons who have made allegations in material or evidence submitted to the Committee and of all persons who are the subject of allegations, and that all legal representatives who have been granted access to material or evidence before the Committee have been notified of the strict confidentiality requirements.

The Committee deliberated concerning the release of the edited transcripts of Mrs Arena's evidence and the possibility of holding a lock-up.

Resolved, on motion of Mr Primrose: That the Committee hold a two hour lock-up preceding the public release of the edited transcripts.

The Committee considered the evidence given by Mrs Arena and questions addressed to Mrs Arena supplied by the legal advisers for Mr Carr and Mr Wood.

Resolved, on motion of Mr Lynn: That the Clerk write to Mr Michael Woodhouse requesting him to answer questions provided by the legal advisers for Mr Carr, and inviting him to attend the Committee in relation to the questions raised.

The Committee considered procedures to be adopted in relation to referring to Mrs Arena's submissions and annexures.

Mrs Arena was admitted.

Mr Philip Taylor, Barrister, and Mr Peter Karp, Solicitor, legal advisers to Mrs Arena, were admitted.



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Mr John McCarthy QC, Mr Peter Skinner, Barrister, and Mr Greg Keating, Solicitor, legal advisers to the Premier, Mr Carr, were admitted.

Mr Brett Walker SC, Mr Richard Lancaster, Barrister, and Ms Jan Cikos, Solicitor, legal advisers to the Hon. Justice Wood, were admitted.

Mrs Arena was further examined in camera.

Mrs Arena tabled a letter, dated 24 December 1997, from the Committee requiring Mrs Arena to provide a full written statement of evidence to the Committee by 23 January 1998.

Evidence continued.

*[details suppressed]*.

Evidence continued.

Mrs Arena tabled a letter, dated 10 March 1998, from Mr Greig Tillotson, Manager, Reference and Information Services, Parliamentary Library, relating to the state of the Legislative Assembly.

Evidence continued.

The Chair left the Chair at 1.00 pm.

The Committee resumed at 2.00 pm.

Examination of Mrs Arena continued.

Evidence adjourned, the witness withdrew.

Legal advisers to Mrs Arena, Mr Carr and Justice Wood withdrew.

The Committee deliberated.

The Committee agreed that the media should be informed that the hearing today has been adjourned on the request of Mrs Arena.

The Committee agreed to the following schedule of meetings:

- |                               |   |  |
|-------------------------------|---|--|
| <b>Tuesday 17 March 1998</b>  | - | Deliberative meeting                     |
| 10.00 a.m.                    |   |  |
| <b>Tuesday 24 March 1998</b>  | - | Deliberative meeting followed by hearing |
| 10.00 a.m.                    |   |  |
| <b>Thursday 26 March 1998</b> | - | Reserve hearing day                      |

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10.00 a.m.

Resolved, on motion of Mr Kelly: That, pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under authority of Standing Order 252, the Committee authorises the Clerk of the Committee to provide attachments Nos 10 and 22 from Mrs Arena's original submission to legal advisers for Mr Wood.

The Committee adjourned at 3.40 p.m., until Tuesday 17 March 1998 at 10.00 a.m.

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Meeting No. 57

Tuesday 17 March 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Primrose
Mr Johnson	Mr Lynn
Mr Jones	Mr Manson
Mr Kelly	Revd Mr Nile

Mr Bernard Gross QC was also in attendance.

Minutes of Meeting No. 56 were confirmed on motion of Ms Gardiner.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Submission dated 17 March 1998 from the Hon. Franca Arena, MLC, concerning the publication of the transcript of her evidence given on 5 March 1998.
- (ii) Submission dated 17 March 1998 from Mr B Walker SC concerning the publication of the transcript of evidence from Mrs Arena given on 5 March 1998.
- (iii) Submission dated 17 March 1998 from Mr JA McCarthy QC concerning the publication of the transcript of evidence from Mrs Arena given on 5 March 1998.
- (iv) Letter dated 16 March 1998 from Ms G Forsyth, Medical Records Department, The Northside Clinic, advising that “**Ms BR**” has not been a patient there.

The Committee deliberated.

Resolved, on motion of Revd Mr Nile: That the Clerk write to Mrs Arena, reminding her of the terms of Standing Order 252 and the consequences of breaching its terms.

Resolved, on motion of Mr Primrose: That the published transcript of Mrs Arena’s evidence given on 5 March 1998 be given to the legal advisers for Justice Wood, Mr Carr, Mr Collins and Mrs

Arena at the commencement of the media lockup, with the proviso that the material may not be released until the conclusion of the lockup.

Resolved, on motion of Revd Mr Nile: That Mr Gross QC advise the Commissioner of Police that “Mr AA”’s name would be coded in the transcript, and seek his response.

The Committee considered a submission from Mrs Arena concerning the edited transcript of her evidence.

Resolved, on motion of Mr Primrose: That the Clerk write to Mrs Arena advising that the Committee was unable to accede to her points 1-3 and 5-12, but had accepted her argument on point 4, and was still considering the issue of making public her 2 submissions and annexures.

The Committee considered a submission from Mr Bret Walker SC, on behalf of Justice Wood, concerning the edited transcript of Mrs Arena’s evidence.

Resolved, on motion of Revd Mr Nile: That the Clerk write to Mr Bret Walker SC advising that the Committee decided that the evidence should be made public, but had agreed to the matter relating to pages 13 and 32, but not page 65, and to the amendments suggested in paragraph 13 of his submission relating to pages 7, 8 and 86.

The Committee considered a submission from Mr JA McCarthy QC, on behalf of the Premier, concerning the edited transcript of Mrs Arena’s evidence.

Resolved, on motion of Mr Primrose: That the Clerk write to Mr JA McCarthy QC advising that the Committee had decided to accept the changes suggested on pages 8, 12, 17, 18, 26 and 86.

Resolved, on motion of Mr Jones: That unedited copies of Mrs Arena’s evidence, given on 16 March 1998, be made available to members of the Committee, Mrs Arena and her legal advisers, and legal advisers to Mr Carr and Justice Wood.

Resolved, on motion of Mr Primrose: That edited copies of the transcript of evidence from 16 March 1998 be forwarded to Mrs Arena and her legal advisers, and legal advisers to Mr Carr and Justice Wood as soon as it is available, and that they be requested to return any submissions concerning the evidence by 10.00 am Tuesday 24 March 1998.

The Committee agreed that a media lockup would be held from 10.30 am until 12.30 pm Wednesday 18 March 1998, prior to the public release of the transcript of evidence given by Mrs Arena on 5 March 1998.

The Committee adjourned at 12.47 p.m., until Tuesday 24 March 1998 at 10.00 a.m.

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Meeting No. 58

Tuesday 24 March 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Primrose
Mr Johnson	Mr Lynn
Mr Jones	Mr Manson
Mr Kelly	Revd Mr Nile

Mr Bernard Gross QC and Mr Joe Catanzariti were also in attendance.

Minutes of Meeting No. 57 were confirmed on motion of Mr Manson.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Letter dated 17 March 1998 from the Mrs Arena seeking information concerning various matters relating to her submission and transcripts of evidence.
- (ii) Letter dated 17 March 1998 from Ms Jolan Cikos, Greaves, Wannan & Williams, requesting a copy of attachment 29 to Mrs Arena's submission.
- (iii) Facsimile dated 17 March 1998 from Mr Bernard Gross QC forwarding a copy of a letter dated 17 March 1998 from Mr Peter Skinner of Counsel concerning the edited version of the letter from Commissioner Ryan attached to the transcript of Mrs Arena's evidence of 5 March 1998.
- (iv) Anonymous facsimile dated 19 March 1998 forwarding a published article [*details suppressed*].
- (v) Letter dated 20 March 1998 from Mrs Arena requesting a copy of the resolution of the Committee authorising legal advice for Mr Collins, Mr Carr and Justice Wood.
- (vi) Undated letter from Mr Trent Smith (received 23 March 1998) concerning the conduct of the inquiry.

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- (vii) Anonymous facsimile dated 23 March 1998 concerning various matters referred to in the transcript of Mrs Arena's evidence of 5 March 1998 and forwarding a published article apparently extracted from *[details suppressed]*.
- (viii) Letter dated 23 March 1998 from "Dr C" raising concerns regarding the publication of evidence by the Committee.
- (ix) Submission dated 17 March 1998 from the Hon. Franca Arena, MLC, concerning the publication of the transcript of her evidence given on 16 March 1998.
- (x) Submission dated 17 March 1998 from Mr JA McCarthy QC concerning the publication of the transcript of evidence from Mrs Arena given on 16 March 1998.

*Correspondence sent:*

- (i) Letter dated 17 March 1998 from the Clerk to Mrs Arena concerning suggested amendments to the evidence given by her on 5 March 1998.
- (ii) Letter dated 17 March 1998 from the Clerk to Mr J A McCarthy QC concerning suggested amendments to the evidence given by Mrs Arena on 5 March 1998.
- (iii) Letter dated 17 March 1998 from the Clerk to Mr B Walker SC Chair concerning suggested amendments to the evidence given by Mrs Arena on 5 March 1998.
- (iv) Letter dated 17 March 1998 from the Clerk to "Dr C" concerning the confidentiality of Committee proceedings.
- (v) Letter dated 17 March 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 16 March 1998 from Mrs Arena.
- (vi) Letter dated 17 March 1998 from the Clerk to Mr Jim Dwyer, Allen Allen and Hemsley, forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 16 March 1998 from Mrs Arena.
- (vii) Letter dated 17 March 1998 from the Clerk to Ms Jolan Cikos, Greaves Wannan and Williams, forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 16 March 1998 from Mrs Arena.
- (viii) Letter dated 17 March 1998 from the Clerk to Mrs Arena forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 16 March 1998 from Mrs Arena.
- (ix) Letter dated 18 March 1998 from the Clerk to "Mr AA" inviting him to make a statement to the Committee concerning matters raised in questions submitted by legal advisers for the Premier.

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- (x) Letter dated 18 March 1998 from the Clerk to Mr Jim Dwyer, Allen Allen and Hemsley, forwarding 3 copies of the final edited transcript of in camera evidence taken by the Committee on 5 March 1998 from Mrs Arena
- (xi) Letter dated 18 March 1998 from the Clerk to Ms Jolan Cikos, Greaves Wannan and Williams, forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 5 March 1998 from Mrs Arena.
- (xii) Letter dated 18 March 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 5 March 1998 from Mrs Arena.
- (xiii) Letter dated 18 March 1998 from the Clerk to Mrs Arena forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 5 March 1998 from Mrs Arena.
- (xiv) Letter dated 23 March 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 16 March 1998 from Mrs Arena.
- (xv) Letter dated 23 March 1998 from the Clerk to Mrs Arena forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 16 March 1998 from Mrs Arena.
- (xvi) Letter dated 23 March 1998 from the Clerk to Ms Jolan Cikos, Greaves Wannan and Williams forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 16 March 1998 from Mrs Arena.

The Committee deliberated.

Resolved, on motion of Mr Johnson: That the Clerk forward an extract of the Minutes of Proceedings concerning the resolution passed by the Committee allowing, legal advisers for the Hon. RJ Carr, MP, the Hon PJ Collins, MP, and the Hon. Justice J Wood to be present during in camera hearings of the Committee during the course of the inquiry into the conduct of the Hon. Franca Arena, MLC.

Resolved, on motion of Mr Kelly: That the Committee ratifies the decision of the Chair to delete an additional section from addendum 2 of the published transcript of evidence from 5 March 1998.

The Committee agreed that a media lockup would be held from 10.30 am until 12.00 pm Wednesday 25 March 1998, prior to the public release of the transcript of evidence given by Mrs Arena on 16 March 1998.

Resolved, on motion of Mr Primrose: That the published transcript of Mrs Arena's evidence given on 16 March 1998 be given to the legal advisers for Justice Wood, Mr Carr, Mr Collins and Mrs

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Arena at the commencement of the media lockup, with the proviso that the material may not be released until the conclusion of the lockup.

The Committee considered statements from Mrs Arena reported in the media concerning the conduct of the Committee's inquiry.

Resolved, on motion of Revd Mr Nile: That the Clerk consider all media reports concerning the inquiry and provide advice as to what, if any, action the Committee should take.

The Committee considered the issue of publishing Mrs Arena's submissions and attachments.

Mrs Arena was admitted.

Members of the Legislative Council were admitted.

Mr Philip Taylor, Barrister, and Mr Peter Karp, Solicitor, legal advisers to Mrs Arena, were admitted.

Mr John McCarthy QC, Mr Peter Skinner, Barrister, and Mr Greg Keating, Solicitor, legal advisers to the Premier, Mr Carr, were admitted.

Mr Richard Lancaster, Barrister, and Ms Jolan Cikos, Solicitor, legal advisers to the Hon. Justice Wood, were admitted.

