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CORRUPTION AND CRIME COMMISSION

OF WESTERN AUSTRALIA

COMMISSIONER JOHN MCKECHNIE AO KC

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON WEDNESDAY, 20 MARCH 2024, AT 10 AM

COUNSEL:

MS K. NELSON (COUNSEL ASSISTING)

MR C. PORTER (WITNESS)

WITNESS: CHRISTOPHER JAMES FIELD

1 **THE COMMISSIONER:** Please be seated.

2
3 **CHRISTOPHER JAMES FIELD RECALLED ON FORMER OATH AT 10.00**
4 **AM:**

5
6 **THE COMMISSIONER:** Mr Field, when we designed this room we
7 got some things right, but this part not so much, because
8 I'm conscious that you may want to look at me and also
9 would want to look at Mr Porter. I don't mind, whatever is
10 most comfortable for you. As I say, this bit didn't quite
11 work out, so whatever is comfortable to you, I won't take
12 an offence if you're looking at Mr Porter?---Thank you for
13 that courtesy, Commissioner.

14
15 Mr Porter.

16
17 **PORTER, MR:** Thank you, Commissioner, and I apologise for
18 the slight delay this morning.

19
20 **THE COMMISSIONER:** That's all right.

21
22 **PORTER, MR:** Would it assist the Commission - - -

23
24 **THE COMMISSIONER:** Well, before you start, I understand
25 that documents were supplied.

26
27 **PORTER, MR:** Yes.

28
29 **THE COMMISSIONER:** I also understand they've been uploaded
30 onto the system, and that you'll be referring to them by
31 page number.

32
33 **PORTER, MR:** That is right, Commissioner. And I thought
34 it might assist just to explain what the ambition for ease
35 of reference to those documents would be. But not knowing
36 of course precisely what documents the Commission may have
37 that we've not yet seen. Where we're referring to a
38 document that we have seen and are aware that the
39 Commission has, our best effort has been to refer to that
40 by the document number that's been assigned. The bundle
41 that has been presented is overwhelmingly documents that we
42 simply have possession of, but we do not know whether the
43 Commission has. So they have been put in a single bundle
44 and paginated. There may be some overlap between those two
45 categories, but we'll do our best with efficiency to
46 reference those documents. Now - - -

47
48 **THE COMMISSIONER:** Sorry, in due course the Commission
49 will barcode all the documents, and they will in due course
50 get a number.

1 **PORTER, MR:** Yes. Mr Field, I want to take you back to
2 the very commencement of the public hearings, and the means
3 of efficiency, I just want to focus your mind on what the
4 central issues seem to have been that have emerged. You'll
5 recall that on 13 February, there was a brief opening
6 address from counsel assisting?---I do.

7

8 And that what was initially in question was the issue of
9 serious misconduct, which was defined in the Act at section
10 40, you recall that being raised?---I do.

11

12 And again, on 13 February, which is transcript page 5 for
13 reference, it was said by counsel assisting that this is an
14 inquiry into whether Mr Field's commitment of financial and
15 other resources at the OWA to advance the international
16 activities in which it was involved was an improper use of
17 the power of the Office of Ombudsman, you recall that?---I
18 do.

19

20 Now, just for brevity, I am going to refer to your position
21 as Ombudsman of the State of Western Australia, but what's
22 also called under the Parliamentary Commissioner Act simply
23 as Ombudsman, and I'm going to refer to the position of
24 President of the International Ombudsman Institute as
25 President?---Thank you.

26

27 Then you'll recall that it was also said by counsel
28 assisting that this is an inquiry into whether you,
29 Mr Field, corruptly took advance of your appointment as
30 Ombudsman to obtain a benefit for yourself, for a
31 colleague, and for the International Ombudsman Institute,
32 you recall that?---I do.

33

34 And the focus would be on decisions by you, Mr Field, to
35 use public resources to undertake extensive international
36 travel over the last few years. So, clearly and cautiously
37 put, one central feature of the questioning and this
38 inquiry has been about the nature, extent and authorisation
39 for your travel, do you understand?---I do.

40

41 And then secondarily, and this appeared at transcript 5
42 from 13 February, the inquiry said it would also focus on
43 decisions by you, Mr Field, to spend public resources on
44 activities for the benefit of the IOI, you recall that?---I
45 do.

46

47 Then cautiously put again almost immediately, the focus
48 there has been on the agreement that was ultimately signed
49 and executed by the Ombudsman of Western Australia and the

1 OECD, which I think was ultimately executed in September of
2 2023?---Correct.

3
4 So, I'm going to deal first of all with the issue of
5 travel, and then laterally with the issue of expenditure on
6 the OECD agreement. I'm going to start with the question
7 that I think has been central, which is jurisdiction and
8 authority. Now, you remember in the opening address the
9 counsel assisting provided an expression at transcript page
10 4 from 13 February:

11
12 It has been said that a statutory office holder may
13 do nothing but that which is expressly authorised by
14 law, while an individual may do anything but that
15 which is forbidden by law.

16 Do you recall that in the opening?---I do.

17
18 Now, do you have an understanding that you can communicate
19 simply as to what that means?---Ah, well, that there's not
20 a particular function in my legislation - - -

21
22 **PORTER, MR:** Sorry, I'll just stop you there. I want to
23 know what you understand that expression to mean.

24
25 **THE COMMISSIONER:** And could I just say, I don't mind you
26 looking at Mr Porter, as I said, but please keep your voice
27 up?---Oh, I'm so sorry.

28
29 Because I didn't catch the start of the answer?---I'm so
30 sorry, I might even get the question again.

31
32 **PORTER, MR:** Okay, there was an expression used that it's
33 been said that a statutory office holder may do nothing but
34 that which is expressly authorised by law, while an
35 individual may do anything but that which is forbidden by
36 law. So, if we just speak to the first part of that, that
37 a statutory office holder may do nothing but that which is
38 expressly authorised by law. What do you generally
39 understand by that proposition?---That there would have to
40 be a provision within the legislation to allow you to do a
41 particular thing.

42
43 **THE COMMISSIONER:** Sorry?---Oh, sorry.

44
45 I am having trouble hearing you?---I'm so sorry. Um, that
46 there would need to be - there would be something in the
47 legislation that expressly indicated that you would
48 undertake a certain act or function.

49
50

1 **PORTER, MR:** So you've used the terms there 'act or
2 function'?---Yes.

3
4 I just put to you - I don't think it's a matter of any
5 great dispute that that comes from that expression from an
6 old English case Entick and Carrington, and I think it's
7 meant to express a general principle that the state or the
8 agency of the government may do nothing but that which is
9 expressly authorised by law. Would you accept that as a
10 general proposition?---Yes, I would.

11
12 That's an administrative law principle and a principle of
13 civil rights. If I put it to you that way, you'd accept
14 that?---Ah, an expression of the will of parliament,
15 exactly as you say.

16
17 I just want to turn to the Parliamentary Commissioner Act
18 which I'll just call the Ombudsman's Act for the sake of
19 brevity. But part 3 of that Act is entitled 'Jurisdiction
20 and Functions', that's correct?---It is.

21
22 Jurisdiction and functions of the Commissioner. Now, I
23 just want to close off some issues. I'm not sure that
24 they've ever been expressly put, but I'm going to put them
25 to you. While you were acting as president of the IOI you
26 never undertook any functions as IOI president in the sense
27 of investigatory functions?---No, I did not.

28
29 And you've never purported to undertake any investigations
30 in the capacity of IOI president?---Ah, no, I did not.

31
32 So you didn't seek in that sense to attempt to do anything
33 as IOI president which would have required a statutory
34 basis?---No, I did not.

35
36 And is it the case that you never exercised a West
37 Australian Ombudsman function of the type expressed in
38 section 14 in relation to any personal agency in another
39 state or in another jurisdiction?---Ah, no. Ah, 14
40 relating to matters of investigation, the answer is no, I
41 did not.

42
43 And while you were president the functions as they're
44 expressed in your Act for the West Australian Ombudsman
45 still went on?---They did.

46
47 Is there anything that you can say very generally about
48 your KPIs? What are your central KPIs as Ombudsman in WA?--
49 --Central KPIs relate to the, ah, efficiency and

1 effectiveness of the functions enumerated in the
2 legislation; complaint handling, other matters.
3

4 Can you give an example of how one of those functions might
5 be measured?---For example, complaint handling would be
6 measured, um, by the age of a complaint, the age in which
7 on average cases are closed.
8

9 And over the period in which you held the current roles of
10 president and state ombudsman, is there anything that you
11 would want to generally say about the KPI performance of
12 the Office of State Ombudsman?---Yes, the KPA - the KPI
13 performance, ah, remained the same or improved.
14

15 **THE COMMISSIONER:** Sorry, remain the same - - -?---The
16 same or improved.
17

18 - - - or improved, thank you?---Sorry, Commissioner.
19

20 **PORTER, MR:** At the very end of yesterday's examination
21 you were asked a question by the Commission which appears
22 to have been a central question in the context of the way
23 in which the examinations have progressed, and that was -
24 and I'm paraphrasing here, but what was the source of power
25 to expend West Australian state money in the conduct or
26 exercise of your role as president of the IOI? Now, you
27 recall that question at the end of proceedings yesterday?--
28 -I - I do. I do.
29

30 Again, I'm paraphrasing your answer, but your answer
31 appeared to be that being president of the IOI was, in your
32 view, part of undertaking of your role as Ombudsman in
33 Western Australia, which you said you were doing both of
34 those roles with the parliament's knowledge and consent.
35 That's a paraphrasing of your answer, but is that
36 essentially your position?---Yes.
37

38 At various times in the examination you've described those
39 two roles as complementary, and you've been asked various
40 questions and used that phrase or that word in the context
41 of being asked questions about whether a conflict existed
42 between those two roles. I've seen that in the transcript
43 at T25 on 14 February, transcript page 26 on 14 February,
44 transcript page 43 on 18 March. But you've described on
45 multiple occasions that you believe those two roles,
46 president and State Ombudsman, were complementary,
47 correct?---Yes.
48

49 You've also been asked multiple times as you were at
50 closing proceedings yesterday about your functions under

1 the Act. Now, that question was about what specific
2 function under the Act did or may have allowed you to spend
3 state money from the Ombudsman's general appropriation on
4 IOI travel and associated costs. Do you recall that line
5 of questioning?---I do, counsel.

6
7 And it appears that what was being put to you sensibly was
8 that your role, your actions was limited to specific
9 functions defined in the Act. That's what you understood
10 to have been put to you at various points?---I did.

11
12 And counsel assisting I think helpfully used a phrase - it
13 may have been yesterday, I think, but counsel assisting put
14 to you a phrase at one point about a non-PC Act purpose.
15 Do you recall that phrase being used?---I do.

16
17 And I think what was being put was a question that where
18 you were using state appropriations for a non-PC Act
19 purpose overseas, it was being put to you that the non-PC
20 Act purpose was not a function conferred by the Act?---Ah,
21 yes, I recollect that exactly.

22
23 And the implication of that that was put to you was that
24 there would thereby be no specific statutory basis for
25 doing what you were doing. That's what you understood as
26 being put to you?---That is what I understood was being put
27 to me.

28
29 And by extension that there would be no specific statutory
30 basis for your expenditure of State Ombudsman money on your
31 role as president of the IOI which might be expended on
32 travel or other things?---Yes, that is what I understood
33 was being put to me.

34
35 Now I'm just going to put to you directly that when you,
36 Mr Field, were asked questions about this particular issue
37 of your functions under the Act and what it may or may not
38 have authorised to do that your answers became somewhat
39 confused at various points?---I think that is a fair thing
40 to say.

41
42 I think at one point when you were asked directly whether
43 it was a function of your role as State Ombudsman to
44 discharge your role of IOIP as president that you said
45 that, yes, it was. And then quite fairly you were pressed
46 to try and point to the specific function in your Act that
47 would justify that statement and, in my observation, failed
48 to do that. Do you think that's a fair reflection of what
49 occurred?---Oh, that might even be generous, but I agree.

50

1 At another point you conceded that there was no specific
2 function set out in your Act that authorised your
3 discharging of the role of president of the IOI. And you
4 recall that you conceded that at another point?---Agreed.
5
6 And I put to you that by extension, conceding that would be
7 a concession that there's no specific function in your Act
8 that would allow for - no specific function that would
9 specifically allow for expenditure attached to your role as
10 IOI president?---Yes, I agree.
11
12 An observation I'm putting to you is that some confusion
13 might have arisen out of the various use of terms such as
14 'Acts' or 'roles' or 'hats' or 'jobs', and then ultimately
15 'functions' which is a reference to the Act. So what I
16 want to do is put to you some questions with your mind
17 focused on the issue of functions that are in your Act. So
18 I want to take you to the long title of your Act. And the
19 long title of your Act you'd be familiar with obviously?---
20 I am, counsel.
21
22 And it reads:
23
24 An act to provide for the appointment of a
25 parliamentary commissioner for administrative
26 investigations with functions relating to the
27 investigation of administrative action taken by or on
28 behalf of certain departments and authorities, to the
29 deaths of certain children and to the reportable
30 conduct scheme and for incidental purposes.
31
32 ?---Correct.
33
34 So you're familiar with that formulation. And then taking
35 you to, by memory at the moment, section 14(1) of your Act,
36 that reads - 14(1):
37
38 Subject to this Act, the Commissioner shall
39 investigate any decision or recommendation made, or
40 any act done or omitted, that relates to a matter of
41 administration and affects any person or body of
42 persons in his or its personal capacity in or by any
43 department or authority to which this Act applies in
44 the exercise of any power or function.
45
46 That's a correct recitation, you'd be well familiar with
47 it?---I'm well familiar with it. That is an exactly
48 correct representation.
49

1 Okay. Now, I'm going to give you a very coarse operative
2 summary of how it appears to an external observer the act
3 is structured and works. Section 14 sets out that
4 essentially the role of the Ombudsman in WA is
5 investigatory, that you investigate the decisions or
6 recommendations made or acts done effectively on
7 administrative decision-making by departments of State
8 Government?---I'm not (indistinct). That's course - that's
9 a perfect - - -

10
11 Okay?--- - - - summation.

12
13 And then section 13 of the act sets out the departments and
14 authorities that are subject to your investigations?---It
15 does.

16
17 Okay. And then at other points in the act there are
18 certain carve outs if I can put it that way of agencies and
19 individuals that are not subject to your investigations?---
20 That is correct.

21
22 And then further in the act - without going through all of
23 those - there are in addition or to general decision-making
24 acts or omissions of departments that are inside your
25 jurisdiction. There are specific heads of investigative
26 function?---There are.

27
28 All right. And can you nominate a couple of those just by
29 way of example?---Ah, the act provides for the review of
30 child deaths in Western Australia. It provides, ah, for,
31 ah, the investigation of reportable conduct as particular
32 matters of investigation.

33
34 So they - they are more bespoke or individualised types of
35 investigations - - -?---Correct.

36
37 - - - that are added on through specific provisions after
38 section 14?---Correct.

39
40 Okay. Is it a fair description to say that your functions
41 - your statutory functions that you are empowered to
42 undertake are essentially investigatory?---Yes, correct.

43
44 So going back to that general principle that was put today
45 and in counsel assisting's opening that you are a statutory
46 officer - officeholder and you may do nothing but that
47 which is expressly authorised by law. You remember that?--
48 -I do.

49

1 So you are expressly authorised by law to undertake a range
2 of investigations subject to certain carve outs?---Exactly.
3

4 But just - I want to pause for a moment. The International
5 Ombudsman's Institute - that is not an investigatory
6 agency?---No, it is not.
7

8 All right. It has - it doesn't have a piece of legislation
9 or a statutory source of power of any description?---Ah,
10 apart from incorporated rules in so far as an incorporated
11 association. No, it's certainly not in relation to
12 investigations.
13

14 So it has rules. And as I understand it, their bylaws
15 under the Austrian Act on Associations?---Exactly.
16

17 So we might call that an unincorporated association here?
18 ---Exactly.
19

20 Board of directors, yes?---Yes.
21

22 The administrative bodies?---Yes.
23

24 There are some rules set out for decision-making
25 processes - - -?---Yes.
26

27 - - - but it's not an investigative agency. It is what we
28 might call a peak body - in this case, an international
29 peak body. Is that a fair description?---I think that is a
30 perfect description.
31

32 Okay. Now, you mentioned that on one of your trips you got
33 into a car with a person, Julie Inman-Grant who was
34 Australia's e-Safety Commissioner?---Correct.
35

36 And she - that was whereabouts?---Ah, that was in Rome.
37

38 I'm going to ask you some questions by way of comparison to
39 try and crystallise the issue. The e-Safety Commissioner
40 is a Commonwealth statutory officeholder?---Yes, she is.
41

42 And that's correct to your knowledge?---To my knowledge,
43 she is.
44

45 And if I put it to you that her governing legislation is
46 the Online Safety Act?---That is my understanding.
47

48 Okay. And what I'd like to do is put before you what is
49 the first of the documents in the bundle that we've
50 provided, which is an excerpt from the Online Safety Act

1 2021. Thank you. Now, I don't expect you'll have any
2 great familiarity with this act, but this is a section in
3 the act, section 27. At the bottom of that page as is
4 sometimes the case with Commonwealth legislation there's a
5 simplified summary in section 25 of what later appears in
6 section 27. And then in section 27 there is a list of
7 functions of this Commissioner - in this case, the e-Safety
8 Commissioner. You see that?---I can.
9

10 And I think then, Madam Associate, we'll go to the next
11 page if we could. So there's a list of functions there?
12 ---Yes.

13 And then I'll take your attention down to what is 27(s)?
14 ---Thank you.

15 You see that?---I do.

16 And that reads that - this is at the end of a long list of
17 functions. It reads - there is the juncture at the
18 beginning of that section you could read:

19 The functions of the Commissioner are:

20 And you go down to (s):

21 To do anything incidental to or conducive to the
22 performance of any of the above functions.

23 You see that?---I do.

24 Okay. Now, the - we had a situation - it was in Rome it
25 was - I think you said it was?---It was in Rome.

26 You're sharing a car with the e-Safety Commissioner?---Ah,
27 no. I was in a, ah, seminar with the e-Safety
28 Commissioner.

29 You were - - -

30 **THE COMMISSIONER:** Sorry. Just - - -?---Oh, sorry. In a
31 seminar with the e-Safety Commissioner.

32 Seminar.

33 **PORTER, MR:** You didn't travel there with her?---Ah,
34 that's not my recollection.

35

1 Okay. So the State Ombudsman of Western Australia is at a
2 function at an embassy with the Commonwealth e-Safety
3 Commissioner?---Correct.

4
5 Okay. You're both there for the purposes of giving
6 speeches, is that correct?---We are.

7
8 All right. Now, you each have two hats if I can put it
9 that way, would you agree with that? That's an expression
10 that's been used in this examination?---Exactly so.

11
12 You were at that point in time and indeed are now the State
13 Ombudsman of Western Australia and you were also the
14 President of the IOI?---Correct.

15
16 And Ms Inman-Grant, the e-Safety Commissioner for the
17 Commonwealth was also a board member of WePROTECT Global
18 Alliance?---Correct.

19
20 And you were personally aware of that?---I was.

21
22 Do you know what they - what that is, WePROTECT Global
23 Alliance?---Um, my understanding, ah - and I think
24 Ms Inman-Grant may have even been - if not the moment -
25 elected chair of that body. But, ah, it was - it is a body
to promote cyber safety, ah, internationally and is
effectively a peak body as I understand - - -

28
29 Okay?--- - - - it for cyber safety institutions.

30
31 So broadly analogous to the IOI in the sense that it was a
32 peak body for the statutory officeholders of her type?---I
33 - I would have thought it was extraordinarily analogous,
34 yes.

35
36 Okay. You're both at a function. You're both speaking.
37 You were speaking in the capacity of your peak body roles?
38 ---Correct.

39
40 Now, I just want to put it to you that at that point in
41 time when the e-Safety Commissioner is attending and
42 speaking at this function in her role - I think she was a
43 board member of the WePROTECT Global Alliance. I just want
44 to put it to you that based on what I've shown to you, she
45 was undertaking her international peak body duties in
46 providing - giving that speech and travelling with a
47 provision in her act which said at section 27(s) that she
48 was authorised to do anything incidental to or conducive to
49 the performance of any of the above functions?---Correct.

1
2 That's clear to you? Okay. You are out on - at that
3 function speaking as President of IOI having travelled to
4 that destination without a specific standalone provision in
5 your act that says that you are authorised to do anything
6 incidental or conducive to the performance of any of the
7 above functions?---That is correct.
8
9 You'd concede that?---Oh, absolutely concede - - -
10
11 Okay?--- - - - that.
12
13 And just if I put it to you that that phraseology of, um,
14 incidental or conducive to the performance of any of the
15 above functions seems to be a Commonwealth Parliamentary
16 Council phraseology - it appears in a number of
17 Commonwealth acts for statutory officeholders. If I put
18 that to you, that would seem reasonable. And are
19 you - - -?---I - - -
20
21 Do you have knowledge of that?---I don't have a specific
22 knowledge but it's - it seems to me that it would be
23 something that would be reasonable.
24
25 **THE COMMISSIONER:** Mr Porter, you may know this and be
26 going there, but the Interpretation Act has a similar
27 provision which would probably apply to Mr Field.
28
29 **PORTER, MR:** Yes, Commissioner. That's essentially where
30 I was heading.
31
32 **THE COMMISSIONER:** I knew you - thought you were going
33 there - - -
34
35 **PORTER, MR:** Yes.
36
37 **THE COMMISSIONER:** - - - but I just want to make sure that
38 I'm fully aware that there is that incidental part.
39
40 **PORTER, MR:** I might be briefer then with respect to this
41 portion. If I used the language that you have used, which
42 is complementary, we would agree that there's no specific
43 provision in your act which says that you are able to do
44 anything incidental to or - sorry. There's no specific
45 provision that says that you're allowed to do anything
46 complementary to the performance of any of the above
47 functions?---No, not in my act. No.
48
49 Okay. And if I put it to you that those words, incidental
50 or conducive, are close to the concept that you're trying

1 to convey with the use of the word complementary, would you
2 agree or disagree?---In my inelegant expressions of
3 yesterday, to which I apologise to the Commissioner, that
4 is what I was trying to convey.
5 Now, if I just go back to that opening statement, which was
6 from that case of Entick v Carrington, that a statutory
7 officer holder may do nothing but that which is expressly
8 authorised by law. As the Commissioner has said, there is
9 a similar provisions in the Interpretation Act, which may
10 apply to your role as Ombudsman. I take it though that you
11 would not consider that provision in an Interpretation Act
12 to allow you to exercise an investigative function outside
13 Western Australia?---No. I would not.
14
15 So, what sort of things do you conceive as being
16 complementary or incidental or conducive to your other
17 functions?---Ah, in terms of acting as president?
18
19 No, just generally. Let's just leave president aside for a
20 moment?---Okay, sorry, yes.
21
22 If it's the case that there is a provision through the
23 Interpretation Act that may allow you to do things which
24 are incidental or complementary, or do use other language,
25 conducive, to your functions that we've described under
26 section 14?---Yes.
27
28 Leaving aside the presidency, what type of things in your
29 mind would you conceive those to be?---Um, they would be -
30 what I would conceive them potentially to be, um, ah,
31 matters that may be providing educative, ah, information,
32 speeches, the like, in relation to the actual undertaking
33 of the functions themselves, how those functions are
34 formed, and providing further ways, incidental to,
35 conducive to, how investigations are undertaken to ensure
36 that they're done as efficiently and effective as possible.
37
38 So, just as a preliminary matter, the way that these
39 examinations have progressed, I just want to put to you
40 that whether you might think it was a good, bad, or
41 indifferent idea to be president of IOI and travel in that
42 capacity, one thing that has been put to you is that the
43 lack of a specific authorisation would make any expenditure
44 - most notably travel, but other things - on your
45 presidential IOI well from your domestic budget without
46 authorisation, you understand that has been put to you?---I
47 do.
48

1 And that it may follow from that lack of authorisation, if
2 that were correct, that it were an unlawful expenditure?
3 ---I do.
4
5 And that it may follow from that, that it is representative
6 of serious misconduct or corruption within the meaning of
7 the Act?---Agreed.
8
9 Now, you've been Ombudsman for 17 years?---Ah, correct.
10
11 Have you done things using your domestic budget, your
12 Ombudsman state appropriations, your work time, that have
13 not strictly been part of your functions under the Act, as
14 we've discussed are set out in sections 13, 14 and beyond?
15 ---Yes.
16
17 Can you describe what some of those things might have been,
18 or are?---Ah, I'll try to think of some examples. Um, I
19 have attended - travelled interstate to attend meetings of
20 Australian Parliamentary Ombudsmen.
21
22 What's that?---So, they are annual meetings of each of the
23 Australian Ombudsmen and New Zealand Ombudsmen.
24
25 That's a domestic - - -?---It's domestic people in effect.
26
27 Okay, and you've done that on your budget, your
28 appropriations?---Ah, in my appropriations budget, correct.
29
30 During work time?---Ah, yes.
31
32 You've been out of the state at those times, I presume?
33 ---Indeed. Um, I have attended - sorry, I have - I was
34 asked, um, by the Labor Government, more particularly
35 Darren Foster, the then-Director-General of the Department
36 of Premier and Cabinet to chair, ah, a machinery of
37 government working group. Part of the machinery of
38 government working group changes that were undertaken.
39
40 Let me just give you some examples to try and shorten this.
41 Have you ever held a position at a university?---Yes, I'm
42 adjunct professor in the School of Law at the University of
43 Western Australia.
44
45 How long have you been in that position?---Over 17 years.
46
47 What do you do?---Ah, teach sessions. Occasionally guest
48 lectures in administrative law, and I co-founded and co-
49 managed, co-teach a subject on advanced administrative law
50 on a bi-annual basis.

1
2 Is it a remunerated position?---No, it's not.
3
4 Do you do it on work time?---Yes, I do.
5 Do you apply work resources for it?---Yes, I do.
6
7 Have you been overseas in other capacities as an
8 Ombudsman?---Yes, um, I've been to New Zealand as an
9 Ombudsman.
10
11 Indonesia?---Ah, I conducted training in Indonesia as part
12 of a program with the Commonwealth Government and the
13 government of Indonesia.
14
15 When was that?---I think it was around 2013.
16
17 And when did you go to New Zealand?---Oh, I've been to New
18 Zealand a few times over the years.
19
20 What was the purpose?---Ah, two reasons to go to New
21 Zealand. One in relation to Australian Ombudsmen meetings,
22 is my recollection. I also went to New Zealand as part of
23 my Energy and Water Ombudsman as well.
24
25 **THE COMMISSIONER:** Sorry, just I missed the second - - -?
26 ---Oh, sorry, Energy and Water Ombudsman role, so sorry
27 Commissioner.
28
29 Okay.
30
31 **PORTER, MR:** When you went in your capacity of Energy and
32 Water Ombudsman, was that on work time?---On work time.
33
34 From the domestic budget of the OWA?---From the budget of
35 the Energy and Water Ombudsman.
36
37 When you went to Indonesia to do a Commonwealth training
38 program - I think that was in 2013, is that right?
39 ---Correct.
40
41 Okay, who paid for that?---Ah, my recollection is the
42 Commonwealth may have paid for some, if not all, of that.
43 It was certainly on work time.
44
45 Okay. I take it that you would have been to conferences
46 and the like over the years, 17 years?---Oh, innumerable.
47 Innumerable conferences, including interstate.
48
49 And when you travelled in that capacity, was it on work
50 time?---Work time, work budget.