Mrs Arena was further examined in camera.

Evidence adjourned at 11.50 am, the witness withdrew.

Members of the Legislative Council withdrew.

Legal advisers to Mrs Arena, Mr Carr and Justice Wood withdrew.

The Committee deliberated.

The Committee further considered the public release of Mrs Arena's submissions and attachments.

Mr Primrose moved: That Mrs Arena's submission and supplementary submission, together with their attachments, be edited according to the Committee's resolution in that behalf, and released publicly as soon as practicable.

Debate ensued.

Question put and passed.

The witness was readmitted.



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Members of the Legislative Council and legal advisers to Mrs Arena, Mr Carr and Justice Wood were readmitted.

Examination of Mrs Arena continued at 12.08 pm.

Evidence adjourned at 12.20 pm, the witness withdrew.

Members of the Legislative Council withdrew.

Legal advisers to Mrs Arena, Mr Carr and Justice Wood withdrew.

The Committee deliberated.

Ms Gardiner moved: That Mrs Arena's submissions and attachments be incorporated in today's transcript of evidence and be published simultaneously.

Debate ensued.

Question put and passed.

The Committee continued to deliberate.

Revd Mr Nile moved: That the release date of the transcript of evidence from Monday 16 March 1998 be determined at a deliberative meeting after today's hearing.

Debate ensued.

Question put and passed.

The witness was readmitted.

Members of the Legislative Council and legal advisers to Mrs Arena, Mr Carr and Justice Wood were readmitted.

Examination of Mrs Arena continued at 12.35 pm.

Evidence adjourned at 1.05 pm.

The Committee continued to deliberate.

The Committee considered the release of the transcript of evidence from 16 March 1998.

Revd Mr Nile moved: That the transcript of evidence from Monday 16 March 1998 be delayed until the release of Mrs Arena's submissions and attachments.

Debate ensued.

Question put and negatived.

The Chair left the Chair at 1.24 pm.

The Committee resumed at 2.00 pm.

The Committee continued to deliberate.

The Committee considered a submission from Mr Bret Walker SC, on behalf of Justice Wood, concerning the edited transcript of Mrs Arena's evidence from 16 March 1998.

Resolved, on motion of Revd Mr Nile: That the Clerk write to Mr Bret Walker SC advising that the Committee decided that the evidence should be made public, and had only agreed to the suggested amendment in paragraph 2(f) relating to page 45 of the edited draft.

The Committee continued to deliberate.

The witness was readmitted.

Members of the Legislative Council and legal advisers to Mrs Arena, Mr Carr and Justice Wood were readmitted.

Examination of Mrs Arena continued at 2.40 pm.

Evidence adjourned at 4.06 pm, the witness withdrew.

Members of the Legislative Council withdrew.

Legal advisers to Mrs Arena, Mr Carr and Justice Wood withdrew.

The Committee deliberated.

The Committee considered a submission from Mr JA McCarthy QC, on behalf of the Premier, concerning the edited transcript of Mrs Arena's evidence from 16 March 1998.

Resolved, on motion of Mr Primrose: That the Clerk write to Mr JA McCarthy QC advising that the Committee had agreed to accept the changes suggested on page 12, and to further amend pages 13, 14, and 15.

The Committee considered a submission from Mrs Arena concerning the edited transcript of her evidence from 16 March 1998.

Revd Mr Nile moved: That the Committee agree to Mrs Arena's submission regarding the suppression of evidence on page 3.

Debate ensued.

Question put and negatived.

Revd Mr Nile moved: That the Committee agree to Mrs Arena's submission regarding the suppression of evidence on page 4.

Debate ensued.

Question put and negatived.

Revd Mr Nile moved: That the Committee agree to Mrs Arena's submission regarding the suppression of evidence on page 7.

Debate ensued.

Question put and negatived.

Revd Mr Nile moved: That the Committee agree to Mrs Arena's submission regarding the suppression of evidence on page 8.

Debate ensued.

Question put and negatived.

The Committee agreed with Mrs Arena's submission regarding the suppression of evidence on page 19.

Mr Primrose moved: That the Committee endorse the advice of Mr Gross QC, and not agree to Mrs Arena's submission regarding the suppression of evidence on page 22.

Debate ensued.

Question put and passed.

The Committee disagreed with Mrs Arena's submission regarding the suppression of evidence on page 24, but agreed with the suggested amendments to the middle of page 25.

Revd Mr Nile moved: That the Committee agree to Mrs Arena's submission regarding the suppression of evidence on the bottom of page 25.

Debate ensued.

Question put and negatived.

Mr Primrose moved: That the Committee endorse the advice of Mr Gross QC, and not agree to Mrs Arena's submission regarding the suppression of evidence on page 26.

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Debate ensued.

Question put and passed.

Mr Primrose moved: That the Committee endorse the advice of Mr Gross QC, and not agree to Mrs Arena's submission regarding the suppression of evidence on page 28.

Debate ensued.

Question put and passed.

Mr Kelly moved: That the Committee endorse the advice of Mr Gross QC, and not agree to Mrs Arena's submission regarding the suppression of evidence on page 30.

Debate ensued.

Question put and passed.

The Committee agreed with Mrs Arena's submission regarding the suppression of evidence on pages 37, 40, 41 46, 48 and 49.

Resolved, on motion of Mr Kelly: That the Clerk write to Mrs Arena advising that the Committee had agreed to some and disagreed with other suggested amendments to the edited transcript of evidence.

Resolved, on motion of Mr Kelly: That unedited copies of Mrs Arena's evidence, given on 24 March 1998, be made available to members of the Committee, Mrs Arena and her legal advisers, and legal advisers to Mr Carr, Mr Collins and Justice Wood.

The Committee adjourned at 5.55 p.m., until Monday 30 March 1998 at 10.00 a.m.

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Meeting No. 59

Monday 30 March 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose
Mr Lynn	

Apologies were received from Ms Gardiner.

Mr Bernard Gross QC was also in attendance.

Minutes of Meeting No. 58 were confirmed on motion of Mr Primrose.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Schedule of fees dated 19 March 1998 from Clayton Utz, for professional costs from 23 December 1997 to 27 February 1998.
- (ii) Letter dated 25 March 1998 from Ms Jolan Cikos, Greaves, Wannan & Williams, requesting the opportunity to examine and make submission on the version of Mrs Arena's submissions proposed for public release.
- (iii) Letter dated 25 March 1998 from the Hon. John Tingle, MLC, regarding the identity of the unnamed member of the Crossbench mentioned in the transcript of evidence from Monday 16 March 1998.
- (iv) Letter dated 27 March 1998 from the Hon. Alan Corbett, MLC, regarding the identity of the unnamed member of the Crossbench mentioned in the transcript of evidence from Monday 16 March 1998.

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- (v) Facsimile dated 27 March 1998 from “**Ms A**” regarding the release of transcripts of evidence.
- (vi) Letter dated 27 March 1998 from [*details suppressed*], responding to the Committee’s correspondence of 18 March 1998, and forwarding a confidential statement from “**Mr AA**”.
- (vii) Letter dated 30 March 1998 from the Crown Solicitor concerning the moderation of fees for legal advisers to Mrs Arena.
- (viii) Letter dated 30 March 1998 from McCabes Lawyers relating to certain procedural matters arising out of the last hearing day.

*Correspondence sent:*

- (i) Letter dated 25 March 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 24 March 1998 from Mrs Arena.
- (ii) Letter dated 25 March 1998 from the Clerk to Mr Jim Dwyer, Allen Allen and Hemsley, forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 24 March 1998 from Mrs Arena.
- (iii) Letter dated 25 March 1998 from the Clerk to Ms Jolan Cikos, Greaves Wannan and Williams, forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 24 March 1998 from Mrs Arena.
- (iv) Letter dated 25 March 1998 from the Clerk to Mrs Arena forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 24 March 1998 from Mrs Arena.
- (v) Letter dated 25 March 1998 from the Clerk to Mr Jim Dwyer, Allen Allen and Hemsley, forwarding 3 copies of the final edited transcript of in camera evidence taken by the Committee on 16 March 1998 from Mrs Arena
- (vi) Letter dated 25 March 1998 from the Clerk to Ms Jolan Cikos, Greaves Wannan and Williams, forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 16 March 1998 from Mrs Arena.
- (vii) Letter dated 25 March 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 16 March 1998 from Mrs Arena.
- (viii) Letter dated 25 March 1998 from the Clerk to Mrs Arena forwarding 3 copies of the transcript of in camera evidence taken by the Committee on 16 March 1998 from Mrs Arena.

- (ix) Letter dated 25 March 1998 from the Clerk to McCabes Lawyers seeking clarification of an aspect of their schedule of fees.
- (x) Letter dated 25 March 1998 from the Clerk to Mr IV Knight, QC, forwarding a copy of the schedule of fees from Clayton Utz for the period 23 December 1998 to 27 February 1998, for moderation.
- (xi) Letter dated 27 March 1998 from the Clerk to Mrs Arena forwarding an extract of the Minutes of Proceedings relating to legal advisers for Mr Carr, Mr Collins and Justice Wood.
- (xii) Letter dated 27 March 1998 from the Clerk to Mrs Arena concerning suggested amendments to the evidence given by her on 16 March 1998.
- (xiii) Letter dated 27 March 1998 from the Clerk to Mr JA McCarthy QC concerning suggested amendments to the evidence given by Mrs Arena on 16 March 1998.
- (xiv) Letter dated 27 March 1998 from the Clerk to Mr B Walker SC concerning suggested amendments to the evidence given by Mrs Arena on 16 March 1998.

The Committee deliberated.

The Committee considered correspondence from Mr Trent Smith, received 23 March 1998, and determined that the Clerk acknowledge its receipt.

The Committee considered correspondence from “**Dr C**”, dated 23 March 1998.

The Committee determined that the Clerk should acknowledge receipt of the letter and inform “**Dr C**” that the Committee will take her views into account when considering the publication of further transcripts of evidence as well as Mrs Arena’s submissions and attachments.

The Committee considered correspondence from the Hon. John Tingle, MLC, dated 25 March 1998 and the Hon. Alan Corbett, MLC, dated 27 March 1998.

The Committee determined that the Clerk should acknowledge the correspondence and inform the Members that the Committee did not feel it would be necessary to take evidence from them in relation to the matters raised.

The Committee continued to deliberate.

The Committee determined that the Clerk should inform Mrs Arena that the Committee anticipated that the hearing of her evidence scheduled for Monday 6 April 1998 would be her last day of evidence in relation to this inquiry.

The Committee considered correspondence from “**Ms A**”, dated 27 March 1998.

The Committee determined that the Clerk should acknowledge receipt of the letter and inform “Ms A” that the Committee will take her views into account when considering the publication of further transcripts of evidence as well as Mrs Arena’s submissions and attachments.

The Committee considered correspondence from McCabes Lawyers, dated 30 March 1998, concerning procedural matters arising out of the last hearing day.

The Committee determined that the Clerk advise McCabes in the following manner:

- Paragraph 1: Agree
- Paragraph 2: *[details suppressed]*
- Paragraph 3: It is a matter for the Committee to determine what questions will be put to a witness giving evidence. The Committee is further considering what questions will be put, with a view to reducing the number of questions overall.
- Paragraph 4: There is no foundation whatsoever for the suggestion of bias which Mrs Arena is contending.
- Paragraph 5: The Committee has received a submission from “Ms A” and will consider her views when determining what material should be suppressed and what material should be made public.
- Paragraph 6: The Committee agrees to send extracts of the Minutes of Proceedings in relation to the resolution of the Committee to make Mrs Arena’s submissions available to legal advisers for Mr Carr, Mr Collins and Justice Wood, but will not agree to forward copies of correspondence between the Committee and these legal advisers.
- Paragraph 7: As the Committee is anxious not to delay the inquiry unnecessarily, and as legal advisers to Mrs Arena will not be available for the 2 weeks commencing Friday 10 April 1998, they are to provide written submissions in relation to:
  - (a) Mrs Arena’s conduct; and
  - (b) sanctions (if applicable), as suggested in paragraph 17 of Mrs Arena’s supplementary submission,by Wednesday 15 April 1998.

The Committee continued to deliberate.

Resolved, on motion of Mr Jones: That edited copies of the transcript of evidence from 24 March 1998 as well as edited copies of Mrs Arena’s submission and supplementary submission, together with their attachments, be forwarded to Mrs Arena and her legal advisers, and legal advisers to Mr Carr, Mr Collins and Justice Wood as soon as they are available, and that the various parties be requested to return any submissions concerning the evidence by 9.00 am Thursday 2 April 1998.

The Committee determined to hold further deliberative meetings on Thursday 2 April 1998 at 2.00 pm and Monday 6 April 1998 between 10.00 am and 10.30 am, and to take evidence from Mrs Arena between 10.30 am and 1.00 pm and 2.00 pm and 4.30 pm on that day.



The Committee continued to deliberate.

Resolved, on motion of Mr Kelly: That the Clerk write to Mrs Arena, forwarding a copy of “**Mr AA**”’s statement dated 26 March 1998 and requesting her to provide a supplementary submission in response to the statement by 5.00 pm Friday 3 April 1998.

Resolved, on motion of Mr Kelly: That a copy of “**Mr AA**”’s statement dated 26 March 1998 be forward to legal advisers to Mr Carr, Mr Collins and Justice Wood.

The Committee adjourned at 1.10 p.m., until Thursday 2 April 1998 at 2.00 p.m.

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Meeting No. 60

Monday 6 April 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC, and Mr Joe Catanzariti were also in attendance.

Minutes of Meeting No. 59 were confirmed on motion of Mr Manson.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Memorandum of fees dated 30 March 1998 from Ms Jolan Cikos, Greaves Wannan & Williams, for professional costs to date from Mr Bret Walker SC and Mr Richard Lancaster.
- (ii) Letter dated 30 March 1998 from Allen, Allen & Hemsley, regarding payment for professional costs incurred in relation to the Committee's inquiry.
- (iii) Letter dated 31 March 1998 from Allen, Allen & Hemsley, requesting the opportunity to examine and make submission on the version of Mrs Arena's submissions proposed for public release.
- (iv) Copy of letter dated 26 November 1997 from Commander Clive Small, NSW Police Service, *[details suppressed]*, regarding the result of police investigations into "Mr E".
- (v) Letter dated 3 April 1998 from Ms Jolan Cikos, Greaves Wannan & Williams, advising that they have no submissions to make regarding the edited transcript of Mrs Arena's evidence given 24 March 1998.

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- (vi) Fax (undated) received 6 April 1998 from Mr Trent Smith, further to his original fax received 23 March 1998.
- (vii) Submission dated 6 April 1998 from Mr R. Lancaster concerning the publication of the transcript of evidence from Mrs Arena given on 16 March 1998.
- (viii) Submission dated 6 April 1998 from Mr JA McCarthy QC concerning the publication of the transcript of evidence from Mrs Arena given on 16 March 1998.

*Correspondence sent:*

- (i) Letter dated 30 March 1998 from the Clerk to Mrs Arena forwarding a copy of the statement from “**Mr AA**”, dated 26 March 1998.
- (ii) Letter dated 31 March 1998 from the Clerk to Mr Peter Karp forwarding payment for services.
- (iii) Letter dated 31 March 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding a copy of the statement from “**Mr AA**” dated 26 March 1998.
- (iv) Letter dated 31 March 1998 from the Clerk to Mr Jim Dwyer, Allen Allen and Hemsley, forwarding a copy of the statement from “**Mr AA**”, dated 26 March 1998.
- (v) Letter dated 31 March 1998 from the Clerk to Ms Jolan Cikos, Greaves Wannan and Williams, forwarding a copy of the statement “**Mr AA**”, dated 26 March 1998.
- (v) Letter dated 31 March 1998 from the Clerk to Ms Jolan Cikos, Greaves Wannan and Williams, regarding the publication of Mrs Arena’s submissions to the Committee.
- (vi) Letter dated 31 March 1998 from the Clerk to Mr Peter Karp, McCabes, in response to procedural matters arising out of the last day of hearing.
- (vii) Letter dated 2 April 1998 from the Clerk to Mrs Arena forwarding 3 copies of the edited transcript of in camera evidence taken by the Committee on 24 March 1998 from Mrs Arena.
- (viii) Letter dated 2 April 1998 from the Clerk to Mr Jim Dwyer, Allen Allen and Hemsley, forwarding 3 copies of the edited transcript of in camera evidence taken by the Committee on 24 March 1998 from Mrs Arena.
- (ix) Letter dated 2 April 1998 from the Clerk to Ms Jolan Cikos, Greaves Wannan and Williams, forwarding 3 copies of the edited transcript of in camera evidence taken by the Committee on 24 March 1998 from Mrs Arena.

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- (x) Letter dated 2 April 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding 3 copies of the edited transcript of in camera evidence taken by the Committee on 24 March 1998 from Mrs Arena.
- (xi) Letter dated 2 April 1998 from the Clerk to Mrs Arena forwarding 3 copies of the edited transcript of in camera evidence taken by the Committee on 24 March 1998 from Mrs Arena.
- (xii) Letter dated 2 April 1998 from the Clerk to Mr Jim Dwyer, Allen Allen and Hemsley, forwarding a copy of the edited submission to the Committee by Mrs Arena.
- (xiii) Letter dated 3 April 1998 from the Clerk to Ms Jolan Cikos, Greaves Wannan and Williams, forwarding 3 copies of the edited submission to the Committee by Mrs Arena.
- (xiv) Letter dated 3 April 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding 3 copies of the edited submission to the Committee by Mrs Arena.
- (xv) Letter dated 2 April 1998 from the Clerk to Mr Jim Dwyer, Allen Allen and Hemsley, forwarding 1 copies of the edited supplementary submission to the Committee by Mrs Arena.
- (xvi) Letter dated 3 April 1998 from the Clerk to Ms Jolan Cikos, Greaves Wannan and Williams, forwarding 3 copies of the edited supplementary submission to the Committee by Mrs Arena.
- (xvii) Letter dated 3 April 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding 3 copies of the edited supplementary submission to the Committee by Mrs Arena.
- (xviii) Letter dated 3 April 1998 from the Clerk to the Hon. John Tingle, MLC, regarding the transcript of evidence from Monday 16 March 1998 which was released on Wednesday 25 March 1998.
- (xix) Letter dated 3 April 1998 from the Clerk to the Hon. Alan Corbett, MLC, regarding the transcript of evidence from Monday 16 March 1998 which was released on Wednesday 25 March 1998.
- (xx) Letter dated 3 April 1998 from the Clerk to “Dr C” concerning the release of transcripts of evidence from the Committee’s inquiry into the conduct of Mrs Arena.
- (xxi) Letter dated 3 April 1998 from the Clerk to Mr Trent Smith in response to his fax received 23 March 1998.

The Committee deliberated.

*[details suppressed]*.

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The Committee considered the issue of editing evidence and submissions from Mrs Arena.

Mrs Arena was admitted.

Members of the Legislative Council were admitted.

Mr Philip Taylor, Barrister, and Mr Peter Karp, Solicitor, legal advisers to Mrs Arena, were admitted.

Mr John McCarthy QC, legal adviser to the Premier, Mr Carr, was admitted.

Mr Richard Lancaster, Barrister, and Ms Jolan Cikos, Solicitor, legal advisers to the Hon. Justice Wood, were admitted.

Mrs Arena was further examined in camera.

Evidence adjourned at 1.00 pm, the witness withdrew.

Members of the Legislative Council withdrew.

Legal advisers to Mrs Arena, Mr Carr and Justice Wood withdrew.

The Chair left the Chair at 1.00 pm.

The Committee resumed at 2.00 pm.

The Committee deliberated.

The Committee determined to hold the following further meetings:

9.00 am - 10.00 am Wednesday 8 April 1998

11.30 am - 12.30 pm Thursday 9 April 1998

The witness was readmitted.

Members of the Legislative Council and legal advisers to Mrs Arena, Mr Carr and Justice Wood were readmitted.

Examination of Mrs Arena continued at 2.15 pm.

Evidence adjourned at 3.05 pm, the witness withdrew.

Members of the Legislative Council withdrew.

Legal advisers to Mrs Arena, Mr Carr and Justice Wood withdrew.

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The Committee continued to deliberate.

The witness was readmitted.

Members of the Legislative Council and legal advisers to Mrs Arena, Mr Carr and Justice Wood were readmitted.

Examination of Mrs Arena continued at 3.10 pm.

Evidence concluded, the witness withdrew.

Members of the Legislative Council withdrew.

Legal advisers to Mrs Arena, Mr Carr and Justice Wood withdrew.

The Committee deliberated.

The Committee considered the issue of calling further witnesses.

The Committee adjourned at 4.15 p.m., until Wednesday 8 April 1998 at 9.00 a.m.

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Meeting No. 61

Wednesday 8 April 1998

at Parliament House, Sydney at 9.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC, was also in attendance.

Minutes of Meeting No. 60 were confirmed on motion of Mr Primrose.

The Chair tabled the following correspondence.

*Correspondence received:*

- (i) Memorandum of fees dated 11 March 1998 from Mr J. McCarthy, QC, and Mr P. Skinner for professional costs from November 1997 to 8 March 1998.
- (ii) Letter dated 6 April 1998 from the Hon. Jenny Gardiner, MLC, regarding Mrs Arena's submission regarding editing of transcript of evidence from 24 March 1998, submission and supplementary submission.
- (iii) Letter dated 7 April 1998 from Mr Keith Suter, Vice President, Australian Section of the International Commission of Jurists, NSW Branch, regarding the Special Commissions of Inquiry Amendment Act 1997.
- (iv) Letter dated 8 April 1998 from *[details suppressed]*, regarding the proposed publication of submissions and evidence relating to "Ms A".
- (v) Letter dated 8 April 1998 from Ms J. Cikos, Greaves Wannan & Williams, regarding the proposed publication of submissions and evidence relating to "Ms A".

*Correspondence sent:*

- (i) Letter dated 7 April 1998 from the Clerk to Mr IV Knight, QC, forwarding the schedule of fees from Greaves Wannan & Williams for moderation.
- (ii) Letter dated 7 April 1998 from the Chair to the Treasurer advising of legal costs to date.
- (iii) Letter dated 7 April 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding copies of the transcript of evidence from Tuesday 6 April 1998.
- (iv) Letter dated 7 April 1998 from the Clerk to Mr Jim Dwyer, Allen Allen and Hemsley, forwarding copies of the transcript of evidence from Tuesday 6 April 1998.
- (v) Letter dated 7 April 1998 from the Clerk to Ms Jolan Cikos, Greaves Wannan and Williams, forwarding copies of the transcript of evidence from Tuesday 6 April 1998.
- (vii) Letter dated 7 April 1998 from the Clerk to Mrs Arena forwarding copies of the transcript of evidence from Tuesday 6 April 1998.

The Committee deliberated.

The Committee considered a submission from Mr JA McCarthy, QC, concerning the edited submission, supplementary submission and associated attachments from Mrs Arena.

Resolved, on the motion of Mr Kelly: That the Clerk write to Mr JA McCarthy, QC, advising that the Committee had agreed to some and disagreed with other suggested amendments to the suppression of evidence.

The Committee considered a submission from Ms Gardiner in relation to the inclusion of certain material in the published transcripts of evidence and submissions from Mrs Arena.

The Committee agreed with the submission from Ms Gardiner.

The Committee considered a submission from Mr R. Lancaster concerning the edited submission, supplementary submission and associated attachments from Mrs Arena.

Resolved, on the motion of Mr Jones: That the Clerk write to Mr R Lancaster, advising that the Committee had agreed to the suggested amendments to the suppression of evidence.

The Committee considered a submission from Mrs Arena concerning her edited transcript of evidence from 24 March 1995, and her submission, supplementary submission and associated attachments.

Mr Jones moved: That the Committee disagree with point 5 of Mrs Arena's submission.

Debate ensued.



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Question put.

The Committee divided.

Ayes: 6

Noes: 2

Ms Gardiner

Mr Lynn

Mr Johnson

Revd Mr Nile

Mr Jones

Mr Kelly

Mr Manson

Mr Primrose

Question resolved in the affirmative.

The Committee considered a submission from *[details suppressed]*, on behalf of “Ms A”, in relation to the proposed publication of Attachment 11 and related material.

Mr Kelly moved: That the Committee publish Attachment 11 to Mrs Arena’s submission, as edited.

Debate ensued and adjourned to a later hour.

The Chair left the Chair at 10.26 am.

The Committee resumed at 2.00 pm.

The Committee deliberated.

The Committee agreed to meet from 11.00 am until 12.00 noon tomorrow.

The Committee further deliberated on the motion of Mr Kelly.

Mr Gross addressed the Committee in relation to the release of Attachment 11.

Mr Kelly, by leave, withdrew his motion.

Revd Mr Nile moved: That the Committee defer consideration of publication of Attachment 11 at this time.

Debate ensued.

Question put and passed.

The Committee further considered the submission of Mrs Arena concerning the publication of her evidence and submissions.

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Resolved, on motion of Revd Mr Nile: That the codename “C” be amended to read “Dr C” in the transcript of evidence from 24 March 1998 and Mrs Arena’s submissions, except where it canvasses the previous decision of the Committee.

Resolved, on the motion of Mr Jones: That the Clerk write to Mrs Arena advising that the Committee had agreed to some and disagreed to other suggested amendments to the suppression of evidence in her transcript of evidence from 24 March 1998 and her 2 submissions.