1
2 Do you write articles or make those sort of contributions?
3 ---Yes, I have published a number of articles, done
4 weekends after hours and worked on.
5 Okay. And then you were obviously president of the IOI,
6 but prior to being that, you were a second vice president
7 between 2016 and 2021?---Yes, immediately prior to my
8 election as president, I was the second vice president of
9 the IOI, between those dates exactly.
10
11 And we'll come to this in a moment, but you travelled in
12 that role. And again, there was application of State
13 Ombudsman budget to your travel as second vice president?
14 ---Work time and state budget, correct.
15
16 Prior to being president, you were also the IOI treasurer,
17 so I think that's prior to being the vice president, 2014
18 to 2016?---Ah, exactly correct.
19
20 Again, you travelled in that role?---I did, work time, work
21 budget.
22
23 And prior to being the treasurer, so this is earlier back
24 in time still, between 2012 and 2014 you were an IOI
25 regional president?---Ah, I was, that's exactly correct,
26 and travelled in that capacity, both work time, work
27 budget.
28
29 Okay, so you've been travelling in one or other capacity
30 for the IOI on work time, work budget, since 2012?
31 ---Exactly.
32
33 Now, we've spoken by way of analogy and focus about the e-
34 Safety Commissioner having a domestic statutory position,
35 and also a position on the international peak body. Are
36 you aware of any other examples immediately of domestic
37 officer holders, particularly statutory office holders, who
38 have positions on what might be described as peak bodies?
39 ---Ah, excuse me. I understand the state's Auditor-General
40 is a member of the peak body of Auditor-Generals, and I
41 think she may also be a member of the Australian Accounting
42 Standards board. Ah, I think the Public Sector
43 Commissioner is a member of the Australia-New Zealand
44 School of Government.
45
46 That's Sharon O'Neill, the Public Sector Commissioner?
47 ---Sorry, Sharon O'Neill, the Public Sector Commissioner,
48 Karen Spencer, the Auditor-General.
49
50 Are you familiar with something called GANHRI?---I'm - - -

1
2 **THE COMMISSIONER:** Sorry, Mr Porter?
3
4 **PORTER, MR:** GANHRI, G-a-n-h-r-i?---I am extremely
5 familiar with GANHRI.
6
7 What is it?---GANHRI is the - it is the analogue body of
8 the IOI for human rights institutions. So, it's
9 effectively the IOI but for human rights institutions. We
10 have the Venice Principles, they have the Paris - sorry, we
11 have the Venice Principles, they have the Paris Principles.
12 Um, and it is a peak body for those institutions.
13
14 And do Australian office holders attend the meetings of
15 that organisation?---They do.
16
17 Do they have executive positions that you're aware of?
18 ---Ah, both in the past and presently, as I understand it.
19 I understand the current Australian Human Rights
20 Commissioner Rosalind Croucher may be a member of the - or
21 have an executive position as part of - as part of GANHRI.
22
23 I take it there'd be nothing that you could say
24 specifically about authorisation provisions in Acts such as
25 those that would apply to the WA FOI Commissioner?---Ah,
26 no, no.
27
28 But can I put to you just generally there are quite a lot
29 of these domestic and international peak bodies?---There
30 are.
31
32 And it's a fairly regular thing that senior public servants
33 in Australia, including statutory holders of office, will
34 attend meetings of these organisations overseas?---Oh, it's
35 exceptionally common. The International (indistinct) -
36 International (indistinct) - an outstanding body,
37 International (indistinct), the immediate past president
38 was a New Zealand judge, and a current judge in Australia
39 is a member of the executive of that body. There are -
40 there are very, very many.
41
42 I think at some point in time you mentioned that the New
43 Zealand Ombudsman, so the present domestic ombudsman in New
44 Zealand - - -?---Correct.
45
46 - - - is an IOI second vice-president?---Ah, yes, correct.
47
48 That's the position that you'd previously held?---Correct.
49

1 And correct me if I'm wrong, but I think you'd given some
2 evidence to the effect that the position of president of
3 the IOI had some requirement that the person holding it
4 also be an ombudsman in a national or sub-national
5 jurisdiction. Is that correct?---That is correct.
6

7 Where does that appear, that law?---Ah, the IOI bylaws that
8 you must be an ombudsman to be a - well, you have to be a
9 member of the IOI that is principally ombudsman. You could
10 be, ah, also, a human rights commissioner. But you have to
11 hold a position, um, that otherwise qualifies for
12 membership of the IOI to be a director, to be one of the
13 executive officers including the vice-presidents and the
14 president.
15

16 So just to conclude this part of the questioning, the
17 notion which we've discussed about a statutory office
18 holder not being able to do anything which they've been
19 expressly authorised by law, in your role as IOI president
20 you're not undertaking any investigative duties that are
21 analogous or based on your functions as set out in the
22 Act?---I am not.
23

24 But equally you cannot point to a specific function that
25 you say specifically authorises the travel or the
26 expenditure thereon?---I cannot.
27

28 Your essential view was that that role of president was
29 complementary?---Extremely complementary.
30

31 And you would have as analogue descriptions for
32 complementary 'conducive', 'incidental'?---I would use the
33 words conducive, incidental, correct.
34

35 That long title of your Act - I'm not suggesting anything
36 to you, you'll know your Act better than most, but where it
37 uses the word 'incidental' in the long title of your Act -
38 - -?---Yes, I - - -
39

40 (Indistinct words)?---I mean, it's - it's correct it's in
41 the long title.
42

43 Have you ever turned your mind to that?---Yes, I have
44 turned my mind to it.
45

46 What do you think it means?---Ah, well, I think it means
47 doing those things which are incidental to the otherwise
48 investigatory functions under the Act.
49

1 I'm just trying to find it, Mr Field. There were some
2 other provisions in your Act which it used the word
3 'incidental', but from recollection they were attached to
4 some new functions such as reportable conduct?---You are
5 correct, counsel, they are, yeah.

6
7 What is reportable conduct?---So reportable conduct is a
8 function of my office, ah, where reports of alleged child
9 abuse, tragic child abuse must be reported to my office.
10 And investigations of that are overseen by my
11 organisation or of my own motion I can investigate those
12 matters.

13
14 These may all well be the matter for later submissions, so
15 this is not about you while I'm making a submission. But
16 it appears that the use of the word 'incidental' in those
17 two provisions is about you being able to consult on
18 matters or with bodies incidental to a range of bodies that
19 are listed out in a schedule or in another provision. Does
20 that - - -?---That's exactly the way I read that
21 legislation, counsel.

22
23 So there are in your actual Act use of the words
24 'incidental' in the long title and elsewhere, but nothing
25 that is an analogue to that provision 27S that we've read
26 from the (indistinct words)?---I don't believe it's in
27 analogue to that provision.

28
29 Did you ever turn your mind to the Interpretation Act or to
30 the issue of specific provisions or interpretations of
31 provisions that would allow for the undertaking of roles or
32 acts or duties which were complementary or incidental or
33 conducive? Did you ever turn your mind to that?---Ah, I
34 turned my mind on extensive occasions to the
35 Interpretations Act but, um, in relation to - - -

36
37 I'm asking you did you ever go searching for a specific
38 provision is what I'm asking?---No. No, I did not.

39
40 I just want to take you to your Act at section 5(9). Had a
41 long seven days of hearings for you, Mr Field, but I'm not
42 sure that this provision has ever been raised with you. I
43 just want to read it to you at 5(9). Commissioner, we have
44 a spare hard copy if that assists.

45
46 **THE COMMISSIONER:** I have the case.

47
48 **PORTER, MR:** Thank you, of course.

49
50 **THE COMMISSIONER:** 5(9)?

1
2 **PORTER, MR:** 5(9). In terms of assisting the Commission,
3 Mr Field, and being exhaustive in things that probably
4 should be before the Commission, 5(9) reads:
5

6 The Commissioner or Deputy Commissioner shall not,
7 except in so far as he is authorised so to do by
8 resolutions of both Houses of Parliament, hold any
9 office of profit or trust (other than his office as
10 Commissioner or Deputy Commissioner, as the case
11 requires) or engage in any occupation for reward
12 outside the duties of his office, and if the
13 Commissioner or Deputy Commissioner contravenes this
14 subsection he shall be regarded, for the purposes
15 of section 6, as being guilty of misconduct.
16

17 Just having read that section, I'm just going to put it to
18 you clearly that is a prohibitive section in your Act?---I
19 - that's the way I read it.
20

21 It uses language that's based on the US Constitution's
22 Emoluments Clause. I'll just put that to you?---Indeed.
23

24 Okay?---Indeed that's my understanding.
25

26 That language is scattered across a lot of post-American
27 constitutional drafting. Now, when you were, say, for
28 instance, taking on the role of adjunct professor, did that
29 predate your role on the board - your first role on the
30 board of the IOI?---It did.
31

32 Well, let's use that as an example. When you took on that
33 role as adjunct professor at - was it UWA?---Correct.
34

35 Did you have regard to the provision and consider 5(9) of
36 your Act?---Ah, I specifically did.
37

38 You specifically - - -?---Did.
39

40 All right. What did you conclude?---Ah, I concluded that
41 it wasn't such an office.
42

43 You concluded that holding an adjunct professorship was not
44 an office of profit or trust?---Correct.
45

46 What do you understand that phrase to mean?---Ah, I - I've
47 seen that phrase as meaning positions which are otherwise
48 ones that would be in conflict with your role, particularly
49 around, for example, positions where you may obtain a
50 material benefit, ah, as you say, based on exactly the

1 antecedents of why that's there - that clause - that is
2 contrary to your public interest role and your public role.
3 That is where your salary should be coming from.
4
5 Okay. Well, I just put it to you that's quite a general
6 description?---Sorry, it's a very general description.
7
8 And you didn't go to the point of researching authorities
9 or case law about that provision?---Oh, no, I did not. No,
10 I did not.
11
12 And did you ever seek any advice about that provision?
13 ---No, I did not.
14
15 But you did turn your mind to it?---Ah - - -
16
17 At the adjunct professorship stage?---Oh, sorry. When I
18 say I turned my mind to it, I turned my mind to the
19 entirety of the act, um, and, um, ah - and, ah, that
20 included looking at that section as well.
21
22 What about before first holding any position on the IOI?
23 So for instance, as the board member in the initial
24 instance, did you consider 5(9)?---No, I did not.
25
26 And after that when you became treasurer, did you consider
27 5(9)?---No, I did not.
28
29 Vice-president?---Ah, no. I - no, I did not.
30
31 And president?---No. Did not.
32
33 Okay. And why was that? Was it an oversight? What was
34 it?---I didn't consider it to be an oversight, I just
35 didn't consider they were positions that could - that were
36 captured under that section.
37
38 Okay. So when I ask you did you consider it, was it in
39 your mind at all when you were taking on the first
40 positions at the IOI?---It was in my mind the provisions of
41 the legislation. I knew my legislation, um, but I didn't
42 consider that it was in breach of those sections of the act
43 - in that section of the act.
44
45 And during the time of your involvement with the IOI - so
46 first as a board member - what was that, 2012?---Correct.
47
48 Has anyone ever raised that clause with you before today?--
49 -Ah, no. Never. Oh - - -
50

1 I put it - - -?---The first time that clause has been
2 raised with me is today.
3
4 If I put it to you there's a similar monuments clause in
5 the New Zealand Ombudsmen Act, would you be aware of that
6 or know that?---In fact I do know that.
7
8 And you'd agree, I think - it's not likely to be a matter
9 in dispute, but you've said that that's prohibitive. But
10 it's prohibitive in the sense - I'm putting to you that
11 there is a very severe consequence for holding an office of
12 profit or trust - - -?---Yes.
13
14 - - - whilst you are State Ombudsman?---Correct.
15
16 And you gave it a general understanding of what you
17 understood to mean office of profit or trust, but you
18 haven't done any further research than a general
19 understanding that you've relayed here?---Correct.
20
21 So as I said, that's based on the monuments clause in the
22 US Constitution. It's quite an old, generic piece of
23 drafting. So you'd be aware that there are other acts in
24 Western Australia for statutory officeholders that also
25 have prohibitions in the sense that they state that a
26 statutory officeholder cannot simultaneously hold other
27 positions?---Correct.
28
29 Let me just - one last night that I was reading in the
30 Parliament - the Public Service Commissioner Act was that
31 there's a schedule of roles that the Public Service
32 Commissioner cannot hold?---That's my understanding. It's
33 in a schedule.
34
35 Okay. And when you first turned your mind to this
36 prohibitive provision in 5(9), did you reach any conclusion
37 as to - you obviously reached a conclusion as to what the
38 nature of in very general terms the prohibition was. Did
39 you reach any conclusions about what the presence of that
40 prohibition meant in the wider interpretation of the act
41 vis-a-vis what roles you might be able to do?---Ah, well, I
42 didn't see it as precluding, um, undertaking my role on the
43 IOI.
44
45 Okay. And when you say that no one's ever raised this
46 clause with you, that obviously includes anyone in
47 Parliament or the speaker of Parliament or - - -?---Not the
48 speaker. No one in Parliament. Well, to the best of my
49 recollection, um, um, ah, not the speaker, not any speaker,

1 not anyone in Parliament, and not anyone, ah - and not
2 anyone in government.
3

4 I suppose what I've asked you is - you've stated that
5 no one's raised it specifically with you. You're not aware
6 of this provision in your act being the subject of debate
7 or discussion that hasn't - - -?---Oh, no.