Resolved, on motion of Mr Primrose: That the Clerk write to *[details suppressed]*, advising him of the resolution of the Committee in relation to the publication of Attachment 11 at this time.

The Committee adjourned at 2.25 pm until Thursday 9 April 1998 at 11.00 am.

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Meeting No. 62

Thursday 9 April 1998

at Parliament House, Sydney at 11.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC, was also in attendance.

Consideration of the Minutes of Meeting No. 61 was deferred until the next meeting.

The Chair tabled the following correspondence:

*Correspondence received:*

- (i) Letter dated 6 April 1998 from Mrs Freddi Martin and Mrs Alice De Angelis regarding the Special Commissions of Inquiry Act 1997 sunset clause, and other retrospective legislation.

*Correspondence sent:*

- (i) Letter dated 8 April 1998 from the Clerk to Mr Jim Dwyer, Allen Allen and Hemsley, regarding changes to the edited transcript of evidence from Tuesday 24 March 1998, and the edited submission and supplementary submission from Mrs Arena.
- (ii) Letter dated 8 April 1998 from the Clerk to Mr JA McCarthy, QC, regarding changes to the edited transcript of evidence from Tuesday 24 March 1998, and the edited submission and supplementary submission from Mrs Arena.
- (iii) Letter dated 8 April 1998 from the Clerk to Mr Bret Walker, SC, regarding changes to the edited transcript of evidence from Tuesday 24 March 1998, and the edited submission and supplementary submission from Mrs Arena.

- (iv) Letter dated 8 April 1998 from the Clerk to Mrs Arena, regarding changes to the edited transcript of evidence from Tuesday 24 March 1998, and her edited submission and supplementary submission.

The Committee deliberated.

The Committee considered whether any further witnesses should be called to give evidence in the current inquiry concerning the conduct of Mrs Arena.

Resolved, on the motion of Mr Primrose: That the Committee agrees to the recommendation by its legal adviser that Justice Wood not be called as a witness.

Resolved, on the motion of Ms Gardiner: That the Chair write to “**Mr AA**” to verify that the document headed “Statement of “**Mr AA**” tabled by Mrs Arena on 6 April 1998 is a statement from him.

Resolved, on the motion of Mr Kelly: That the Chair write to Mr Clive Small requesting him to provide a written statement as to his best recollection concerning any meeting with Mrs Arena attended by him referred to in the “PAB File Note” dated 21 March 1997.

Resolved, on the motion of Mr Kelly: That, on the advice of the Committee’s legal adviser, no further witnesses be called in this matter.

Mr Gross addressed the Committee in relation to further submissions from Justice Wood and Mr Carr.

The Committee considered the procedure it should follow in reaching determinations concerning Mrs Arena’s conduct and, if appropriate, any sanctions.

Resolved, on the motion of Mr Kelly: That the Chair write to the legal advisers for Justice Wood, Mr Carr, and Mr Collins requesting them to provide submissions in relation to the Committee’s inquiry into the conduct of Mrs Arena, by Friday 17 April 1998.

Resolved, on the motion of Mr Kelly: That the Chair write to Mrs Arena requesting her to provide submissions in relation to the issue of conduct, by Friday 24 April 1998.

The Committee determined to hold the following further meetings:

10.00 am - 12.00 noon	Thursday 23 April 1998
10.00 am - 12.00 noon	Friday 1 May 1998
10.00 am - 12.00 noon	Friday 8 May 1998 (reserve)

Resolved, on the motion of Mr Kelly: That the Committee ratifies the decisions of the Chair in relation to:

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- (1) the suppression of sections 3 and 4 of the letter from “**Mr BC**” in Attachment 6 to the supplementary submission of Mrs Arena; and
- (2) the suppression of certain material in the transcript of 24 March 1998 relating to the article by Michael Dwyer which was a repeat of evidence suppressed in earlier transcripts and therefore canvassed an earlier resolution of the Committee regarding the editing of transcripts.

The Committee adjourned at 12.10 pm until Thursday 23 April 1998 at 10.00 am.

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Meeting No. 63

Thursday 23 April 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Manson
Mr Johnson	Revd Mr Nile
Mr Jones	Mr Primrose

Apologies were received from Mr Kelly and Mr Lynn.

Mr Bernard Gross, QC, was also in attendance.

Minutes of Meetings Nos 61 and 62 were confirmed on motion of Mr Manson.

The Chair tabled the following correspondence:

*Correspondence received:*

- (i) Submission dated 9 April 1998 from the Hon. Franca Arena, MLC, concerning the publication of the transcript of her evidence given on 6 April 1998.
- (ii) Letter dated 14 April 1998 from *[details suppressed]* seeking a undertaking that the Committee will give 48 hours written notice of its intention to publish any material that may identify “Ms A” or any part of “Ms A”’s two statements.
- (iii) Fax dated 15 April 1998 from Mr Peter Karp of McCabes Solicitors to the Clerk confirming that submissions as to conduct on behalf of the Hon. Mrs Arena MLC are to be submitted by 24 April 1998.
- (iv) Undated fax from Master Trent Smith to the Hon. Dr Meredith Burgmann MLC forwarding a letter to the Editor of the Sydney Morning Herald.
- (v) Undated fax from Master Trent Smith to the Hon. Richard Jones MLC forwarding a letter to the Editor of the Sydney Morning Herald.

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- (vi) Letter dated from Mr Jim Dwyer of Allen Allen & Hemsley Solicitors regarding submissions on conduct.
- (vii) Letter dated 14 March 1998 from P.J. Boyle by his attorney M.M. Boyle to the Hon. Dr Marlene Goldsmith MLC requesting details of the Committee inquiry into the conduct of the Hon. Franca Arena MLC.
- (viii) Letter dated 16 April 1998 from Mr Ian Linwood, Assistant Crown Solicitor, to the Clerk stating that the Crown Solicitor's moderation of fees for the Committee falls within the category of "core"work and the cost will not be charged to the Legislative Council.
- (ix) Letter dated 19 April 1998 from Master Trent Smith to Members of the Committee requesting information regarding the editing of material released by the Committee.
- (x) Submission dated 20 April 1998 from Mr Bret Walker SC and Mr Richard Lancaster on behalf of the Hon. Justice James Wood in relation to the issue of conduct of the Hon. Franca Arena MLC.
- (xi) Submission dated 20 April 1998 from Mr J.A. McCarthy QC & Mr P.M. Skinner on behalf of the Hon. R.J. Carr MP in relation to the issue of conduct of the Hon. Franca Arena MLC.
- (xii) Fax dated 22 April 1998 from Mr Peter Karp of McCabes Solicitors to the Clerk requesting an extension until 29 April 1998 by which to provide final submissions on conduct on behalf of the Hon. Franca Arena MLC.
- (xiii) Letter dated 22 April 1998 from the Treasurer regarding supplementation of the Legislature's recurrent allocation to meet legal costs incurred in relation to the inquiry into the conduct of Mrs Arena.

*Correspondence sent:*

- (i) Letter dated 14 April from the Chair to the Hon. Franca Arena MLC seeking submissions in relation to conduct by Friday 24 April 1998.
- (ii) Letter dated 14 April from the Chair to Mr Jim Dwyer of Allen Allen & Hemsley Solicitors seeking submissions in relation to conduct by Friday 17 April 1998.
- (iii) Letter dated 14 April from the Chair to Mr Greg Keating of McClellands Solicitors seeking submissions in relation to conduct by Friday 17 April 1998.
- (iv) Letter dated 14 April from the Chair to Ms Jolan Cikos of Greaves Wannan and Williams Solicitors seeking submissions in relation to conduct by Friday 17 April 1998.
- (v) Letter dated 15 April 1998 from the Clerk to Mrs Freddi Martin informing Mrs Martin that she would not be called as a witness.

- (vi) Letter dated 15 April 1998 from the Clerk to Ms Kate Wentworth informing Ms Wentworth that she would not be called as a witness.
- (vii) Letter dated 15 April 1998 from the Clerk to “Mr G” informing “Mr G” that he would not be called as a witness.
- (viii) Letter dated 15 April 1998 from the Clerk to Mrs Helen Ferns informing Mrs Ferns that she would not be called as a witness.
- (ix) Letter dated 15 April 1998 from the Clerk to “Dr C” informing “Dr C” that she would not be called as a witness.
- (x) Letter dated 16 April 1998 from the Chair to Mr Clive Small requesting a written statement regarding the meeting referred to in “PAB File Note” dated 21 March 1997.
- (xi) Letter dated 16 April 1998 from the Chair to “Mr AA” requesting him to verify whether the statement tabled by the Hon. Franca Arena MLC in the Committee on 6 April 1998 is a statement from him.
- (xii) Letter dated 20 April 1998 from the Clerk to Mr IV Knight, Crown Solicitor forwarding schedules of legal fees for moderation.

The Committee deliberated.

The Committee considered correspondence dated 14 April 1998 from *[details suppressed]* seeking a undertaking that the Committee will give 48 hours written notice of its intention to publish any material that may identify “Ms A” or any part of “Ms A”’s two statements.

Resolved, on the motion of Mr Primrose: That the Clerk write to Mr Andronos advising that the Committee does not intend to add to its previous response in relation to this matter.

The Committee continued to deliberate.

Resolved, on the motion of Mr Jones: That the Clerk write to Mrs Arena advising that the Committee will be considering certain documents referred to in submissions by legal advisers to Mr Carr and Justice Wood.

The Committee continued to deliberate.

Resolved, on the motion of Mr Jones: That the Committee endorses the action of the Chair in authorising the sending to Mrs Arena copies of submissions from legal advisers to Mr Carr Mr Collins and Justice Wood.

The Committee determined to hold the following meetings:



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Friday 15 May 1998	10.00 am - 4.00 pm (consideration of report)
Monday 18 May 1998	2.00 pm - 4.00 pm (Reserve date)
Monday 25 May 1998	10.00 am- 4.00 pm (consideration of code of conduct)
Friday 29 May 1998	2.00 pm - 4.00 pm (consideration of code of conduct)
Monday 1 June 1998	10.00 am - 12.00 pm (consideration of code of conduct)

Resolved, on the motion of Mr Revd Nile: That Mr B. Gross, QC, and the Clerk prepare a draft outline of the Report of the Inquiry into the conduct of the Hon. Franca Arena, MLC.

The Committee continued to deliberate.

Resolved, on motion of Revd Mr Nile: That the reporting date for the inquiry on the draft Code of Conduct, referred to this Committee on 8 April 1998, be extended until 4 June 1998.

The Committee adjourned at 11.30 am until Friday 1 May 1998 at 10.00 am.

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Meeting No. 64

Friday 1 May 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC, and Joe Catanzariti were also in attendance.

Minutes of Meeting No. 63 were confirmed on motion of Revd Mr Nile.

The Chair tabled the following correspondence:

*Correspondence received:*

- (i) Letter dated 10 April 1998 from Mr Loic Giroud to Ms Kylie Haines requesting published documents and to be placed on the report mailing list.
- (ii) Letter dated 18 April 1998 from Mrs Margaret Lacey to the Clerk of the Parliaments requesting the transcripts and submissions of the Hon Franca Arena MLC.
- (iii) Bill of cost dated 21 April 1998 from Clayton Utz Solicitors.
- (iv) Letter dated 22 April 1998 from Mr Robert Quinn of Crown Solicitors providing a moderation of the fees of Mr Bret Walker SC and Mr Richard Lancaster.
- (v) Fax dated 24 April 1998 from “Mr AA” to the Chair confirming that the statement tabled by the Hon. Franca Arena was his statement.
- (vi) Letter dated 27 April 1998 from Mrs Arena to the Clerk acknowledging the Committee’s letter of 27 April 1998, stating that the review of material may cause delays in presenting Mrs Arena’s submission regarding conduct.

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- (vii) Fax dated 27 April 1998 from Ms Sue Maddern to the Clerk drawing the Committee's attention to the provisions of the International Covenant on Civil and Political Rights.
- (viii) Letter dated 29 April 1998 from Mrs Arena to the Clerk asking to be provided with the exhibits
- (ix) Letter dated 29 April 1998 from Mrs Arena to the Clerk informing the Committee of delays in presenting Mrs Arena's submission regarding conduct.
- (x) Fax dated 30 April 1998 from Richard Lancaster to the Clerk forwarding submissions concerning the release of the transcript of evidence of 6 April 1998.
- (xi) Fax dated 30 April 1998 from Master Trent Smith to the Chair forwarding a letter Master Smith has sent to the Editor of the Sydney Morning Herald and requesting a reply.
- (xii) Letter dated 1 May 1998 from Mrs Arena to the Clerk forwarding submissions concerning the release of the transcript of evidence of 6 April 1998 and reminding the Committee of her request for Nader exhibits and the Clerk of the Parliaments advice on sanctions.

*Correspondence sent:*

- (i) Letter dated 23 April 1998 from the Clerk to [*details suppressed*] informing him of the resolution of the Committee of 22 April 1998 that the Committee does not intend to add to its previous response to him.
- (ii) Letter dated 24 April 1998 from the Clerk to Mr P.J. Boyle giving information about the reporting date of the Inquiry into the Conduct of Mrs Arena MLC.
- (iii) Letter dated 27 April from the Clerk to Mrs Arena informing Mrs Arena what documents the Committee may consider as part of its deliberations.
- (iv) Letter dated 27 April 1998 from the Clerk to Mrs Freddi Martin and Mrs Alice De Angelis regarding Part 4A of the Special Commissions of Inquiry Act 1997.
- (v) Letter dated 29 April 1998 from the Clerk to Mrs Arena forwarding 3 copies of the edited transcript of in camera evidence taken by the Committee on 6 April 1998 from Mrs Arena.
- (vi) Letter dated 29 April 1998 from the Clerk to Mr Jim Dwyer, Allen Allen and Hemsley, forwarding 3 copies of the edited transcript of in camera evidence taken by the Committee on 6 April 1998 from Mrs Arena.
- (vii) Letter dated 29 April 1998 from the Clerk to Ms Jolan Cikos, Greaves Wannan and Williams, forwarding 3 copies of the edited transcript of in camera evidence taken by the Committee on 6 April 1998 from Mrs Arena.
- (viii) Letter dated 29 April 1998 from the Clerk to Mr Greg Keating, McClellands, forwarding

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3 copies of the edited transcript of in camera evidence taken by the Committee on 6 April 1998 from Mrs Arena.

The Committee deliberated.

Resolved, on the motion of Revd Mr Nile: That the Clerk write to Mrs Arena advising that the Committee will provide her with a copy of any exhibits from the Nader Commission to which it will be having regard.

Resolved, on the motion of Mr Kelly: That the Clerk write to Mrs Arena advising that in the light of delays in receiving final submissions from legal advisers to Mr Carr, Mr Collins and Mr Wood, the Committee has extended the deadline for her submission until 5.00 pm Tuesday 5 May 1998.

The Committee continued to deliberate.

Resolved, on the motion of Revd Mr Nile: That the Clerk of the Parliaments be requested to provide written and verbal advice to the Committee as to the sanctions which are available to the House in respect of the conduct of Mrs Arena in this matter.

Resolved, on the motion of Revd Mr Nile: That the Clerk write to Mrs Arena advising her of the terms of the resolution regarding advice from the Clerk of the Parliaments.

The Committee considered a submission from Mr R. Lancaster, legal adviser to Mr Wood, concerning the proposed publication of the transcript of evidence from 6 April 1998.

Resolved, on the motion of Mr Jones: That the Clerk write to Mr R Lancaster, advising that the Committee had agreed to the suggested amendments to the suppression of evidence.

The Committee considered a submission from Mrs Arena concerning the proposed publication of the transcript of evidence from 6 April 1998.

The Committee agreed to defer consideration of point 1 until after consideration of points 2 - 25.

The Committee agreed to the suggested amendments in points 2 and 4, and to amend further page 20 in line with point 3.

The Committee disagreed to the suggested amendments in point 5, but agreed to put the following editorial in the transcript at page 30:

*Some of the following questions were asked by members of the Committee on behalf of the whole Committee. These questions were allocated and asked on a rotational basis.*

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The Committee agreed to the suggested amendments in points 6, 9 and 13, but disagreed with suggested amendments in points 7, 8, 10, 11 and 12.

Revd Mr Nile moved: That the Committee agrees to release the evidence contained in the question and answer on page 62 proposed for suppression.

Debate ensued.

Mr Kelly moved: That the motion of Revd Mr Nile be amended by omitting all words after “That” and inserting instead “the Committee agrees to further suppress all evidence contained in the edited question from Mr Manson and the subsequent answer from Mrs Arena on page 62.

Debate continued.

Question put: That the amendment of Mr Kelly be agreed to.

The Committee divided.

Ayes: 5

Noes: 3

Mr Johnson  
Mr Jones  
Mr Kelly  
Mr Manson  
Mr Primrose

Ms Gardiner  
Mr Lynn  
Revd Mr Nile

Question resolved in the affirmative.

Original question, as amended, put.

The Committee divided.

Ayes: 5

Noes: 3

Mr Johnson  
Mr Jones  
Mr Kelly  
Mr Manson  
Mr Primrose

Ms Gardiner  
Mr Lynn  
Revd Mr Nile

Question resolved in the affirmative.

The Committee agreed to the suggested amendments in points 21 and 23, but disagreed with suggested amendments in points 15-20, 22, 24 and 25.

The Committee reconsidered the suggested amendments in point 1.

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Mr Kelly moved: That the Committee not agree to the suggested amendments.

Debate ensued.

Question put.

The Committee divided.

Ayes: 5

Noes: 3

Mr Johnson  
Mr Jones  
Mr Kelly  
Mr Manson  
Mr Primrose

Ms Gardiner  
Mr Lynn  
Revd Mr Nile

Question resolved in the affirmative.

Resolved, on the motion of Mr Kelly: That the Clerk write to Mrs Arena, advising that the Committee had agreed to some and disagreed to other suggested amendments to the suppression of evidence.

The Committee considered the submission from Mr J. McCarthy, QC, concerning the proposed publication of the transcript of evidence from 6 April 1998.

Resolved, on the motion of Mr Kelly: That the Clerk write to Mrs Arena, advising that the Committee had agreed to some and disagreed to other suggested amendments to the suppression of evidence.

The Committee continued to deliberate.

The Committee adjourned at 12.08 pm until Friday 8 May 1998 at 10.00 am.

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Meeting No. 65

Friday 8 May 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC, and Joe Catanzariti were also in attendance.

Minutes of Meeting No. 64 were confirmed on motion of Revd Mr Nile.

The Chair tabled the following correspondence:

*Correspondence received:*

- (i) Memorandum of fees dated 1 May from Mr J. McCarthy QC for the period 9 March 1998 to 21 April 1998.
- (ii) Memorandum of fees dated 1 May from Mr P. Skinner for the period 9 March 1998 to 21 April 1998.
- (iii) Fax dated 4 May from Mr Clive Small to the Chair confirming that the contents of the PAB File Note dated 21 March 1997 forwarded to him on 16 April 1998 accurately reflect his recollection of the meeting with Mrs Arena.
- (iv) Fax dated 6 May 1998 from Mr Robert Quinn of the Crown Solicitors to the Clerk providing moderation of fees rendered by Mr McCarthy QC and Mr Skinner
- (v) Letter dated 6 May 1998 from Mrs Arena to the Clerk forwarding Mrs Arena's final submission on conduct.
- (vi) Letter dated 6 May 1998 from Mr Ian Linwood of the Crown Solicitors confirming that fees moderation was a core work and the Legislative Council would not be charged for this service.

- (vii) Letter dated 7 May 1998 from the Clerk of the Parliaments to the Chair forwarding his advice as to sanctions as requested by the Committee.

*Correspondence sent:*

- (i) Letter dated 4 May 1998 to Mrs Arena from the Clerk informing Mrs Arena of the resolutions of the Committee regarding the call for advice from the Clerk of the Parliaments and the extension of deadline for her final submission on conduct to 5.00 p.m. Tuesday 5 May 1998.
- (ii) Letter dated 4 May 1998 from the Clerk to the Clerk of the Parliaments requesting him to provide written and verbal advice to the Committee as to sanctions.

The Committee deliberated.

Resolved, on the motion of Mr Kelly: That the Committee agrees to the payment of legal fees for Mr John McCarthy, QC, and Mr Peter Skinner from 30 January 1998, the date on which they first requested permission to act as advisers to the Hon. RJ Carr, MP.

The Committee continued to deliberate.

Mr Gross, QC, addressed the Committee regarding the PAB filenote, dated 21 March 1997, concerning a meeting between Mrs Arena, Mr Clive Small and officers from the Wood Royal Commission.

Resolved, on the motion of Revd Mr Nile: That Commander Clive Small be summoned to appear before the Committee at 12.00 pm on Friday 15 May 1998.

Resolved, on the motion of Revd Mr Nile: That Commander Small be requested to provide, prior to the hearing on Friday 15 May 1998, the document referred to in his letter of 4 May 1998, the transcript of the tape of the meeting and, if available, the tape itself.

Resolved, on the motion of Mr Jones: That the legal advisers for Mr Carr, Mr Collins and Justice Wood be informed that they will not be required to attend the hearing on 15 May 1998, but will be provided with copies of the transcript of evidence when it is available.

The Committee continued to deliberate.

Resolved, on the motion of Mr Kelly: That the Committee agrees with the further suppression of evidence on pp. 17 and 41 of the transcript of Mrs Arena's evidence from 6 April 1998.

The Committee adjourned at 11.09 am until Friday 15 May 1998 at 10.00 am.



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Meeting No. 66

Friday 15 May 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC, was also in attendance.

Minutes of Meeting No. 65 were confirmed on motion of Mr Kelly.

The Chair tabled the following correspondence:

*Correspondence received:*

- (i) Letter dated 4 May 1998 from Commander Clive Small to the Chair confirming that the PAB File Note dated 21 March 1997 and forwarding certain documents and an audio tape.
- (ii) Letter dated 11 May 1998 from Mrs Arena to the Clerk forwarding a correction to her final submission on conduct.
- (iii) Letter dated 12 May 1998 from Mrs Arena to the Clerk submitting supplementary material to her final submission on conduct.

*Correspondence sent:*

- (i) Letter dated 11 May 1998 to Commander Clive Small from the Clerk forwarding a summons to appear before the Committee on 15 May 1998.
- (ii) Letter dated 12 May 1998 to Mr J. McCarthy QC forwarding a cheque in payment of his memorandum of fees from 30 January 1998 to 8 March 1998.

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- iii) Letter dated 12 May 1998 to Mr P Skinner forwarding a cheque for payment of his memorandum of fees from 30 January 1998 to 8 March 1998.
- (iv) Letter dated 13 May to Allen Allen and Hemsley Solicitors informing them that they would not be required at the hearing on 15 May 1998 but that they would receive a transcript of the proceedings.
- (v) Letter dated 13 May to Greaves Wannan and Williams Solicitors informing them that they would not be required at the hearing on 15 May 1998 but that they would receive a transcript of the proceedings.
- (vi) Letter dated 13 May to McClellands Solicitors informing them that they would not be required at the hearing on 15 May 1998 but that they would receive a transcript of the proceedings.
- (vii) Letter dated 14 May 1998 to Mr R Lancaster forwarding a cheque for in payment of his memorandum of fees from 4 February 1998 to 24 March 1998.
- (viii) Letter dated 14 May 1998 to Mr B. Walker SC forwarding a cheque for in payment of his memorandum of fees from 16 February 1998 to 16 March 1998.
- (ix) Letter dated 14 May 1998 to McClellands Solicitors from the Clerk forwarding 3 copies of the final edited transcript of evidence taken by the Committee from the Hon. Franca Arena MLC on 6 April 1998.
- (x) Letter dated 14 May 1998 to Allen Allen & Hemsley Solicitors from the Clerk forwarding 3 copies of the final edited transcript of evidence taken by the Committee from the Hon. Franca Arena MLC on 6 April 1998.
- (xi) Letter dated 14 May 1998 to Greaves Wannan & Williams Solicitors from the Clerk forwarding 3 copies of the final edited transcript of evidence taken by the Committee from the Hon. Franca Arena MLC on 6 April 1998.

The Committee deliberated.

Resolved, on the motion of Mr Kelly: That the Chair prepare and submit a draft Report on the Inquiry into the conduct of the Honourable Franca Arena, MLC.

The Committee continued to deliberate.

Resolved, on the motion of Mr Kelly: That, if requested, a legal adviser be permitted to accompany Commander Clive Small during his attendance to give evidence before the Committee.

Resolved, on the motion of Mr Kelly: That questions to Commander Small be confined to section (v) of the PAB filenote dated 21 March 1997.

The Committee considered Mrs Arena's media release dated 8 May 1998 headed 'A Travesty of Justice' and determined to caution Mrs Arena regarding possible contempts of the Committee in relation to her media releases.

The Committee continued to deliberate.

Mr Gross, QC, addressed the Committee regarding Mrs Arena's speech of 17 September 1997 and subsequent evidence before the Committee.

The Committee considered a request from Mrs Arena that she be permitted to make a short statement prior to the taking of evidence from Commander Small.

Resolved, on the motion of Revd Mr Nile: That Mrs Arena be permitted to make a short statement prior to the taking of evidence from Commander Small.

Mrs Arena was admitted.

Mr Philip Taylor, Barrister, and Mr Peter Karp, Solicitor, legal advisers to Mrs Arena, were admitted.

Mrs Arena was further examined in camera.