8
9 - - - been raised with you?---No, I am not.
10

11 So, Mr Field, I'm just now going to move on to a slightly
12 related issue which is the issue of there being an inherent
13 conflict potentially in holding these concurrent offices of
14 President and State Ombudsman. Now, what we've been
15 dealing with in general terms for now has been the
16 statutory authorisation or basis potentially for holding
17 the role of President of the IOI. So presuming that there
18 is such a thing, I just want to talk generally about this
19 issue of conflict of holding those two roles concurrently.
20 And you held the two roles President and Ombudsman
21 concurrently from what year to - when did you start holding
22 those two concurrent roles?---Ah, my election was in
23 May '20. I started the role in May '21, um, and have held
24 it until, ah, I recently stood down.
25

26 So you recently stood down from the position?---Correct.
27

28 Can you describe why and how that occurred?---Oh, I stood
29 down, ah, for two reasons. Um, one is because I didn't
30 think it was appropriate, um, to be the president of an
31 international body that was subject to an investigation.
32 Um, I've made this position public. And the second was out
33 of my respect, ah, personally for the Commission and - for
34 the Commissioner and also for the Commission generally and
35 the rule of law. I just didn't think it was appropriate if
36 you were being investigated by a body to continue to act as
37 President till that inquiry had finalised.
38

39 So on the general issue of conflicts which pertain to the
40 concurrent holding of the two roles, I just want to recount
41 some matters that were put to you. So the first was from
42 14 February and it appears at transcript page 24. But
43 counsel assisting was putting to you the OWA code of
44 conduct, which obviously you'd be familiar with?---Yes.
45

46 And it was put to you:
47

48 If we could see the bottom of that page, please, just
49 to see the date, thank you. From May 2020. We'll go
50 to page 5. So we can see the conflicts of interests

1 and gifts and benefits from hospitality section.
2
3 And it was put to you - sorry, I'm - it's just the
4 transcript.
5
6 **NELSON, MS:** Sorry.
7
8 **PORTER, MR:** So this is the transcript at page 24 from
9 14 February. And then it was put to you:
10
11 So under the heading -
12
13 **THE COMMISSIONER:** Sorry, is this something that's going
14 to be - - -
15
16 **PORTER, MR:** I'm just - - -
17
18 **THE COMMISSIONER:** - - - on the screen?
19
20 **PORTER, MR:** - - - reading from a passage in the
21 transcript - - -
22
23 **THE COMMISSIONER:** That's fine.
24
25 **PORTER, MR:** - - - your Honour, rather than paraphrasing -
26 Commissioner, apologies.
27
28 And then it was put to you by counsel assisting:
29
30 So under the heading "Conflicts of Interest" it says:
31
32 'A conflict of interest arises when a staff member is
33 influenced, or the perception might reasonably arise
34 that a staff member might be influenced, or there is
35 a potential for a staff member to be influenced by
36 personal interests in the carrying out of official
37 duties.
38
39 Well, obviously that question was directly in the context
40 of you holding the two concurrent roles?---Yes.
41
42 My question is as the role of President of IOI, did you
43 regard that as a personal or professional role or something
44 else?---I regarded it exclusively as a professional role.
45
46 Then at the transcript page 25 from 14 February you were
47 asked:
48
49 Did you ever consider whether any aspects of
50 performing your role as President of the IOI created

1 an actual or potential conflict of interest?

2

3 You answered:

4

5 No, counsel.

6

7 And then counsel assisting said:

8

9 Do you see the bottom of this page under the heading

10 "Examples" where conflicts real, perceived, or

11 potential may arise including -

12

13 And then at the very bottom dot point:

14

15 Undertaking external employment including voluntary

16 roles, appointments or directorships whether

17 renumerated or not that would conflict with your

18 duties in office.

19

20 You recall being put that?---I do.

21

22 Your answer was again - this is one of the occasions that

23 you described your roles as being complementary?---Correct.

24

25 And the Commissioner put to you - and this is at transcript

26 page 26, on 14 February, whether you'd turned your mind to

27 this issue about conflict, but I think particularly in

28 relation to external employment, voluntary roles,

29 appointments or directorships, whether you turned your mind

30 to it at the time of taking on the presidency. I think

31 that you described that you had not at that point in time?

32 ---No, it simply hadn't. As I say, my - it's not so much

33 that I didn't turn my mind to the concept of conflict of

34 interest, it's simply that I saw the two roles as utterly

35 complementary, and I never saw them in conflict.

36

37 But I'm taking it - correct me if I'm wrong on this, but it

38 wasn't remunerated, so it wasn't external employment?---No,

39 it certainly wasn't, absolutely not remunerated.

40

41 But what do you say about it potentially being a voluntary

42 role or an appointment?---Ah, well - - -

43

44 Those things are not per se - I'm just asking you, do you -

45 is (indistinct) either of those categories, do you think?

46 ---No, I don't think it's voluntary, ah, a role or

47 employment, it is - - -

48

1 No, voluntary role or an appointment?---Oh, an appointment.
2 Well, it was an appointment insofar as I was elected the
3 president of the IOI.
4 And it was voluntary in the sense that it wasn't
5 remunerated?---Yes, correct, yes.
6

7 Okay. But being one or either, or both a voluntary role of
8 employment, at some point you did turn your mind as to
9 whether or not it was a voluntary role or appointment which
10 would conflict with your duties in office?---Oh, that's
11 certainly true, yes.
12

13 I think also at transcript 26 there's this exchange:
14

15 There would appear to be a conflict between your two
16 hats?---Now, if you're asking me to turn my mind to
17 it, counsel, the answer is no. I don't believe there
18 was a conflict. I believe the roles of the Ombudsman
19 are complementary, not conflicting.
20

21 You gave that answer, you recall?---I do.
22

23 And by way of consistent comparison, if say the Public
24 Sector Commissioner holds the role on - was it ANZSOG?
25 ---ANZSOG.
26

27 What is ANSOC?---Ah, Australia-New Zealand School of
28 Government.
29

30 Okay, would you, an experienced public servant - is that a
31 voluntary role, an appointment, a directorship, what is it?
32 What would you classify this - do you know?---Ah, I don't -
33 I presume it's - presume it's voluntary. Ah, I assume it's
34 a board or a directorship position of some sort.
35

36 And in your observations of experienced public servants,
37 would you describe that role - is it chair of ANZSOG - as
38 giving rise to a conflict, real or perceived, with the role
39 of Public Sector Commissioner?---No, I would not.
40

41 Would you perceive Ms Inman-Grant's role on her
42 international peak body as giving rise to a conflict, real
43 or perceived, with her role as Commonwealth e-Safety
44 Commissioner?---No, I would not. Indeed, it struck me as
45 being exceptionally complementary.
46

47 I won't go through a full list, but your position would
48 essentially be, it appears, that those peak body type
49 roles, by virtue of their being complementary, do not fall
50 into that category of representative, actual or perceive

1 conflict?---Correct.

2
3 **THE COMMISSIONER:** Whenever you find a convenient time, Mr
4 Porter.

5
6 **PORTER, MR:** That is convenient, Your Honour.

7
8 **THE COMMISSIONER:** Well, we'll have the morning break, 20
9 minutes.

10
11 (Short adjournment)

12
13 **THE COMMISSIONER:** Please be seated.

14
15 **PORTER, MR:** Mr Field, just before the break, what was on
16 the screen was a part of the transcript, transcript 25 from
17 14 February, where counsel assisting was directing you to a
18 paragraph. I think it was from the OWA Code of Conduct,
19 which was dealing generally with real, perceived or
20 potential conflicts between the role and things like
21 external employment, voluntary roles and so forth. And we
22 covered off on the issue of whether or not there was in
23 your view an inherent, if I could describe it that way,
24 conflict. The next matter that was put to you in this
25 respect was wearing these two hats, whether or not there
26 could have been a conflict because the IOI presidency took
27 you out of the jurisdiction. And that occurred in the
28 transcript at page 25 on 14 February, so shortly before the
29 passage we're looking at. Now, just leaving aside for a
30 moment the issue of absence from the state and delegation,
31 your position, as I understand it, is that you didn't
32 consider this to be a conflict in terms of its drawing you
33 away from the function of your duties in the state?---That
34 is correct.

35
36 And why was that?---Um, well I think I would reinforce, um,
37 out of utter respect for the Commissioner, that I realise
38 that the absence from the state question is a live
39 question. But I, um, throughout the time that I was
40 travelling as the president of the IOI, I was always
41 undertaking my work, ah, also as the Ombudsman of Western
42 Australia.

43
44 Just pausing on that issue of the absence from the state
45 and the relevant provisions of your Act. You took a view,
46 wise or unwise, that absent from the - that a prohibition
47 on being absent from the state in conducting your functions
48 did not mean physically absent from the state, that was
49 your position?---Ah, yes.

50

1 All right, thank you?---Correct, counsel.
2
3 I'm just interest to know whether you ever tested that
4 position or raised that position with anyone in your
5 office?---Ah, yes. It was raised with me, and I did turn
6 my mind to it.
7
8 Someone raised it with you?---Yes, my deputy raised it with
9 me.
10
11 Who was that?---My deputy was Ms Mary White.
12
13 And when abouts was this?---Look, counsel, I wish I had a
14 recollection that was more precise for the Commissioner.
15 It was certainly prior to my time as president of the IOI.
16 If I could guess, it might have been somewhere around eight
17 to 10 years ago, but that is an absolute guess.
18
19 Right.
20
21 **THE COMMISSIONER:** Sorry, I missed the guess?---I'm sorry,
22 Commissioner, maybe some time in the last - between six to
23 ten years ago, that sort of timeframe.
24
25 Thank you?---I'm very sorry about the imprecision.
26
27 **PORTER, MR:** Do you recall the context in which that
28 matter was raised by you with your Deputy Ombudsman?
29
30 **THE COMMISSIONER:** I thought it was the deputy raising it
31 with him?---Yes, that's correct, the deputy did raise it
32 with me, correct.
33
34 **PORTER, MR:** Sorry, that's what I meant to say, yes. But
35 do you recall the context in which your deputy raised it
36 with you?---It would - well, sorry, not would have been, I
37 recollect it being, um, a trip that I was taking that was I
38 think overseas. I have a recollection it might have been
39 New Zealand, but as I say I don't have a - I don't have a
40 precise recollection of that.
41
42 And we've discussed what your view is, was it the case that
43 the person raising it with you had an alternative view?---
44 Ah, I - I remembered the deputy raising with me saying, um,
45 there is a literal - I don't think she - she wasn't a
46 lawyer, so she didn't use those sorts of words - a literal
47 reading of the act. But I think she simply said, "Does
48 this mean, um, that I have to be the acting Ombudsman
49 because you can't act when you're outside of the state?"
50

1 Now, we'll come to this in a moment, but is it - I think
2 it's a fair summary of your evidence to date that you were
3 conducting regular meetings with senior people in
4 government?---Yes.

5

6 And they were a range of people that I'll come to shortly,
7 but they were essentially quarterly meetings?---Ah, yes.
8 Um, mostly were quarterly.

9

10 And these people - the individuals that you were meeting
11 with - maybe if you can just list out for us very quickly
12 who were the people that you'd meet with regularly on a
13 quarterly basis?---Ah, I was meeting with - and obviously,
14 the actual people changed. But in relation to positions,
15 Public Sector Commissioner, ah, Director General of the
16 Department of Premier and Cabinet, ah, the Under Treasurer,
17 ah, and the Premier's chief of staff.

18

19 Okay. And various people held those positions over - - -?--
20 --They did.

21

22 - - - the 17 years that you - - -?---They did, counsel.

23

24 Now, just generally speaking, what was the purpose of
25 quarterly meetings with these four officeholders from your
26 perspective?---Oh, it was a few. Ah, one was to be utterly
27 transparent about what I was doing. I considered those
28 people to be the most, ah - perhaps in a colloquial way the
29 most powerful people. I thought they were senior to me.
30 The most powerful people in the state, ah, in terms of the
31 public sector. Ah, so in that sense I was briefing up and
32 making sure that they were aware of everything that I was
33 doing. Um, and I was also, um, ah, to get feedback from
34 them about anything which, ah, they thought or might be
35 inclined to think wasn't the right thing for me to do.

36

37 When you say that you were briefing up, did you describe
38 them as powerful people, that you viewed them as your
39 superiors?---Yes. I considered them the most senior and -
40 the most senior public servants in the state and the ones
41 who were the most senior and the - and the - and the
42 levels, ah, reflect that.

43

44 Okay. And I think it's fair to say that there's a sort of
45 colloquial pecking order in agency heads in the state
46 government?---Correct. And I would - and in that pecking
47 order, ah, they were the top of that pecking order.

48

49 So if I put it this way, it wasn't a matter of them
50 reporting into you. You were reporting into them?---No,

1 far from it. I was - I went to them. I was reporting to
2 them. I sought those meetings. I sought those meetings to
3 report to them to tell them what I was doing, ah, to keep
4 them briefed about what I was doing, to be utterly
5 transparent about what I was doing, ah, no surprises
6 approach, um, and for them of course to indicate anything
7 to me which they thought may not be something that, ah, the
8 government would look kindly upon if I was doing.
9

10 Right. Now, I'm going to pause there for a moment. I'm
11 just going to - on this issue of jurisdiction issues which
12 is how this line of questioning commenced, I'm going to put
13 to you what would appear to be four jurisdictional issues.
14 And it would appear that propositions have been put that if
15 you are wrong on these jurisdictional issues that
16 consequences could follow. The consequences might be that
17 you've acted outside of authority or unlawfully or other
18 things. But the first of the jurisdictional issues is
19 whether there was a lack of any statutory authority for you
20 to hold the position of President of the IOI. Now, would
21 you agree that that is an issue that has arisen?---
22 Absolutely, I agree.
23

24 Now, on that issue, I think your evidence has been in my
25 examination of you that you, ah, never went specifically
26 searching for a provision in your act of the type that
27 talks about an ability or basis or function to undertake
28 functions which are incidental or conducive or
29 complementary to your enumerated functions in the act. You
30 never went looking for such a thing in your act?---That's
31 correct.
32

33 Okay. And also I think your evidence was that you never
34 went looking for such a thing in any other act?---That is
35 correct.
36

37 So you weren't aware of say for instance section 60 of the
38 Interpretation Act?---No, I was not.
39

40 Because you never went looking for it?---No, I did not.
41 Correct.
42

43 Now, if I just call that the lack of statutory authority
44 issue, you'll understand what I mean?---I do.
45

46 Right. The second issues that has arisen is whether there
47 was a statutory prohibition on you holding the position of
48 President of the IOI, and that's the matter I've raised
49 with you under section 5(9). Okay. You agree that's a
50 live issue?---I do. I agree.