Evidence adjourned at 11.35 am, the witness withdrew.

Legal advisers to Mrs Arena withdrew.

The Committee continued to deliberate.

Mrs Arena was admitted.

Mr Philip Taylor, Barrister, and Mr Peter Karp, Solicitor, legal advisers to Mrs Arena, were admitted.

Commander Clive Small was admitted.

The Committee listened to a tape recording of a meeting between Commander Small and Mrs Arena held at Sydney Police Station on 19 March 1997.

The Committee agreed with a request from Mrs Arena that Commander Small's handwritten notes of the meeting be typed prior to taking evidence from him.

The Chair left the Chair at 1.15 pm.

The Committee resumed at 2.15 pm.

Commander Clive Small was admitted and sworn.

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Mrs Arena was admitted.

Mr Philip Taylor, Barrister, and Mr Peter Karp, Solicitor, legal advisers to Mrs Arena, were admitted.

Commander Small was examined in camera.

Commander Small tabled a copy of a Chronology of the Police Royal Commission relating to the paedophile reference, dated 12 December 1996, prepared by Mr Grieg Tillotson, Manager, Reference Information Services, NSW Parliamentary Library.

Evidence continued.

Evidence adjourned, Commander Small withdrew.

Mrs Arena and her legal advisers withdrew.

The Committee deliberated.

The Committee considered proposed questions from Mrs Arena to Commander Small.

Commander Small was readmitted.

Mrs Arena and her legal advisers were readmitted.

Commander Small was further examined in camera.

Evidence concluded, the witness withdrew.

Mrs Arena was further examined in camera.

Evidence adjourned, the witness withdrew.

Legal advisers to Mrs Arena withdrew.

The Committee continued to deliberate.

Mr Gross addressed the Committee.

Resolved, on the motion of Mr Jones: That Mrs Arena be requested to provide the Committee with any written submissions and further statements in relation to the evidence given by Commander Small, by Wednesday 20 May 1998.

Mrs Arena and her legal advisers were readmitted.

Mrs Arena was further examined in camera.

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Evidence concluded, the witness withdrew.

Legal advisers to Mrs Arena withdrew.

The Committee continued to deliberate.

The Committee agreed to hold further meetings on Monday 18 May 1998 from 2.00 pm until 5.00 pm, and Monday 25 May 1998 from 10.00 am until 5.00 pm.

The Committee adjourned at 4.10 pm until Monday 18 March 1998 at 2.00 pm.

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Meeting No. 67

Monday 18 May 1998

at Parliament House, Sydney at 2.00 pm

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose
Mr Lynn	

Apologies were received from Ms Gardiner.

Minutes of Meeting No. 66 were confirmed on motion of Mr Kelly.

The Chair tabled the following correspondence:

*Correspondence received:*

- (i) Letter dated 11 May 1998 from Ms Mary Spratt to the Chair regarding the model code of conduct for all Government Agencies and the Code of Conduct for Members.
- (ii) Memorandum of fees dated 12 May 1998 from Clayton Utz Solicitors to the Clerk for services rendered between 1 April 1998 and 28 April 1998.

*Correspondence sent:*

- (i) Letter dated 18 May 1998 to Mrs Arena from the Clerk forwarding three copies of the transcript of the in camera evidence given by Commander Clive Small on Friday 15 May 1998.

Code of Conduct

The Committee deliberated.

The Committee considered the Code of Conduct referred by the House on 8 April 1998.

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Resolved, on the motion of Mr Primrose: That the Chair prepare and submit a draft Report on the Inquiry into a proposed code of conduct for Members.

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The Committee continued to deliberate.

Mr Bernard Gross, QC, and Mr Joe Catanzariti attended the meeting.

The Committee considered the draft report.

The Committee adjourned at 4.54 pm until Monday 25 May 1995 at 10.00 am.

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Meeting No. 68

Monday 25 May 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC, was also in attendance.

Minutes of Meeting No. 67 were confirmed on motion of Mr Manson.

The Chair tabled the following correspondence:

*Correspondence received:*

- (i) Letter dated 20 May 1998 from the Hon. Peter Primrose to the Clerk requesting advice regarding the implications of section 4.3 of the Advice from the Crown Solicitor dated 29 August 1995 concerning the Code of Conduct and the Constitution Act.
- (ii) Letter dated 20 May 1998 from the Hon. Franca Arena to the Clerk advising that her supplementary submission on the issue of conduct would be delivered on 21 May 1998.
- (iii) Letter dated 22 May 1998 from the Hon. Franca Arena to the Clerk forwarding her supplementary submission on the issue of conduct.

*Correspondence sent:*

- (i) Letter dated 19 May 1998 to Mr IV Knight, Crown Solicitor, from the Clerk forwarding a memorandum of fees from Mr Gross and Mr Catanzariti for moderation.
- (ii) Letter dated 20 May 1998 to Mr IV Knight, Crown Solicitor, from the Clerk forwarding a memorandum of fees from Mr Gross and Mr Catanzariti for moderation.



- (iii) Letter dated 20 May 1998 to the Hon. MR Egan, Treasurer, from the Chair informing him of memoranda of fees paid by the Committee to legal advisers for interested parties to the inquiry and seeking supplementation to the Legislature's Budget.
- (iv) Letter dated 21 May 1998 1998 to Mr IV Knight, Crown Solicitor, from the Clerk forwarding a memorandum of fees from Mr McCarthy and Mr Skinner for moderation.
- (v) Letter dated 22 May 1998 to Mr Greg Keating of McClellands Solicitors from the Clerk forwarding the transcript of in camera evidence taken from Commander Clive Small on 15 May 1998.
- (vi) Letter dated 22 May 1998 to Ms Jolan Cikos of Greaves Wannan & Williams Solicitors from the Clerk forwarding the transcript of in camera evidence taken from Commander Clive Small on 15 May 1998.
- (vii) Letter dated 22 May 1998 to Mr Jim Dwyer of Allen Allen & Hemsley Solicitors from the Clerk forwarding the transcript of in camera evidence taken from Commander Clive Small on 15 May 1998.

The Committee deliberated.

The Committee considered the draft report on the inquiry into the conduct of the Hon. Franca Arena, MLC.

Chapter 1 read.

Resolved, on the motion of Mr Nile: That the following paragraph be inserted after paragraph 1.3.1:

- 1.3.2 On 18 September 1997 the Attorney General gave notice of a motion in the following terms:

That this House censures the Honourable Franca Arena for making allegations in this House on 17 September 1997 which asserted a criminal conspiracy involving the Premier, the Leader of the Opposition in the Legislative Assembly, the Royal Commission and other persons, and condemns those allegations as baseless, irresponsible and an abuse of parliamentary privilege.<sup>40</sup>

The motion has not yet been moved and remains on the Notice Paper.

- 1. *Notices of Motion and Orders of the Day*, No. 3, Tuesday 23 September 1997, p. 30.

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Resolved, on the motion of Ms Gardiner: That paragraph 1.6.4 be amended by inserting after “Government backbencher,” the words “stated that she had”.

Resolved, on the motion of Mr Nile: That paragraph 1.7.1 be amended by omitting the words “investigate Mrs Arena’s conduct and report to the House on what sanctions should be enforced” and inserting instead “investigate and report on what sanctions should be enforced in relation to Mrs Arena’s conduct in this matter”.

Resolved, on the motion of Ms Gardiner: That paragraph 2.1.1 be amended by inserting at the beginning: “Because the question of expulsion is a serious one and has wide ramifications beyond the particular case being considered in this inquiry, the Committee wanted to ensure that its actions conformed at all times with the requirements of due process and applicable laws. Accordingly,”.

Resolved, on the motion of Mr Jones: That Chapter 1, as amended, be agreed to.

Chapter 3 read.

Resolved, on the motion of Revd Mr Nile: That paragraph 2.2.4 be amended by inserting after the word “Senate” the words “although in the Council none has proceeded beyond the giving of notice”.

Resolved, on the motion of Revd Mr Nile: That paragraph 2.3.1 be amended by inserting after the words “House’s resolution to expel Mr Armstrong” the words “(for conduct committed within the House)”.

Resolved, on the motion of Mr Kelly: That Chapter 3, as amended, be agreed to.

The Committee adjourned at 12.30 pm until 2.00 pm.

The Committee reconvened at 2.00 pm.

The Committee considered Chapter 2 and made certain amendments to be considered at the next meeting.

The Committee continued to deliberate.

The Committee agreed that, in addition to the meeting dates already scheduled, the following further meeting would be held:

<b>Tuesday 9 June 1998</b>	10.00 am - 5.00 pm	Consideration of sanctions
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The Committee adjourned at 4.37 pm until Friday 29 May 1995 at 1.00 pm.

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Meeting No. 70

Monday 1 June 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

The Clerk of the Parliaments was in attendance.

Mr Bernard Gross, QC and Mr Joe Catanzariti were also in attendance.

Minutes of Meeting No. 69 were confirmed on motion of Mr Kelly.

The Chair tabled the following correspondence:

*Correspondence received:*

- (i) Letter dated 26 May 1998 from Mrs Arena to the Clerk forwarding memoranda of fees from Mr Philip Taylor and Mr Peter Karp for work performed from 30 January 1998 to 1 May 1998.
- (ii) Letter dated 26 May 1998 from the Hon. Franca Arena to the Clerk requesting a draft timetable for the production of the report.
- (iii) Fax dated 26 May 1998 from “**Mr G**” to the Chair regarding matters raised by the Committee in hearings.
- (vi) Amended memorandum of fees dated 27 May from Mr John McCarthy QC for work performed between 26 March 1998 to 21 April 1998.
- (v) Amended memorandum of fees dated 27 May from Mr Peter Skinner for work performed between 26 March 1998 to 21 April 1998.

- (vi) Letter dated 27 May 1998 from Greaves Wannan and Williams Solicitors to the Clerk forwarding memoranda of fees from Mr Bret Walker SC, Mr Richard Lancaster and as to their own costs and disbursements.
- (vii) Letter dated 28 May 1998 from the Hon. Franca Arena to the Clerk forwarding her submission regarding the editing the transcript of in camera evidence given by Commander Clive Small on 15 May 1998.

*Correspondence sent:*

- (i) Letter dated 27 May 1998 to Mrs Arena from the Clerk forwarding three copies of the edited transcript of in camera evidence taken from Commander Clive Small on 15 May 1998.
- (ii) Letter dated 27 May 1998 to Mr Greg Keating of McClellands Solicitors from the Clerk forwarding three copies of the edited transcript of in camera evidence taken from Commander Clive Small on 15 May 1998.
- (iii) Letter dated 27 May 1998 to Ms Jolan Cikos of Greaves Wannan & Williams Solicitors from the Clerk forwarding three copies of the edited transcript of in camera evidence taken from Commander Clive Small on 15 May 1998.
- (iv) Letter dated 27 May 1998 to Mr Jim Dwyer of Allen Allen & Hemsley Solicitors from the Clerk forwarding three copies of the edited transcript of in camera evidence taken from Commander Clive Small on 15 May 1998.

The Committee deliberated.

The Committee considered correspondence from the Hon. Franca Arena requesting a draft timetable for the production of the report.

The Committee determined that Mr Gross, QC, prepare a response to Mrs Arena for Wednesday 3 June 1998 conveying the Committee's finding in relation to her conduct and requesting that she submit her response in relation to sanctions by 9.00 am Tuesday 9 June 1998.

The Committee considered correspondence from "Mr G" regarding matters raised by the Committee in hearings.

The Committee agreed that the Clerk forward a response to "Mr G" indicating that the Committee was within its rights and advising him that copies of his correspondence to the Committee forwarded to other parties would not attract privilege.

The Committee continued to deliberate.

The Committee agreed to hold the following further meetings:

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Tuesday 2 June 1998	1.00 pm - 2.00 pm
Wednesday 3 June 1998	10.00 am - 11.00 am 1.30 pm - 2.30 pm (Reserve)

The Committee considered the edited transcript of evidence from Mr Clive Small given on Friday 15 May 1998.

The Committee considered Mrs Arena's submission in relation to the edited transcript.

Resolved, on motion of Mr Kelly: That, pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under authority of Standing Order 252, the Committee authorises the Clerk of the Committee to publish the transcript of evidence of Friday 15 May 1998 from Commander Clive Small.

The Committee considered the revised draft of Chapter 2 of the report on the inquiry into the conduct of Mrs Arena.

Mr Jones moved: That the Committee finds the conduct of Mrs Arena, in making her speech on 17 September 1997, as being conduct falling below the standard which the House is entitled to expect of a Member, and bringing the House into disrepute.

Debate ensued.

Question put and passed unanimously.

The Committee adjourned at 1.05 pm until Tuesday 2 June 1995 at 1.00 pm.

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Meeting No. 72

Wednesday 3 June 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC, and Mr Joe Catanzariti were also in attendance.