1
2 And it's an issue that you at least gave general thought to
3 at the time that you took on your adjunct professorship?---
4 I did.
5
6 It was in your knowledge or understanding at the time you
7 started taking on roles at the IOI, but you never gave it
8 specific consideration?---I think that's exactly the way I
9 would describe it.
10
11 And at no time in taking any outside position did you ever
12 conduct any research or get advice on what office of profit
13 or trust might be?---No. No.
14
15 I just want to put to you while I'm pausing at this point
16 that that assumes a deal of risk on yourself not being
17 aware of that provision 5(9) and not seeking for further
18 advice or research on what those words mean?---Um, yes, I
19 do. I do. I think that is correct.
20
21 And the history of people who have fallen foul of words
22 like office of profits under the Crown or office of trust
23 or office of profit?---Oh, I'm aware people have.
24
25 Now, the third issue arising in this - and if I call that
26 the statutory prohibition issue, you understand what I'm
27 talking about?---Yes.
28
29 The third issue is the type of issue that arises as was put
30 to you through the code of - the OWA code of conduct which
31 is whether or not there would be a real perceived or
32 potential general conflict between the two roles. So it's
33 - and you accept that that is a live issue?---I do.
34
35 Now, if I call that the real or perceived conflict issue,
36 you understand what I'm talking about?---Yes, I do.
37
38 And then the fourth issue that arises in this jurisdiction
39 or area is the issue as to whether a conflict arises by
40 virtue of the time expended and travel requirements of the
41 presidential role taking you away in a sense from your
42 duties as - and functions I should say that are to be
43 exercised under the act by you?---Yes. That is - my view
44 is definitely a live issue.
45
46 Okay. And if I call that the competing work balance issue,
47 you'll understand what I'm - - -?---Yes, I will.
48
49 Right. Now, I want to ask you in general respect - and I'm
50 now talking about the period in which you held the

1 treasurer role on to the present time. So treasurer,
2 vice-president, president of the IOI. So you started
3 becoming - you were first the treasurer when?---2014.
4

5 Okay. And between 2014 and your recent resignation or
6 process of not renominating, you were having quarterly
7 briefings with the Public Sector Commissioner, the
8 Director General of Premier and Cabinet, the
9 Under Treasurer?---Ah, yes.
10

11 And the Premier's chief of staff?---Premier's chief of
12 staff. The Under Treasurer may have been twice a year as
13 opposed to quarterly, but yep.
14

15 In any of those meetings, did any of those people at any
16 time raise with you the lack of statutory authority issue
17 with regard to your roles as treasurer, president, or
18 vice-president and per your role as Ombudsman?---Not once,
19 never.
20

21 Did any of those people in any of those meetings raise the
22 statutory prohibition issue?---Not once ever.
23

24 Did any of those people in any of those meetings raise with
25 you a real or perceived conflict of interest issue of the
26 type that was put to you in your code of conduct?---No. In
27 fact, quite the - quite the - no, and quite the contrary.
28 The complementarity was constantly discussed.
29

30 Okay. Did anyone in any of those meetings ever raise with
31 you a concern or an issue pertaining to your duties as
32 either treasurer, vice-president or latterly president
33 detracting from your duties and ability to undertake your
34 function as State Ombudsman?---Yes, that happened once, and
35 that was the day after the Ben Harvey article in the
36 West Australian. Any time prior to that time, never.
37

38 Okay. Did any person attached to the speaker's office ever
39 raise the lack of statutory authority issue to you?---
40 Never.
41

42 The statutory prohibition issue with you?---No.
43

44 The real or perceived conflict issue?---Never.
45

46 The work balance issue?---Never.
47

48 Did any member of Parliament ever raise any of those four
49 issues with you?---No. Certainly not to my recollection,
50 no.

1 I'll now ask you this question with respect to those four
2 office holders; Public Sector Commissioner,
3 Director-General PMC, Under-Treasurer, and chief of staff
4 to the Premier. Over that period of time was it well known
5 to those people through your briefings that you had held
6 concurrently your role as State Ombudsman with a variety of
7 roles at the IOI?---Exceptionally well known.
8

9
10 Was it well known to members to Parliament?---Ah, yes, it
11 was well known to members of Parliament through my - - -
12

13 **THE COMMISSIONER:** Just be a little cautious about
14 Parliament, please, Mr Porter.
15

16 **PORTER, MR:** Indeed. Let me rephrase that question
17 (indistinct). Was it something by virtue of reporting that
18 was knowable?---Ah, yes, it was.
19

20 I'm going to move on from those jurisdictional issues,
21 Mr Field, to factual matters arising on this issue of a
22 general knowledge of and potentially supportive
23 endorsements of your IOI roles and travel and for things
24 that you were doing under the auspices of that travel.
25 Now, for brevity I'm just going to quickly summarise so you
26 can confirm. You were elected president of the IOI in
27 2020?---Correct.
28

29 But you commenced your four-year term in May 2021?---
30 Correct.
31

32 Prior to that you served as second vice-president we've
33 established between 2016 and 2020?---Correct.
34

35 Treasurer between 2014 and 2016?---Correct.
36

37 And a board member before 2014?---Correct.
38

39 Just for completeness, you also served as president of the
40 Australian and Pacific Ombudsman region between 2012 and
41 2014, is that right?---That is exactly correct.
42

43 Is that like some - is it a sub-committee of the IOI, is
44 it?---Ah, that at - the IOI is, Commissioner, broken into
45 six regions. One of the regions is the Australasian and
46 Pacific Ombudsman region. Between 2012 and 2014 I was the
47 president of that region.
48

49 I'm not going to go that prior to 2016 which I'm sure will
50 assist efficiency, but the overseas travel connected to the

1 IOI between 2016 and 2017, so that would have been in your
2 capacity as second vice-president?---Correct.
3

4 The first time that you travelled in your capacity as
5 second vice-president was in November 2016, is that right?--
6 --Ah, that could well be - I don't have a photo
7 recollection of that.
8

9 Would it be the 11th IOI World Conference in Bangkok,
10 Thailand?---Yes. Yes, correct.
11

12 And prior to that - so that is prior to November 2016 - you
13 had travelled overseas on occasions for the IOI but not in
14 the position of second vice-president?---Correct.
15

16 To Wellington in 2012?---Correct. A world conference in
17 Wellington 2012, correct.
18

19 And that's when you were elected president of the
20 Australasian Pacific Ombudsman region?---Exactly correct.
21

22 And then to New York in September 2013?---A world board
23 meeting in New York, correct.
24

25 You gave a speech at a (indistinct) conference at the world
26 conference in November 2016?---Correct.
27

28 Separate session, you presented an IOI-funded project
29 jointly undertaken by the Offices of Western Australia and
30 the New South Wales Ombudsman, which was the starter kit
31 for new ombudsmen in developing or expanding offices?---
32 Exactly correct.
33

34 There were meetings of the IOI board, correct?---Correct.
35

36 And then also in April 2017 you attended a meeting of the
37 IOI board in Vienna?---Correct.
38

39 Now, all of that travel - so here we're talking 2016 to
40 2017 - was included in your annual report to Parliament?---
41 Yes.
42

43 Your annual report to Parliament was tabled on 14 September
44 2017, is that correct?---Correct.
45

46 And as part of that reporting to Parliament, correct me if
47 I'm wrong, but you provide a written report about your
48 travel to the Department of Premier and Cabinet - - -?---I
49 do.
50

1 - - - on a quarterly basis?---I do.
2
3 So if I can describe it this way, that is what goes into
4 the parliamentary process?---Correct.
5
6 And then that is often condensed and then put into the
7 parliamentary process and comes out in the form of a
8 parliamentary report?---That's my understanding.
9
10 Well, when you say it's your understanding, what you
11 generally sent in to Department of Premier and Cabinet - -
12 -?---Yes.
13
14 - - - that didn't appear word for word in what came out of
15 the parliamentary process in - - -?---Correct. I think
16 they thought my entries were too long.
17
18 And generally there was a shortening?---Correct.
19
20 So that is 2016 to '17. And then I'm going to go through
21 this quickly for the record. I don't think these matters
22 are likely to be in dispute. Overseas travel connected to
23 the IOI in 2017/2018. 2017, the Ombudsman of Western
24 Australia hosted the 29th APOR conference. What's an APOR
25 conference?---The Australasian and Pacific Ombudsman Region
26 conference.
27
28 And in January 2018 you undertook an official visit to the
29 Office of the Chief Ombudsman of Thailand in Bangkok?---I
30 did.
31
32 You went and had field visits in the Phuket province
33 including participating and addressing meetings, is that
34 correct?---Correct.
35
36 In April 2018 you attended a meeting of the world board of
37 the IOI in Toronto, Canada?---That is correct.
38
39 Immediately prior to that you attended the United Nations
40 in New York - - -?---I did.
41
42 - - - for a formal event between the IOI and the United
43 Nations hosted by the permanent representative of Austria
44 to the UN?---Correct.
45
46 During that trip you attended the offices of the Australian
47 Mission to the UN?---I did.
48
49 And then again, all of the above was included in your
50 annual report to Parliament?---Correct.

1
2 And that was tabled on 26 September 2018?---Correct.
3
4 And again, what was put into that process was what you
5 submitted to the Department of Premier and Cabinet, and
6 that comes out as a published report, parliamentary report
7 in 26 - - -?---That is - - -
8
9 Sorry, this was all in your annual report, and your annual
10 report was submitted to Parliament, and then gets published
11 on 26 September 2018?---Correct.
12
13 And your annual report is obviously different to your
14 quarterly travel reports?---Yes, it is.
15
16 In addition to?---It's in addition to.
17
18 And I just want to confirm that these trips that I've just
19 described in 2016/2017, 2017/2018, they were all done on
20 work time?---All done on work time.
21
22 With money appropriated from your general budget?---All
23 money appropriated from my general budget.
24
25 Which is why they appear in your quarterly travel report?--
26 -That's correct.
27
28 Just with the quarterly travel reports, as we'll come to in
29 a moment, the information that you're putting into the
30 Department of Premier and Cabinet will include several
31 things, but it would sometimes include indication whether
32 or not there was an outside funding source that had paid
33 for some or all of the travel. That's correct?---That is
34 correct.
35
36 Your understanding of the quarterly reporting process to
37 Parliament, if you had gone on a trip that was entirely
38 funded by an outside source under the auspices of the IOI
39 would you have still reported that into DPC for production
40 and inclusion in a parliamentary quarterly report?---Yes,
41 that is my understanding.
42
43 Is that what you did?---Yes.
44
45 So there's no trips out there that were paid wholly by an
46 outside funding source that were not included in this
47 quarterly reporting process?---Well, I only want to say to
48 the best of my recollection in case we've ever made a
49 mistake, but that would be my understanding.
50

1 And then between 2018 and 2019 you visited the Control Yuan
2 in Taiwan?---I did.

3

4 That's a branch of their government, is that right?---
5 That's correct, one of - yes, correct.

6

7 You were accompanied on that visit by the Chief Ombudsman
8 of New Zealand?---Ah, correct.

9

10 That's Judge Peter Boshier?---Yes, correct.

11

12 And then in October 2018, you and Ms Poole, who by this
13 state was Assistant Ombudsman Strategic Policy and
14 Projects, National and International Relations, attended a
15 quadrennial conference of the European region for the IOI
16 in Brussels?---Correct.

17

18 You chaired a plenary session?---I did.

19

20 Just means it was all day, is that right? Or everyone
21 goes, is that - - -?---Every - yes, a session where
22 everyone was attending.

23

24 **THE COMMISSIONER:** Well, everybody is allowed to go.

25

26 **PORTER, MR:** Right, yes. Some are more popular than
27 others?---Yes, well that might have been why there was no
28 one in the room, Commissioner.

29

30 Now, while in Brussels, you participate in the executive
31 committee meeting of the world board of the IOI?---I did.

32

33 Met with the Australian Ambassador of Belgium, Luxembourg,
34 the European Union and NATO?---Yes, I did.

35

36 You travelled then to Dublin to meet with Mr Peter Tinley?
37 ---I did.

38

39 He was then the president of the IOI, is that right?---Yes,
40 correct.

41

42 An Information Commissioner for Ireland. And you met with
43 the Australian Ambassador to Ireland, correct?---I did.

44

45 Then in December 2018, you and Ms Poole attended the 30th
46 Australasian Pacific Ombudsman Region conference in
47 Auckland, New Zealand?---Correct.

48

49 And that was to hold in governance, to account in a
50 changing climate, is that right?---Correct.

1 Now, pausing there, this is the period 2018 to 2019 for
2 that travel that I've just put to you that you've agreed
3 occurred. That was all included in your annual report?
4 ---Correct.
5
6 Your annual report was tabled in Parliament on 19 September
7 2019?---Correct.
8
9 And in addition to the tabling of your annual report, which
10 included all of the information about these trips, the
11 trips were reported to Parliament through a process of
12 submitting quarterly overseas returns to DPC, which would
13 then be published in a report by Parliament?---That is
14 correct.
15
16 Just if I might pause, the annual reports that you produced
17 that go into the Parliamentary process and become tabled in
18 Parliament, do they first go to DPC, or is there a more
19 direct process?---Ah, no, they're sent directly to the
20 Speaker of the Assembly and President of the Council.
21
22 Okay, now just briefly, the overseas travel connected to
23 the IOI in 2019-2020. September 2019, you delivered
24 investigator training in Fiji as part of a program let by
25 the Office of the New Zealand Ombudsman, I think you've
26 already described that earlier on?---Yes, no, I didn't do
27 that - the Fiji one I didn't do personally. Indonesia I
28 did.
29
30 Right, Indonesia you did. This was training in Fiji?
31 ---Yes, one of my staff undertook that.
32
33 Right, so that was delivered by someone else in the
34 office?---Correct.
35
36 Can you remember who? Doesn't matter if you don't?---I'm
37 so - I apologise to my staff member, I don't.
38
39 In September 2019, you welcomed the Chief Ombudsman of
40 Thailand. So you welcomed him, did you welcome him to
41 Perth, did you?---Correct.
42
43 And then you signed a memorandum of understanding on
44 bilateral cooperation between the Ombudsman Thailand and
45 the office, meaning your office?---That is correct.
46
47 So that was an inter-office MOU?---That is exactly correct.
48
49 Between two Ombudsman's offices?---Correct.
50

1
2 Is that a regular thing that happens?---Yes. Well, sorry,
3 it was the first MOU that my office had signed. Is it
4 regular that Ombudsmen sign MOUs with other Ombudsmen?
5 Yes.

7 In your experience as a senior public servant, is it
8 regular for statutory agencies of the State Government to
9 have MOUs with similar statutory agencies in other
10 jurisdictions?---Ah, I actually don't have - that's - - -

12 If you don't know, you don't know?---Yes, I can't speak to
13 that.

14
15 Now, with respect to that MOU on bilateral cooperation, I
16 just want to bring your attention to a document, which is
17 page 4 in the paginated bundle that we've provided the
18 Commissioner. And it's a letter from Peter Tinley dated
19 9 October 2019, two letters. Sorry, it's to Peter Tinley.

21 THE COMMISSIONER: To Tinley?

23 **PORTER, MR:** That's right.

25 THE COMMISSIONER: 9 October 2019?

27 **PORTER, MR:** Yes, correct. And I think by way of broad
28 description - - -

THE COMMISSIONER: Just one moment. I don't have it.

31 REPORTER - MR. SUMMERS

33
34 **THE COMMISSIONER:** Now I have it, sorry Mr Porter, carry
35

36
37 **PORTER, MR:** Thank you, Commissioner. It's addressed
38 to you, Mr. Chairman.

39
40 So, he was a Member of the Legislative Assembly of the
41 State of Western Australia, he was a minister at the time
42 for Asian engagement?---That is correct.

43
44 So, I presume you wrote this letter to him because you
45 thought this was of relevance to his portfolio?---That's
46 exactly correct.

47
48 And it can be read for itself, but you are informing him of
49 the signing in the second paragraph of the MOU on bilateral

1 cooperation between the two offices, noting that it marks a
2 significant step toward closer collaboration?---Correct.

3

4 Then in the final paragraph there, you say:

5

6 As Ombudsman and Second Vice President of the
7 International Ombudsman Institute, I have a deep
8 commitment to our Asian neighbours as valued friends,
9 as well as fostering further opportunities for
10 strategic trade, social and cultural engagement.

11

12 Over the page:

13 In doing so, we will continue to liaise closely with
14 the Department of Jobs, Tourism, Science and
15 Innovation, and the Department of Foreign Affairs and
16 Trade to ensure that our engagement aligns and
17 maximises with the strategic opportunities for the
18 state.

19

20 I just want to pause there for a moment. That information
21 that you're providing to Minister Tinley, you're informing
22 him that in your role as Ombudsman and Second Vice
23 President of the International Ombudsman Institute, you've
24 got a commitment to the Asian neighbours. And then you
25 tell - you inform him that that commitment extends to
26 fostering further opportunities for strategic trade, social
27 and cultural engagement. You will be liaising with the
28 Department of Jobs, Tourism and Science, which is - they
29 call it JTSI, that's a State Government Department?
30 ---That's correct.

31

32 What was in your mind in sending this letter to Minister
33 Tinley?---Ah, a few things. Um, number one, transparency.
34 Um, to be very clear to the relevant Minister about a
35 matter that I thought was germane to his portfolio. Number
36 two, um, my - my strongest possible view at the time was
37 that the vice presidency and subsequently the presidency
38 could have value for our state, as a state, if not wholly,
39 significantly dependent on trade, and particularly trade in
40 our near Asian neighbour region, and that one of the
41 benefits - and not insignificant - benefit that might flow
42 from my holding of the role of vice president and later
43 president, meeting with Prime Ministers, Presidents, and
44 other people of other countries, was the possibility of
45 further positive catalyst of our trade relationships.

46

47 You've described what was in your mind, which there is some
48 resemblance to what's in those words. I just want to put
49 it to you straight up, Mr Field, that some people might
50 take a view of that that it's you getting outside your lane

1 as an Ombudsman, what would you say about that?---What I
2 would say is this. If it had been outside of my - and I
3 can accept, I can accept that concept. If it had been
4 outside of my lane, I would have instantaneously stopped
5 being outside of that lane if any person had ever indicated
6 that to me. To the contrary, I was strongly encouraged at
7 every turn to continue down that lane.

8

9 I don't think it's a matter of dispute that you thought
10 that this expansive role was a good idea, you clearly did.
11 Is this the first time that you can recall writing a letter
12 to a Minister attempting to crystallise your idea of this
13 expanded role that you would be undertaking through your
14 positions with the IOI?---Yes, that's to my recollection -
15 that's the case.

16

17 And that's on 9 October of 2019?---Correct.

18

19 Had you ever been involved in an MOU before this, whether
20 it was inter-agency or by virtue of subnational
21 governments, or anything of that nature?---I think the only
22 MOUs that I'd been involved in were inter-agency. I think
23 for example we had one with the Corruption and Crime
24 Commission at some point, and other - so I think it was
25 inter-agency MOUs.

26

27 And just in that last paragraph there where you say that
28 you were going to continue to liaise closely with the
29 Department of Jobs, Tourism and Science and Innovation,
30 why?---Oh, because, ah, they had, ah, ah, the expertise in
31 the area. Ah, because I wanted their imprimatur to do the
32 work. I wanted their feedback on the work. And of course,
33 ah, if they'd indicated to me they didn't wish for me to do
34 the work, I wouldn't have done it.

35

36 What did you expect to be liaising with them about?---Um,
37 ah, well, I would put it in very colloquial ways. "What do
38 you want me to do? What don't you want me to do if I'm
39 speaking to people overseas?"

40

41 Did you ever receive a specific response to this letter
42 that you recall?---Yes. I - I did.

43

44 In February 2020 - so that letter is dated - sorry. It's
45 CC'd to Rebecca Brown, the Director General of the
46 Department of Jobs, Tourism, Science and Innovation?---It -
47 it was.

48

49 **THE COMMISSIONER:** I'm sure you're right but I can't see
50 that until the bottom. Thank you.

1
2 **PORTER, MR:** Thank you, Commissioner.
3
4 In February 2020 you and Rebecca Poole attended an
5 international seminar in Bangkok, Thailand?---Correct.
6
7 Which was the "Ombudsman in a Changing World: Resilience
8 amidst challenges" hosted by the Chief Ombudsman of
9 Thailand?---Correct.
10
11 So this is the office that you've just signed the MOU with,
12 is it?---Yes, correct.
13
14 And with a speaker at a plenary session. You chaired and
15 closed a plenary session. While in Thailand, you also met
16 with Allan McKinnon PSM, Australian Ambassador to Thailand.
17 You attended a reception hosted by the New Zealand
18 Ambassador to Thailand. In February 2020 you were elected
19 president of the IOI and you were set to commence your term
20 as president at the rescheduled 12th Quadrennial IOI World
21 Conference and General Assembly in Dublin. Just pausing
22 there, you're elected February 2020. You don't take up the
23 role until May 2021. Is that - - -?---Yes.
24
25 - - - because you take up the role at a conference and the
26 conference was delayed? What - explain - - -?---Correct.
27 It was the tragic COVID-19 pandemic.
28
29 Okay. Now, all of the above travel which there is -
30 there's travel in September 2019 which is you going - which
31 is your - someone from your office going to Fiji. The
32 visit from the Chief Ombudsman of Thailand in
33 September 2019, and then the travel for you and Ms Poole in
34 February 2020 to Thailand. That was all included in your
35 annual report for that year?---Yes.
36
37 And your annual report was tabled in Parliament on
38 17 September 2020?---Correct.
39
40 And those trips in and out that I've just mentioned, they
41 were also reported to Parliament through a process of
42 submitting your quarterly overseas travel returns to the
43 Department of Premier and Cabinet, and then they were
44 tabled through that process in Parliament?---Correct.
45
46 So that looks at a reporting process that was in place for
47 your travel between 2018 and 2020. So the point in time
48 that you start to - well, you have taken up the presidency
49 of the IOI. And just before I move on from that, I just
50 want to put to you that that quarterly parliamentary

1 reporting process - whilst I've just covered a period from
2 2018 to 2020, that process was also ongoing prior to that
3 point in time?---Yes, it was.

4
5 As was the annual report process?---Yes, it was.
6

7 Now, I just want to move on to the period prior to you
8 becoming president and during a period where you are
9 seeking to be elected as president. So what sort of period
10 in your mind would that have been?---Ah, it would have been
11 some time between, um - in that sort of 2019 to 2020 period
12 I think it would have been.

13
14 Okay. When did you - bluntly, when did you put your sights
15 on potentially becoming president of the IOI?---I first
16 considered it in, ah, 2016 - 2016 - ah, and felt as though
17 that was not the correct time and there was a better and
18 preferred candidate, which was Peter Tyndall, the Ombudsman
19 Information Commissioner for Ireland.

20
21 Just at the time that - - -?---Oh, yeah. Sorry. That's
22 just going back to 2016 when I first gave thought to it.
23 And then, um, ah, by 2019, '20 it had crystallised in my
24 mind that I thought I would be a candidate for president.

25
26 Okay. So now I'm just, Commissioner, going to take
27 Mr Field to some documents that start at page 6 of the
28 bundle. And I think in some instances, Commissioner, these
29 are documents that may have already been - - -

30
31 **THE COMMISSIONER:** That's all right. We'll work off
32 yours.

33
34 **PORTER, MR:** Thank you, Commissioner.

35
36 **THE COMMISSIONER:** Marry them up later.

37
38 **PORTER, MR:** Thank you.

39
40 Now, Mr Field, these are meeting agendas, is that correct?
41 ---Correct.

42
43 Now, I'll just deal with the first one by way of example.
44 But these are something that you would prepare for
45 yourself, is that right?---Yes, correct.

46
47 As prompts or basic agendas to go into a meeting with
48 another person - in this case, Mr Mal Wauchope?---Correct.
49

1 All right. And did you prepare these yourself or did
2 someone prepare them on your instruction for you?---Ah, I
3 would have written them out either by hand, ah, or
4 effectively read them out to my EA to type out for me.
5

6 Okay?---They were certainly prepared by me.
7

8 And the meetings for which these agenda items were
9 developed - were you going to the offices of the people you
10 were meeting with or was it vice versa, do you know?---No.
11 It was almost exclusively the case that I went to their
12 office.
13

14 And that's a bit of a pecking order thing if I put it that
15 way?---Um, I - well, I - I - I had a very clear rule, ah,
16 that I went to the offices of people that were senior to
17 me.
18

19 And I'm going to move through this fairly quickly, but this
20 is a period in 7 March 2017?---Correct.
21

22 So correct me if I'm wrong, but you may have had - you were
23 certainly operative in the IOI at that stage. What
24 position - - -?---Yes. The - - -
25

26 - - - did you hold then?---Vice-president during that
27 period.
28

29 And you first of all met with Mal Wauchope. Who was he at
30 the time?---He was the public - at that time I think the
31 Public Sector Commissioner.
32

33 All right?---He was - he was for a long period of time the
34 Director General for the Department of Premier and Cabinet
35 and then became the Public Sector Commissioner. Ah, I
36 think at that stage he may have been the Public Sector
37 Commissioner.
38

39 **THE COMMISSIONER:** He was Public Sector Commissioner?
40 ---Oh, thank you. Thank you.
41

42 **PORTER, MR:** I remember there was a legislative change
43 and - - -?---Yes, he was.
44

45 **THE COMMISSIONER:** Yes.
46

47 **PORTER, MR:** Thank you, Commissioner.
48

49 Now, Mr Mal Wauchope was then Public Sector Commissioner.

1 You meet with him, um, and you'll see there amongst the
2 agenda items is the IOI?---Correct.

3

4 Now, in 2017 do you have any recollection as to what you
5 were discussing with him pertaining to the IOI?---I - I was
6 briefing, ah, Mal about my activities on the IOI, what I
7 was doing as vice-president, ah, and, ah - and that
8 certainly would have included, um, the matters that you had
9 been - counsel, you had put to me, um, about my activities
10 during 2016, '17.

11

12 So you were briefing on travel that you had done, your
13 activities?---Briefing on travel I had done - - -

14

15 Yes?--- - - - and briefing on things that I was
16 anticipating coming forward.

17

18 And would you - do you recall whether or not you raised
19 potentially becoming president or running for president of
20 the IOI in that meeting, 7 March 2017?---Look, I cannot say
21 as a photo recollection that I raised it. I can say that,
22 um, it was on the agenda for three principal reasons. I'm
23 very confident about this. One, what have I done? Two,
24 what am I proposing to do? Um, and how do I believe that
25 aligns with the interests of the state and advancing the
26 interests of Western Australia? Um, and certainly at some
27 point I would have flagged becoming the president of the
28 IOI.

29

30 Okay. And then I'll just take you over the next page which
31 is just - sorry. The other agenda items there, new
32 functions - what are CCINs?---Oh, Criminal Code
33 infringement notices.

34

35 OMIs?---Ah, own motion investigations.

36

37 All right. And then the new function is reportable conduct
38 you've briefly touched on?---And out of home, ah, care.

39

40 Okay. And - - ?---Renewal is my renewal as Ombudsman.

41

42 Right. We'll come to that, but yes. With these meetings,
43 was there a general time period that they would last for?
44 The meetings that are subject to agendas like this?---Yes.

45

46 And what was that?---Ah, Mal was extraordinarily timely and
47 professional. They were generally around, ah, 45 minutes
48 to an hour.

49

1 And because I think you've described it as briefing up, who
2 was doing most of the talking?---Oh, me.
3
4 Were you telling Mr Wauchope things or was he telling you
5 things?---No, ah, me. I would - there would always be an
6 opportunity, of course, for him to tell me things and I'd
7 listen carefully but, um, it was principally my opportunity
8 to brief him.
9
10 I'll go to page 7. It's another meeting agenda which
11 appears to pertain to a meeting for Mal Wauchope, 2 pm,
12 20 June 2017, which seems to follow that quarterly cycle
13 from the last meeting. Correct?---Correct.
14
15 And IOI again appears there at 5. Do you recall what the
16 nature of that conversation was in any way?---Ah, again,
17 well, I - I do in the sense that, um, it was there to give,
18 'This is what I have been doing. This is what I'm
19 proposing to do.' At around about that time or shortly
20 thereafter I - it would have been mentioning the
21 presidency, and much of that conversation was focused on,
22 'Here are what I see as the benefits to the state,' and
23 wanting feedback about any views about that.
24
25 I'll stop you there. You commenced that answer with, 'It
26 was there for,' and then described things that you think
27 that agenda item was there to discuss?---Correct.
28
29 Do you have an independent recollection of those things
30 being discussed?---Not - not at that 2017 meeting.
31
32 Not at 2017?---No.
33
34 What does '(indistinct) honours' mean?---Unless it was
35 congratulating Mal for receiving an honour, which it could
36 have been, I'm actually not sure what was - - -
37
38 Okay?---It wasn't about me.
39
40 Let's go to the next one which is page 8. That seems to be
41 an agenda item for a meeting with Sharyn O'Neill?
42 ---Correct.
43
44 Now, we've discussed Mal Wauchope. Sharyn O'Neill's
45 position at this point in time?---Ah, Public Sector
46 Commissioner.
47
48 You've given certain descriptions of Ms O'Neill in a
49 position of Public Sector Commissioner as a very senior

1 public servant?---Oh, the most senior public servant in the
2 state was my perspective.