Minutes of Meeting No. 71 were confirmed on motion of Mr Johnson.

The Chair tabled the following correspondence:

*Correspondence received:*

- (i) Letter dated 29 May 1998 from Mr Noel Said, Secretary, Justice for Veterans Association, to the Clerk regarding editing of documents published by the Committee
- (ii) Letter dated 2 June from the Hon. Franca Arena MLC to the Clerk regarding the timetable for completion of the inquiry and forewarning that she will be unable to adhere to the timetable.
- (iii) Letter dated 2 June from Mr Ian Knight, Crown Solicitor to the Clerk forwarding moderation of fees for Mr B. Gross QC and Mr J. Catanzariti.

*Correspondence sent:*

- (i) Letter dated 1 June 1998 to Commander Clive Small from the Clerk forwarding a copy of the transcript of evidence taken by the Committee on 15 May 1998.
- (ii) Letter dated 3 June 1998 to “**Mr G**” from the Clerk in response to his letter dated 26 May 1998 regarding the publication of certain documents.

The Committee deliberated.

The Chair informed the Committee that the transcript of evidence from Commander Clive Small given on 15 May 1998 would be released tomorrow morning, Thursday 4 June 1998.

The Committee considered the correspondence from Mrs Arena concerning the Committee's timetable in relation to the inquiry into her conduct.

The Committee determined to continue with its current timetable, and to request Mrs Arena to provide a submission on sanctions by 10.00 am Tuesday 9 July 1998.

The Committee continued to deliberate.

Resolved, on motion of Mr Jones: That the resolution adopted by the Committee on 1 June 1998 "That the Committee finds the conduct of Mrs Arena, in making her speech on 17 September 1997, as being conduct falling below the standard which the House is entitled to expect of a Member, and bringing the House into disrepute" be amended by inserting after "making" the words "certain allegations in".

Resolution, as amended: That the Committee finds the conduct of Mrs Arena, in making certain allegations in her speech on 17 September 1997, as being conduct falling below the standard which the House is entitled to expect of a Member, and bringing the House into disrepute—put and passed.

The Committee continued to deliberate.

Resolved, on motion of Mr Primrose: That the Chair forward to Mrs Arena the letter, as drafted by Mr Gross, QC, informing her of the terms of the Committee's resolution of 1 June 1998 and findings in relation to her conduct, and advising that her submission concerning sanctions should be with the Committee by 10.00 am Tuesday 9 June 1998.

The Committee adjourned at 10.57 a.m. until Tuesday 9 June 1998 at 10.00 am.

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Meeting No. 73

Tuesday 9 June 1998

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC, and Mr Joe Catanzariti were also in attendance.

Minutes of Meeting No. 72 were confirmed on motion of Mr Manson.

The Chair tabled the following correspondence:

*Correspondence received:*

- (i) Letter dated 1 June from Mr John McCarthy QC to the Clerk advising the Committee that there are no additional annotations or deletions proposed on behalf of Mr Carr for the transcript of evidence of 15 May 1998.
- (ii) Letter dated 2 June from Mr Robert Quinn of the Crown Solicitors Office to the Clerk providing advice as to the moderation of fees rendered by Mr John McCarthy QC and Mr Peter Skinner.
- (iii) Letter dated 4 June 1998 from Mrs Arena to the Chair regarding the Committee's letter of 3 June 1998 and the deadline for submission on sanctions.
- (iv) Letter dated 4 June from Mrs Arena to the Clerk regarding the Committee's letter of 3 June 1998 and the deadline for submission on sanctions.
- (v) Submission dated 9 June 1998 from Mrs Arena relating to the issue of sanctions.
- (vi) Letter dated 9 June 1998 from Mr Bernard Gross QC to the Clerk relating to the moderation of fees for himself and Mr Joe Catanzariti.



- (vii) Letter dated 9 June 1998 from Mr Joe Catanzariti to the Clerk relating to the moderation of fees from Clayton Utz.

*Correspondence sent:*

- (i) Letter dated 4 June 1998 to Mrs Arena from the Chair in response to Mrs Arena's letter of 4 June 1998 clarifying the letter of 3 June 1998 including the resolution of the Committee of June 1 1998 regarding conduct and the findings in paragraphs 1, 2, 3 and 4; reiterating the timetable of the Committee for the production of the report.

The Committee deliberated.

Mr Gross QC addressed the Committee in relation to Mrs Arena's submission dated 9 June 1998.

The Committee continued to deliberate.

The Committee discussed the inclusion of criticisms by Mrs Arena of the Committee's conduct of the Inquiry, together with the Committee's views regarding Mrs Arena's conduct during the Inquiry, as appendices to the Report, rather than in the body of the Report.

The Committee agreed that the Clerk write to Mrs Arena advising her that the word "implications" as appearing in the correspondence to her dated 3 June 1998 should read "imputations".

The Committee considered Mrs Arena's submission.

As a result of Mrs Arena's submission, Revd Mr Nile raised the issue of the use of the expression "bringing the House into disrepute" in the Committee's finding in relation to Mrs Arena's conduct, and asked if there was any necessary legal connection between the finding and the type of sanction imposed. He was assured, on the advice of Mr Gross QC and the Clerk that there was no legal connection, and that this would be made clear in the section of the Report recommending sanctions.

The Committee continued to deliberate.

The Chair left the Chair at 12.55 pm.

The Committee resumed at 2.30 pm.

The Committee continued to deliberate.

The Committee further considered Mrs Arena's submission.

Resolved, on motion of Ms Gardiner: That, in response to the request in paragraph 46, page 20 of Mrs Arena's submission, the Committee agrees to accept further written submissions from Mrs Arena's legal advisers up until 5.00 pm Thursday 11 June 1998.

The Committee continued to deliberate.

Resolved, on motion of Ms Gardiner: That the Committee agrees to accept any proposed revisions to Mrs Arena's submission occasioned by the change of the word "implications" to "imputations".

The Committee further considered the draft Report.

Chapter 2 read.

Debate ensued.

Mr Jones moved: That Chapter 2, as amended, be agreed to.

Debate ensued.

Revd Mr Nile and Mr Lynn expressed reservations about the inclusion of references to Mrs Arena's conduct in relation to the conduct of this inquiry in Chapter 2, part 7.

Question put and passed unanimously.

The Committee continued to deliberate.

The Committee agreed to split Chapter 1, as agreed to, into 2 chapters, namely:

Chapter 1:	Background
Chapter 2:	Conduct of the Inquiry

The Committee continued to deliberate.

Chapter 5 (as renumbered) read.

Debate ensued.

Resolved unanimously, on motion of Mr Kelly: That Chapter 5, as amended, be agreed to.

The Committee agreed that the Chair draft a new Chapter 6 dealing with the Committee's recommendations in relation to sanctions, for consideration at the next meeting of the Committee on Wednesday 17 June 1998.

The Committee agreed to hold further meetings as follows: Wednesday 17 June 1998: 9.00 am - 11.00 am; 1.00 pm - 2.30 pm (Reserve); 6.30 pm - 8.00 pm (Reserve); 11.00 pm (Reserve)

The Committee adjourned at 4.50 p.m. until Wednesday 17 June 1998 at 9.00 am.

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Meeting No. 74

Tuesday 23 June 1998

at Parliament House, Sydney at 5.00 pm

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC, and Mr Joe Catanzariti were also in attendance.

Minutes of Meeting No. 73 were confirmed on motion of Mr Primrose.

The Chair tabled a letter from Mrs Arena dated 23 June 1998 addressed to all Members of the Committee requesting that the oral submission to be given by Mr Philip Taylor, Counsel for Mrs Arena, be recorded by Hansard.

The Committee deliberated.

Resolved, on motion of Mr Kelly:

- (1) That Mr Philip Taylor, Counsel for Mrs Arena, be summonsed under section 4 of the *Parliamentary Evidence Act 1901*, to attend and give evidence before the Committee at 5.10 pm today.
- (2) That the evidence of Mr Taylor be taken in camera for the information of Members of the Committee only and under no circumstances will the evidence be made public except in the Report of the Committee.

Mrs Arena was admitted.

Mr Philip Taylor, Counsel for Mrs Arena, was admitted and sworn.

Mr Taylor was examined in camera.

The witness tendered the following documents:

- (a) Mrs Arena's speech in the House on 17 September 1997;
- (b) Article from the Financial Review on 19 March 1996 by Michael Dwyer headed "Paedophilia inquiry could destroy Carr Govt majority";
- (c) Copy of letter dated 24 September 1997 from McCabes, Solicitors, to the Editor of *The Sydney Morning Herald* concerning assertions made in relation to Mrs Arena;
- (d) Copy of pages 568-572 of the Final Report of the Royal Commission into the New South Wales Police Service concerning the Terms of Reference of the Royal Commission;
- (e) Extracts from the Final Report of the Joint Select Committee on Parliamentary Privilege of the Commonwealth Parliament dated October 1984;
- (f) Copy of pages 26-31 of the Report of the Standing Committee Upon Parliamentary Privilege concerning Documents issued by the Honourable FJ Nile MLC dated 7 December 1989, containing the conclusions and findings of that Committee.

Evidence concluded, the witness withdrew.

Mrs Arena withdrew.

The Committee continued to deliberate.

The Chair tabled an article entitled "I've nothing to apologise for: Franca" from the *Manly Daily*, 13 June 1998, p. 12.

The Chair tabled an article entitled "Nothing to gain from Arena witch-hunt" from *The Sydney Morning Herald*, 20 June 1998, p. 41.

Resolved, on motion of Mr Kelly: That the Committee authorises the publication of the letters from the Chair to Mrs Arena dated 3 June 1998 and 15 June 1998 regarding the findings of the Committee on the conduct of Mrs Arena.

Mr Primrose informed the Committee of a discussion he had had with a security officer at Parliament House regarding an alleged conversation with Mrs Arena.

The Committee agreed that the following further meetings would be held:

Wednesday 24 June 1998: 6.30 pm  
Thursday 25 June 1998: 9.30 am; and 6.30 pm

The Committee adjourned at 7.05 p.m. until Wednesday 24 June 1998 at 6.30 pm.

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Meeting No. 75

Wednesday 24 June 1998

at Parliament House, Sydney at 6.30 pm

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC was also in attendance.

Minutes of Meeting No. 74 were confirmed on motion of Mr Primrose.

The Chair tabled the following correspondence:

*Correspondence received:*

- (i) Letter dated 3 June 1998 from the Hon M R Egan, Treasurer, to the Chair confirming that money paid out in legal fees had been provided in supplementation to the Legislature's budget.
- (ii) Letter dated 10 June 1998 from Mrs Franca Arena to the Clerk on the issue of sanctions and requesting that her barrister be allowed to address the Committee.
- (iii) Letter dated 15 June 1998 from Mrs Arena to the Clerk confirming that Mr Philip Taylor would be available at 9.00 am Wednesday 17 June 1998 and asking that the address be recorded by Hansard.
- (iv) Letter dated 17 June 1997 from Mr IV Knight, Crown Solicitor, to the Clerk regarding the issue of moderation of fees for Mr Gross and Mr Catanzariti.
- (v) Letter dated 22 June 1998 from Mr Noel Said, Secretary of the Veterans Association, to the Clerk regarding previous correspondence.

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*Correspondence sent:*

- (i) Letter dated 9 June 1998 to Mrs Arena from the Clerk on further submissions on the issue of sanctions.
- (ii) Letter dated 10 June 1998 to Mr Noel Said, Secretary of the Justice for Veterans Association, from the Clerk regarding the editing of publicly released documents and transcripts.
- (iii) Letter dated 11 June 1998 to Mr IV Knight, Crown Solicitor, from the Clerk forwarding letters from Mr Gross and Mr Catanzariti on the issue of moderation of fees.
- (iv) Letter dated 15 June 1998 to the Hon Franca Arena MLC from the Clerk on further written submissions to the Committee on the issue of sanctions and an oral address by Mrs Arena's legal adviser Mr Philip Taylor.
- (v) Letter dated 17 June 1998 to Mr JA McCarthy QC forwarding a cheque on payment of his memorandum of fees for the period 9 March 1997 to 21 April 1998.
- (vi) Letter dated 17 June 1998 to Mr P Skinner forwarding a cheque on payment of his memorandum of fees for the period 9 March 1997 to 21 April 1998.
- (vii) Letter dated 23 June 1998 to Mrs Arena regarding the oral submission of Mr Philip Taylor.
- (viii) Letter dated 24 June 1998 to Mr Philip Taylor from the Clerk forwarding a copy of the transcript of his in camera evidence given to the Committee on 23 June 1998.

The Committee deliberated.

The Committee further considered the draft report.

Chapter 5, as amended, further considered.

Debate ensued.

Resolved, on motion of Mr Johnson: That paragraph 5.1.2 (d) be amended by inserting after the words "who were alleged by" the word "alleged".

Resolved, on motion of Revd Mr Nile: That paragraph 5.1.8 be amended by omitting the words "with no reasonably acceptable foundation for not doing so" and inserting instead "without any reasonable foundation upon facts known to her or reasonably capable of being checked by her,".

Consideration of paragraph 5.1.13 and subsequent paragraphs of Chapter 5 postponed until the next meeting.

Appendix 4 read.

Resolved, on motion of Ms Gardiner: That paragraph 3 be amended by omitting the words “arising out of the allegations made against him in the speech of 17 September 1997”.

Resolved, on motion of Ms Gardiner: That paragraph 6 be amended by omitting the words “virtually all” and inserting instead “a majority of”.

Resolved, on motion of Ms Gardiner: That paragraph 7 be amended by omitting the words “had been made” appearing in the second last line and by omitting the words “by persons, and those versions of events”.

Resolved, on motion of Mr Lynn: That paragraph 29 be amended by omitting the words “the nine” and inserting instead the word “some”.

Resolved, on motion of Ms Gardiner: That paragraph 29 be amended by:

- (a) omitting the words “does not accept the force or the terms of Mrs Arena’s criticisms. The Committee” and inserting instead “points out that it”; and
- (b) inserting after the words “from her written statements or making speeches.” the sentence “However, the Committee recognises that in some instances Mrs Arena was expressing the belief that she was not being treated fairly.”

Resolved, on motion of Revd Mr Nile: That paragraph 30 be amended by:

- (a) omitting the words “in some cases”; and
- (b) omitting the word “such” and inserting instead the word “some”.

Resolved, on motion of Ms Gardiner: That paragraph 42 be amended by omitting the words “a number of” and inserting instead the word “some”.

The Committee adjourned at 8.00 p.m. until Thursday 25 June 1998 at 9.30 am.

Meeting No. 76

Thursday 25 June 1998

at Parliament House, Sydney at 9.30 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC was also in attendance.

Minutes of Meeting No. 75 were confirmed on motion of Mr Lynn.

The Committee deliberated.

Resolved, on motion of Mr Kelly:

- (1) That the following edited transcripts of in camera evidence given before the Committee be published as a separate volume of the Report:

17 December 1997	Mr Peter Ryan, Police Commissioner
21 December 1997	Mr Alex Mitchell, Associate Editor, <i>The Sun-Herald</i>
5 March 1998	The Hon Franca Arena, MLC
16 March 1998	The Hon Franca Arena, MLC
24 March 1998	The Hon Franca Arena, MLC
6 April 1998	The Hon Franca Arena, MLC
15 May 1998	Commander Clive Small

- (2) That the transcript of in camera evidence given before the Committee by Mr Philip Taylor, Counsel to Mrs Arena, on 23 June 1998 be published with the Report.

The Committee considered further matters to be added to Appendix 4, to address allegations by Mrs Arena concerning the Chair and “E”. The Committee agreed that Mr Gross would draft an appropriate section for the Committee’s consideration.



The Committee considered a revised draft of the Findings and Recommendations.

Revd Mr Nile circulated an extract from the Standing Orders including Standing Order 80 (Offensive words against either House or any Statute) and Standing Order 81 (Digressions, Imputations and Reflections).

Revd Mr Nile circulated draft recommendations concerning sanctions.

The Committee agreed that the Clerk redraft Recommendation 2.

The Committee further considered the issue of sanctions.

The Committee adjourned at 11.00 a.m. until 6.30 pm this day.

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Meeting No. 77

Thursday 25 June 1998

at Parliament House, Sydney at 6.30 pm

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC was also in attendance.

Minutes of Meeting No. 76 were confirmed on motion of Mr Johnson.

The Committee deliberated.

Appendix 4 read.

Resolved, on motion of Revd Mr Nile: That paragraph 46 be amended by omitting the words “social contact” and inserting instead “contact at a social function”.

Resolved, on motion of Mr Jones, that Appendix 4, as amended, be agreed to.

Chapter 5, as amended, new paragraphs 5.1.13 - 5.1.16, read.

Resolved, on motion of Revd Mr Nile: That paragraph 5.1.14 be amended by omitting the word “rejected” and inserting instead “did not accept”.

Resolved, on motion of Mr Kelly, that Chapter 5, as amended, be agreed to.

Chapter 6, sections 6.1 and 6.2, read, amended and agreed to.

The Committee adjourned at 7.30 p.m. until the rising of the House this day.

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Meeting No. 78

Thursday 25 June 1998

at Parliament House, Sydney at 11.25 pm

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Mr Bernard Gross, QC was also in attendance.

The Committee deliberated.

Chapter 6 read.

Paragraph 6.1.4 read, amended, and agreed to.

Paragraph 6.1.5 read, amended, and agreed to.

Paragraph 6.2.1 read, amended, and agreed to.

Paragraph 6.2.2 read, amended, and agreed to.

Paragraph 6.2.3 read, amended, and agreed to.

Paragraph 6.3.1 read, amended, and agreed to.

Paragraph 6.3.6 read, amended, and agreed to.

Paragraph 6.3.7 read, amended, and agreed to.

Paragraph 6.3.8 read, amended, and agreed to.

Paragraph 6.3.9 read, amended, and agreed to.

Paragraph 6.3.10 read, amended, and agreed to.

Paragraph 6.3.11 read, amended, and agreed to.

Paragraph 6.3.12 read, amended, and agreed to.

Paragraph 6.3.13 read, amended, and agreed to.

Mr Lynn moved: That the following recommendations be adopted:

Recommendation No. 1

1. That Mrs Arena be called on to withdraw the allegations made in her speech on 17 September 1997 which involved imputations against:

- (a) the Premier, Mr Carr.
- (b) the Leader of the Opposition, Mr Collins.
- (c) the Royal Commissioner, Mr Justice Wood.
- (d) the General Secretary of the Australian Labor Party, Mr Della Bosca.
- (e) the President of the Australian Labor Party, Mr Sheahan,

of a criminal conspiracy to ensure that people in high places would not be named in the paedophile segment of the Report of the Royal Commission into the Police Service, and make a written apology to the House.

2. That in the event of the failure of Mrs Arena to withdraw the imputations and make a written apology to the House within a specified time, Mrs Arena be suspended from the service of the House until the submission of a formal apology.

Recommendation No 2.

That the House consider a Resolution in the following terms:

1. That this House, having regard to the findings of the Standing Committee on Parliamentary Privileges and Ethics in relation to its inquiry into the conduct of the Honourable Franca Arena, MLC:

- (a) considers that the conduct of Mrs Arena in making certain allegations in her speech on 17 September 1997, fell below the standards which the House is entitled to expect from its Members and brought the House into disrepute.
- (b) calls on Mrs Arena to make a written apology to the House within 5 sitting days

after the passing of this Resolution, and withdraw in writing the imputations against:

- (i) the Premier, Mr Carr.
- (ii) the Leader of the Opposition, Mr Collins.
- (iii) the Royal Commissioner, Mr Justice Wood.
- (iv) the General Secretary of the Australian Labor Party, Mr Della Bosca.
- (v) the President of the Australian Labor Party, Mr Sheahan,

of a criminal conspiracy to ensure that people in high places would not be named in the paedophile segment of the Report of the Royal Commission into the Police Service.

2. That, in the event of Mrs Arena not submitting an apology and withdrawing the imputations by the time required in paragraph 1 (b), Mrs Arena is suspended from the service of the House until the submission of a formal apology and withdrawal of the imputations referred to in paragraph 1(b) (i) to (vii).

3. That, before the submission of an apology to the House, the form of words of the apology be agreed to by the Standing Committee on Parliamentary Privilege and Ethics, in consultation with Mrs Arena.

4. That the apology and withdrawal be read by Mrs Arena in the House and be also published in the Minutes of Proceedings.

Ms Gardiner moved: That the Question be amended by omitting paragraph 3 and inserting instead:

3. That the apology be in the following terms:

I hereby withdraw the allegations made in my speech to the House on 17 September 1997, which involved imputations against Mr Carr, Mr Collins, Mr Justice Wood, Mr Della Bosca and Mr Sheahan, of a criminal conspiracy to ensure that people in high places would not be named in the paedophile segment of the Report of the Royal Commission into the Police Service.

I also hereby apologise to the House and to those people for making those imputations.

Question: That the amendment be agreed to—put and passed.

Question as amended: That the following recommendations be adopted:

Recommendation No. 1

1. That Mrs Arena be called on to withdraw the allegations made in her speech on 17 September 1997 which involved imputations against:

- (a) the Premier, Mr Carr.
- (b) the Leader of the Opposition, Mr Collins.
- (c) the Royal Commissioner, Mr Justice Wood.
- (d) the General Secretary of the Australian Labor Party, Mr Della Bosca.
- (e) the President of the Australian Labor Party, Mr Sheahan,

of a criminal conspiracy to ensure that people in high places would not be named in the paedophile segment of the Report of the Royal Commission into the Police Service, and make a written apology to the House.

2. That in the event of the failure of Mrs Arena to withdraw the imputations and make a written apology to the House within a specified time, Mrs Arena be suspended from the service of the House until the submission of a formal apology.

Recommendation No 2.

That the House consider a Resolution in the following terms:

1. That this House, having regard to the findings of the Standing Committee on Parliamentary Privileges and Ethics in relation to its inquiry into the conduct of the Honourable Franca Arena, MLC:

- (a) considers that the conduct of Mrs Arena in making certain allegations in her speech on 17 September 1997, fell below the standards which the House is entitled to expect from its Members and brought the House into disrepute.
- (b) calls on Mrs Arena to make a written apology to the House within 5 sitting days after the passing of this Resolution, and withdraw in writing the imputations against:
  - (i) the Premier, Mr Carr.
  - (ii) the Leader of the Opposition, Mr Collins.
  - (iii) the Royal Commissioner, Mr Justice Wood.
  - (iv) the General Secretary of the Australian Labor Party, Mr Della Bosca.

(v) the President of the Australian Labor Party, Mr Sheahan,

of a criminal conspiracy to ensure that people in high places would not be named in the paedophile segment of the Report of the Royal Commission into the Police Service.

2. That, in the event of Mrs Arena not submitting an apology and withdrawing the imputations by the time required in paragraph 1 (b), Mrs Arena is suspended from the service of the House until the submission of a formal apology and withdrawal of the imputations referred to in paragraph 1(b) (i) to (vii).

3. That the apology be in the following terms:

I hereby withdraw the allegations made in my speech to the House on 17 September 1997, which involved imputations against Mr Carr, Mr Collins, Mr Justice Wood, Mr Della Bosca and Mr Sheahan, of a criminal conspiracy to ensure that people in high places would not be named in the paedophile segment of the Report of the Royal Commission into the Police Service.

I also hereby apologise to the House and to those people for making those imputations.

4. That the apology and withdrawal be read by Mrs Arena in the House and be also published in the Minutes of Proceedings—put and passed.

Resolved, on motion of Mr Kelly: That Chapter 6, as amended, be agreed to.

Question: That the Report, as amended, be agreed to—put and passed unanimously.

The Committee adjourned at 12.25 a.m. until Friday 26 June 1998 at 2.15 p.m.

Lynn Lovelock  
Clerk to the Committee

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Meeting No. 79

Friday 26 June 1998

at Parliament House, Sydney at 2.15 pm

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Revd Mr Nile
Mr Johnson	Mr Jones
Mr Kelly	Mr Primrose
Mr Lynn	

Apologies were received from Mr Manson.

Mr Bernard Gross, QC was also in attendance.

Minutes of Meetings No. 77 and 78 were confirmed on motion of Mr Johnson.

The Committee deliberated.

Resolved, on motion of Mr Lynn: That the Report be signed by the Chair and presented to the Clerk of the House as soon as practicable in accordance with the resolution of the House of 24 May 1995.

The Committee considered the Minutes of Proceedings relating to the Inquiry.

Resolved, on motion of Mr Kelly: That the Minutes of Proceedings be edited in accordance with the Committee's resolution of 24 November 1997 and published with the Report of the Committee.

That the legal services to the Committee of Mr Gross QC and Mr Catanzariti, Solicitor, be terminated on the tabling of the Report of the Committee.

That the legal services of Mr Philip Taylor, Counsel to Mrs Arena, be terminated after a maximum of five days legal work after tabling of the Report of the Committee.



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The Committee expressed its appreciation to Mr Bernard Gross QC and Mr Joe Catanzariti, to the Deputy Clerk and Clerk to the Committee, Ms Lynn Lovelock, the Senior Project Officer, Ms Velia Mignacca, and the Committee Officer, Mr Daniel Noll, for their work in relation to this Inquiry.

The Committee deliberated.

Resolved, on motion of Mr Kelly: That the Chair be authorised to make a statement to the media in relation to the Report.

The Committee adjourned at 2.30 p.m. sine die.