3
4 And this is a meeting that was on 10 September 2019. I
5 should ask you, do you recall these meetings going ahead?
6 Do you recall this meeting going ahead?---Ah, in fact, what
7 I did do is went back to - well, these are meetings that
8 were in my records. My EA had a policy of writing down
9 whether meetings had been cancelled. So all of those
10 haven't been - but I also went back and double-checked them
11 against my calendar. So my recollection is, to the best of
12 my understanding, they did all go ahead.

13
14 Okay?---I made efforts - good faith efforts to attempt to
15 confirm that.

16
17 Agenda item 7 is 'President, IOI'. Now, first of all, what
18 did you mean to prompt yourself to discuss by virtue of
19 that agenda item?---Oh, that one's very clear. That was,
20 ah, informing Sharyn that I intended to be the president of
21 the IOI and discussing with her what I thought the benefits
22 to the state that would be.

23
24 Now, you've described your meetings with Mr Wauchope may
25 have been around the 45-minute mark. Your meetings with
26 Ms O'Neill?---They're somewhere between 30 minutes to an
27 hour.

28
29 Where is your office located at this point in time?
30 ---Albert Facey House.

31
32 That's where the Department of Treasury is, is it?---No,
33 that's David Malcolm. Um, we are opposite Myer. The train
34 station in Forrest Place.

35
36 And again, were you travelling to Ms O'Neill for these
37 meetings?---Every time. She was in Hale House.

38
39 Where?---Hale House.

40
41 Right. Do you have an independent recollection now of what
42 if any discussions were had at this meeting 10 September
43 2019 with respect to agenda item 7?---Yes, I do, and that
44 was discussing the candidacy for the presidency, um, and
45 what the election for the president would mean in terms of
46 the work that I were doing - the work that I would be doing
47 and how I thought that would benefit both the public sector
48 in Western Australia, but also the state generally and our
49 interests.

50

1 Do you recall any responses in respect of the IOI
2 presidency?---Ah, well, nothing but encouragement, support,
3 enthusiasm. Excitement actually, as I recollect it.

4
5 Pause there. At this point in time where there's
6 excitement and enthusiasm about the prospect of you running
7 for president of the IOI from Ms O'Neill, what are you
8 doing to try and achieve that end of being elected
9 president of the IOI?---Ah, do you mean me with Ms O'Neill
10 or - - -

11
12 Well, no-one gets elected for things without votes
13 presumably?---Yes.

14
15 What are you doing?---Well, what I'm doing is having
16 ongoing discussions with colleagues, but I'm also obviously
17 making sure I'm having conversations within Australia, and
18 that was both with JTSI and DFAT that there be support for
19 that position. I - I was mindful, for example, of the
20 election of Mathias Cormann as secretary general to the
21 OECD and the sort of work that needs to be done to gather
22 support.

23
24 I think my question is were you actively out there - - -?
25 ---Yes, I was.

26
27 - - - looking for votes - - ?---Yes.

28
29 - - - at this point in time?---Yes, I was. I was - I was
30 seeking support for my presidency, that's correct.

31
32 If I can just - I'll take you to page 9 which is a meeting
33 agenda for what appeared to be a meeting with Darren
34 Foster, 2 pm, 6 December 2019. Now, at this point in time,
35 that date, who or what position did Darren Foster have?---
36 He was the director general of the Department of Premier
37 and Cabinet.

38
39 And where was his office located?---Ah, Dumas House.

40
41 And this is the agenda item for that meeting?---Correct.

42
43 And at 2 there, 'President, IOI'?---Correct.

44
45 I'm going to ask you what was it that that agenda item was
46 meant to prompt you to talk about?---Exactly the same
47 matters as with Sharyn O'Neill. So I was discussing - - -

48
49 I think for the sake of brevity we can take that?---Oh,
50 okay. All right. Thank you.

1
2 Do you have an independent recollection of that
3 conversation on that agenda item with Mr Foster at the
4 time?---I do, um, and I recollect Mr Foster - in fact, I
5 recollect him having quite a positive vision about, um, the
6 public sector and its contribution to the state and its
7 interests, and I recollect him being very enthusiastic
8 about it.
9

10 **THE COMMISSIONER:** Sorry, it's probably me but I just
11 missed that last sentence. Could you repeat what you just
12 said?---I'm - I'm sorry, Commissioner. Um, I - the very
13 slight preamble was my recollection of working with
14 Mr Foster is he had a very - sort of very proactive,
15 positive vision about how the public sector could
16 contribute to the states' wellbeing. And I know - I do
17 recollect that he was very positive, um, in his reception
18 to my discussion about being president.
19

20 **PORTER, MR:** The meetings with Mr Foster, how long did
21 they generally last?---Ah, somewhere between 30 minutes to
22 an hour was my recollection.
23

24 And you were going to him?---Always.
25

26 The accountability agency collaboration form, that was - -
27 -?---Oh, that was the Machinery of Government initiative
28 that Mr Foster asked me to initiate, ah, and subsequently
29 chair a forum arising out of that.
30

31 Okay. I'm just going to ask you some questions with
32 respect to the last of those two meetings, so that is
33 Ms O'Neill on 10 September 2019, Mr Foster on 6 December
34 2019, particularly about your having raised your intention
35 or ambition to run for president of the IOI. Did either of
36 them at any point suggest that it wasn't a good idea?---Oh,
37 absolutely not.
38

39 Did either of them try to dissuade you from it?
40 ---Absolutely not.
41

42 And how would you describe the attitude - I think you've
43 answered that question, with respect, for both of them so
44 I'll just withdraw that. The expression that I put to you
45 about getting out of your lane in that sentence or two that
46 was in the letter to Mr Tinley, did any ambitions or
47 descriptions of your role that aligned with that get put in
48 either of these meetings?---I didn't put it to them and
49 they didn't put it to me.
50

1 I'm sorry?---I didn't put it to them, but they didn't put
2 it to me.

3

4 They did or they didn't?---No, they did not, absolutely
5 not, no.

6

7 So, it's more of a structural conversation about your
8 intention to become president at this point?---And what it
9 would entail and what I thought the interests were.

10

11 And when you described what it would entail, first of all,
12 the meeting with Ms O'Neill which occurred earlier, what
13 did you describe it to her as entailing?---Ah, multiple
14 things, that it would entail travel, so that would be an
15 annual board meeting. Travelling to all six regions, ah,
16 of the globe, as there are six regions of the International
17 Ombudsman Institute. I discussed what I thought were the
18 interests in terms of promoting good governance and the
19 rule of law amongst our trading partners, and the sort of
20 bilateral and multilateral relationships, um, where I could
21 have a role.

22 All right, I think in large part this was covered off by
23 global questions, but I'll just put for completeness here,
24 these two meetings with Ms O'Neill and Mr Foster
25 respectively, 10 September 2019, 6 December 2019, neither
26 of them raised any of those four jurisdictional issues that
27 I've described to you previously?---None whatsoever.

28

29 Okay. The next document that I'd like to take Mr Field to,
30 Commissioner, is on page 10 of the bundle. Sorry
31 Commissioner, just a little bit further down, the dates are
32 at the end. So, you have become president elect at this
33 point in time, is that the - - -?---Yes, I think that would
34 be the timing.

35

36 This is dated 16 March 2020, as filed for then-Premier Mark
37 McGowan, obviously?---Correct.

38

39 And it says:

40

41 I'm writing to congratulate you on your recent
42 election as President of the International Ombudsman
43 Institute after holding the Second Vice President
44 position since 2016.

45

46 ?---Yes.

47

48 I am told that you are the first Australian to be
49 elected as president, making this appointment even
50 more significant.

1
2 Just the use of the word 'told' there, at this point in
3 time, had you ever had a face to face meeting with Premier
4 McGowan about your role or roles on the IOI?---No, I have
5 not.

6
7 Do you know how or by whom he had been told about the
8 election? If you don't know, you don't know?---I - no, I
9 don't know, I would assume it was either from Sharon
10 O'Neill or Guy Houston, but I don't know. Or Darren
11 Foster, one of those three.

12
13 Was it publicly announced at this point?---I don't - well,
14 if it had been announced, it would have been in a more
15 closed public announcement, for example, and International
16 Ombudsman Institute announcement, so I don't think it was -
17 I'm not sure that it had been publicly announced in, for
18 example, a newspaper or something like that at that stage.
19 I can't be exactly precise about that answer.

20
21 Okay, and then it says:

22 I understand that the IOI represents over 170
23 Ombudsman Institutes from more than 90 countries who
24 play an important role in proving public
25 administration and making the actions of government
26 more open and accountable to the public.

27
28 Now, that says that you are Australia's longest-serving
29 Ombudsman, and then it says:

30
31 I am sure you will bring a breadth of expertise to
32 the role while continuing to deliver excellent
33 outcomes for the State of Western Australia.

34
35 So, those words there, 'bring a breadth of expertise to the
36 role', I take it you understood that to mean the role of
37 president for the IOI?---Oh, certainly.

38
39 And then, 'while continuing to deliver excellent outcomes
40 for the state of Western Australia,' I presume that was -
41 you took that to be a reference to your position of
42 Ombudsman?---That's exactly how I took that.

43
44 Had you corresponded directly with the Premier on this
45 issue before this point in time?---Ah, I don't have a
46 recollection of doing so, no. I hadn't certainly met with
47 him.

48
49 Commissioner, if I go over the page, to page 11 of the
50 bundle. Now, this is sometime later, Mr Field, the date at

1 the top of that letter is 22 June 2022. You see that?
2 ---Yes.
3
4 Do you recall that letter?---Yes I do.
5
6 And if I can get you to go over the page, the signature
7 block is not signed. Do you know why that might be the
8 case?---Oh, there was certainly a letter that was sent, um,
9 ah, and I do know there is a letter with a signature block,
10 so that would be just an administrative matter, but that
11 letter does exist.
12
13 So, you recall sending a letter - do you need a moment to
14 - - -?---No, I do recollect it, I do remember this letter.
15
16 So, you sent a letter in these terms to the Premier on
17 22 June '22?---Correct.
18
19 And at the top of it, you adopted the IOI - is it logo on
20 the right?
21
22 **THE COMMISSIONER:** Sorry, just wind back?---I'm just on
23 the second page, sorry. Yes, yes I have.
24
25 **PORTER, MR:** And again, this is 22 June 2022. You're
26 writing to inform him you've recently undertook an official
27 visit to the Republic of Austria?---Correct.
28
29 Yes, with the Secretary-General of the International
30 Ombudsman Institute?---Correct.
31
32 And down the final - and then you talk about other things
33 that you have done on this trip. Final paragraph:
34
35 As I think you would expect of me, I also discussed
36 at each meeting the very valued and longstanding
37 friendship and mutual interest that Western Australia
38 and Australia have with the Republic of Austria.
39 Further, through a recent strategic cooperation
40 agreement, there was pleasingly a general view of
41 very successful leadership and management by you and
42 the government of the COVID-19 pandemic, which I
43 think was entirely correct. And it was equally
44 pleasing to be able to share that the state is now in
45 an outstanding position and very much open for trade
46 and tourism.
47
48 And over the page:
49
50 Immediately following my official visit to the

13 Did you ever recall sending a letter in response to this
14 letter?---I don't know that I did receive a response. I
15 know that I did discuss it with the Premier's chief of
16 staff, but I'm not sure if I actually got a response to the
17 actual letter.

19 Just pause there. You discussed this letter with - - -?
20 ---Yes, subsequent to the letter.

22 And which chief of staff was that?---I think that was
23 Daniel Pastorelli.

25 And as we are going at some point through those meeting
26 agendas, will you be able to match the letter to the
27 meeting?---Yes, yes.

29 I'll just put it to you in general terms. It's not a usual
30 thing to write letters to the Premier as a Department?
31 ---No.

33 Then why did you do it in this instance?---Ah, one,
34 transparency, um, two - - -

36 I'll just stop you there. What do you mean by that?
37 ---Well, I wanted to let the Premier know, um, particularly
38 because we have discussed lane issues, if you like, I
39 wanted the Premier to know the breadth and the depth of the
40 work that I was doing as the President of the International
41 Ombudsman Institute. Um, the second reason is because, ah,
42 I wanted him to be, um, ah, appraised about the positive
43 opportunities that existed between Austria, ah, and its
44 states and Western Australia, which was conveyed to me
45 extensively during my visit. I wanted him to know about
46 that. Um, I think a third reason is because, um, almost -
47 a bit like many Western Australians quite properly were as
48 I recollect at the time, somewhat almost awestruck by his
49 management of COVID-19, he was extremely well-regarded for
50 that by the most senior people in Austria. Um, so that was

1 the reason why that was put in the letter. Um, and I think
2 finally, it was also making sure that he was aware, the
3 most senior person in government was aware, of the ongoing
4 work that I was proposing to do as the IOI in furthering
5 the state's interests.

6
7 Now, you've mentioned to the Premier in this letter that
8 you met with the Secretary-General of the OECD, Mr Cormann.
9 There was only one meeting with Mr Cormann, that's the
10 meeting that was the genesis, or at which the OECD contract
11 (indistinct) was discussed?---Correct.

12
13 It's self-evident that you didn't go into further detail of
14 the content of that meeting in this letter. What reason is
15 there for that, if any?---Oh, there wasn't a particular -
16 beyond the length of the letter, there wasn't a reason at
17 that stage to go into that level of detail, ah, with him.
18 Um, I would - it was very clear to me that I wanted the
19 Premier involved at some stage in that, but it was very
20 much more of an officer level, the progress of that
21 particular matter at that particular stage.

22 Now, we've described earlier - I think it was in 2019, that
23 you had this interoffice memorandum of understanding with
24 the Ombudsman's Office from Thailand that's been signed.
25 In this letter, you start talking about a recent strategic
26 cooperation arrangement. Was that between Austria and
27 Australia or - - -?---Correct, correct.

28
29 Right, okay. So, Mr Field, it's obvious that at some point
30 in time, you had this expanded view of your role or what
31 you could achieve in your role as president of the IOI. Is
32 this the point in time that you start thinking about
33 memorandums of understanding between our state, Western
34 Australia, and other entities?---Exactly the time.

35
36 Well, before or after the - - -?---Contemporaneously, yes.
37

38 And just, why? How is it occurring to you?---I'm being
39 contacted - I was contacted by, ah, the Australian
40 Ambassador to Austria about that possibility, a possibility
41 of a memorandum of understanding between Western Australia
42 and the state of Styria.

43
44 Okay, so Austria has states?---Yes, they do.
45
46 Like Australia does?---Yes (indistinct)
47
48 Styria is a state?---Yes.
49
50 And these - I'll call them subnational MOUs - a regular

1 thing for Australian states to enter into, do you know?
2 ---My understanding is we enter into both national and
3 subnational MOUs, correct.
4
5 Well, at this point when you're starting to think about
6 this, had you ever encountered an MOU between Western
7 Australia and another province or state?---Me personally,
8 no.
9
10 Were you aware of any?---AH, I was aware we had MOU
11 relationships, or we used to call sister state
12 relationships. I hadn't personally encountered them or had
13 dealings with them.
14
15 Okay, maybe encountered was the wrong word. You knew that
16 such things existed?---Oh, yes, absolutely.
17
18 So, who was it in your travels to, for instance, Austria,
19 that you are getting access to, that you are discussing
20 subnational state entity MOUs with, if anyone?---Ah, with -
21 as I recollect from that visit, it was with the Australian
22 Ambassador to Austria. It was with the, ah, I think during
23 that trip it might have been with the Governor of - can we
24 just go back to the previous page? I'm so sorry. Yes, um,
25 so absolutely correct. Um, I do have a very good
26 recollection, just reminding myself from that paragraph.
27 So, Mr Richard Sadler, who was the Australian Ambassador to
28 Austria, indicated to me that there was an ambition held
29 - - -
30
31 Sorry, Peter Sadler, who is that?---Oh, sorry, Mr Richard
32 Sadler, Australian Ambassador to Austria. Um, there was an
33 ambition held by - you know, obviously I thought he was
34 speaking on behalf of the Australian Government, there was
35 an ambition held for an MOU, um, between the state of
36 Styria, ah, and an Australian state. I also discussed that
37 - so I discussed that in a meeting with him and discussions
38 with him. I also discussed it during my meeting with the
39 Governor of Styria as well. Ah, I think it may have
40 actually arisen in my meeting with the Prime Minister of
41 Austria as well, but it was only a small part of that if it
42 did.
43
44 Right, so this letter is 22 June 2022, and you were in
45 Austria from 2 to 17 June 2022?---Correct.
46
47 So, is it this trip to Austria, 2-17 June 2022 that
48 represents the sort of genesis or birth of you being
49 involved in an MOU between WA and the Austrian state or
50 province of Styria?---Yes, yes. Before I came to - to the

1 best of my recollection, before I came to Austria for this
2 trip, it wasn't something that I was, in my mind - it arose
3 out of this trip and the representations that were made to
4 me.

5

6 All of a sudden you were in this different world, so to
7 speak, and people are talking about these things?---Yes,
8 that's exactly correct.

9

10 And I take it from your evidence that it does occur to you,
11 at least in a general way, on your return to Perth at the
12 time of your sending this letter to the Premier, that this
13 venture, if I can call it that, is starting to get outside
14 what would be traditional lanes for you as a statutory
15 officer of Western Australia?---Correct, that was one of
16 the reasons why - and there were other people I spoke to,
17 including Rebecca Brown, but for the purposes of this
18 letter, that was one of the reasons I was so keen, um, to
19 write to the Premier. Because you are quite correct, I'm an
20 Ombudsman, I'm there as the president of the international
21 peak body, and the Australian Ambassador to Austria is
22 saying - I'm not saying in any improperly, um, but saying
23 to me, 'We're interested, but' - quite properly to me, but
24 saying to me, 'We might be interested in an MOU, or the
25 Australian Government is interested in an MOU between, ah,
26 ah, between the state of Styria and a state in Australia.'

27 Um, and that was also discussed, as I recollect, in the
28 meeting with the Governor of Styria, unsurprisingly, and as
29 I say, I think might have been mentioned in passing in the
30 meeting with the Prime Minister. All of that added up to
31 me to be something that was not the usual. I mean, I can't
32 remember when I wrote to the Premier, this is an unusual
33 letter, and because of the nature of it, I felt it was
34 something that I did want to let the Premier know about.

35

36 **THE COMMISSIONER:** Can I just ask one question? At the
37 time, were you aware of - did you take account of, the
38 Australian Foreign Relations Act?---I did. Well, I - I -
39 my understanding was I was aware of it. I certainly became
40 more and more aware of it as time went on, Commissioner,
41 because it was further discussed.

42

43 Thank you?---But I would - I'd be lying to you
44 Commissioner, if I said I knew the deep precise details of
45 the Act at that time. It became more and more knowledge of
46 mine as time went on.

47

48 **PORTER, MR:** So, Mr Field, with this letter which is dated
49 22 June 2022, I've gotten a little bit out of sequence with
50 the questioning, that was before. But if I go back to the

1 previous document, which was page 10, which is the previous
2 letter from the Premier Mark McGowan on 16 March 2020, the
3 line of questioning before leading up to that document at
4 page 10 was about this period of time prior to you becoming
5 president where you're actively campaigning, is that a fair
6 description?---Yes, yes.

7

8 And then you are, on your evidence, explaining to senior
9 people in government your intention to run for this role.
10 And I've also put to you the individual travel that you've
11 undertaken whilst you've been holding a position prior to
12 president in the IOI. And all over this period - so this
13 is up to you becoming president in 2020, you've had
14 quarterly returns to Parliament, you've had annual reports,
15 and all of this travel is documented in those two source
16 documents, correct?---Yes.

17

18 And up until this point which is the commencement of 2020,
19 do you ever recall a question in budget estimates about
20 your travel or any role associated with the IOI to you or
21 your office?---I - I would lie to the Commissioner if I
22 said I had a photo recollection of every budget estimates
23 but I have - to the best of my recollection, I can never
24 remember a question.

25

26 And this is again up to this point in 2020. Do you ever
27 recall a question or notice pertaining to your activities
28 or travel associated within IOI?---No, I have no
29 recollection of that.

30

31 Do you ever recall any parliamentary committee questions
32 associated or directed towards your role with the IOI or
33 travel associated with your work?---No, I have no
34 recollection of that.

35

36 Was there ever any inquiry or queries coming in from the
37 Speaker or the Speaker's office with respect to your travel
38 associated with the IOI or any role that you had in the
39 IOI?---Well, when I say I have no recollection of these
40 things, I - I - I think my better answer is to say I'm
41 almost certain the answer is no, but I want to say simply I
42 have no recollection. But I'm almost certain the answer is
43 no.

44

45 Was there ever any inquiry of any type from the
46 Auditor General or their office to you or your office about
47 your travel or any role you had associated with?---To my
48 recollection, never.

49

50 And again, I'm asking about this period up to 2020?---Yep.

1
2 Anyone else in government do you recall put in any inquiry
3 into you with respect to your role or travel with the IOI?--
4 --To my recollection, no.
5
6 And then as we've discussed, I'm moving on now to a period
7 between about 2020 and 2021. And in May 2021 you have
8 commenced your four-year term as president of the IOI.
9 You've done that at the closing ceremony of the 12th
10 Quadrennial World Conference of the Institute which was
11 held in Dublin?--Correct.
12
13 And that was held virtually?--It was held virtually.
14
15 There was no international travel or very little
16 international travel happening that year?--Correct.
17
18 So you attended a number of events in this period '20 to
19 '21 which were virtual events?--Correct.
20
21 You gave a number of speeches at virtual worldwide
22 conferences?--Correct.
23
24 And those speeches and these attendances at these IOI
25 events were all included in your annual report for that
26 year?--Correct.
27
28 And your annual report was tabled on 28 September 2021?--
29 Correct.
30
31 Just - I'll stop there. When we say that an annual report
32 is tabled in Parliament, what does that mean? Does it come
33 up on a website? Are copies provided to people or posted
34 to people or emailed to people? So if I ask, for instance,
35 the tabling of the Ombudsman of WA's annual report on
36 28 September 2021 - in your experience, what would happen?--
37 --Ah, my experience is the Speaker tables, um, the - the
38 report. It then becomes obviously a tabled report of
39 Parliament. Ah, it's placed in the - - -
40
41 I'll just stop you there. What - - -?--Oh.
42
43 For the uninitiated, what does that mean?--It - - -
44
45 Becomes a part of the record? What is it?--It becomes
46 part of the formal record of Parliament. Um, ah, it's then
47 also a public document, so it's available not just in the
48 parliamentary library but it's also placed
49 contemporaneously on our website. Um, and we also at the
50 same time as a matter of practice would always mail, ah -

1 more latterly email copies of that annual report to a raft
2 of stakeholders. And that would include, ah, the sort of
3 stakeholders we've referred to today - the Public Sector
4 Commissioner, the Under Treasurer, Director General of
5 Department of Premier and Cabinet, et cetera. Premier
6 (indistinct), those sort of stakeholders.

7

8 Right. And when you say we would mail and latterly email
9 the report, you mean the Ombudsman's office?---Yes. My
10 staff. Correct.

11

12 Can I just - at the best of your recollection for the
13 28 September 2021 report, how many recipients would it have
14 been emailed to?---Ah, there was a state, national and
15 international list. I'd be guessing 40, 50, 60. Perhaps
16 something like that.

17

18 And in that annual report that was tabled on
19 28 September 2021 there was this statement. And just
20 correct me if I'm wrong.

21

22 Among his first priorities will be strong engagement
23 with the United Nations. Following the recent
24 adoption by the General Assembly of the resolution,
25 the role of the Ombudsman and mediator institutions
26 in the promotion and protection of human rights, good
27 governance and the law.

28

29 ?---Yes. That is the UN resolution to which I've referred
30 during the hearings.

31

32 And in addition to the annual report which was tabled on
33 28 September 2021, trips were reported to Parliament
34 through the process of you submitting quarterly overseas
35 travel returns to DPC which were then tabled in
36 Parliament?---Correct.

37

38 And there weren't any trips, is that right?---Correct.

39

40 And so when there's not a trip, any travel by you that
41 would otherwise require reporting through DPC to be tabled
42 in Parliament, what do you do? Do you put in a nil
43 return?---Nil return.

44

45 Right?---Correct.

46

47 So there's - and we'll come to see it in a moment, but
48 there's a sort of pro forma sheet that you would put into
49 DPC, and it would just have nil travel?---Correct.

50

1 And after the publishing of your annual report
2 28 September 2021, was that the first annual report that
3 included information about your election as president of
4 the IOI? Did it include that?---Ah, which year again,
5 sorry, counsel?

6
7 This is 28 September 2021?---I suspect the answer to that
8 is yes. I'd have to double check.
9

10 We'll come to that reports tomb soon. But the - after the
11 publication of the annual report, the tabling on
12 28 September 2021 when it becomes publicly accessible and
13 it's emailed out to people, did anyone ever express or put
14 to you any concern or misgivings about you being elected
15 and assuming the position of president of IOI?---No. No.
16

17 Did anyone suggest it wasn't a good idea?---No.
18

19 Did anyone try and dissuade you from it?---No.
20

21 Did anyone talk to you about your presidency that you can
22 gather by virtue of your annual report having gone out?---
23 No.
24

25 I think it follows from that that after the publication of
26 that annual report, its tabling on 28 September 2021,
27 no one raised any of those four jurisdictional issues with
28 you that we discussed earlier?---Absolutely not.
29

30 Now, it's been the subject of evidence and examinations a
31 general proposition that during the period of your
32 presidency that you communicated with senior people in
33 government about what you were doing by way of travel and
34 to some extent on your evidence what your future intentions
35 were in terms of what you sought to achieve through the
36 role of president of the IOI. I'm just asking you that
37 that's obviously been a matter of questioning and
38 examination?---Correct.
39

40 And I just want to explore that level of communication and
41 briefing. Now, on 5 October - and, Commissioner, I'm now
42 moving to page 13.
43

44 **THE COMMISSIONER:** Page 13?

45
46 **PORTER, MR:** That starts with a document dated
47 5 October 2020.
48

49 **THE COMMISSIONER:** Letter from Mr Field to the
50 Attorney-General?

1
2 **PORTER, MR:** Correct.
3

4 And keeping in mind that the annual report was tabled
5 28 September 2021. And here is a letter - this one, and a
6 signature block is signed. It's all under one page 5,
7 October 2020 to the Honourable John Quigley MLA LLB JP.
8 And do you recall sending this letter?---Yes, I do.
9

10 Did you draft it?---Yes, I did.
11

12 That's your signature obviously, is that right?---Oh, yes,
13 it is.
14

15 And it begins:
16

17 I write to inform you that I have been elected
18 president of the International Ombudsman Institute.
19

20 That you were humbled and privileged. It then gives a
21 description of the organisation, and it ends the first
22 paragraph:
23

24 I'll commence my four-year term as president at the
25 rescheduled quadrennial 12th World Conference and
26 general assembly of the IOI in Dublin. During my
27 four-year term as president I'll seek to advance
28 Western Australia's economic and trading, social,
29 cultural, and good governance interests globally,
30 including the Asia-Pacific region where my office
31 already has longstanding highly positive
32 relationships.
33

34 You say in your letter to the Attorney General Mr Quigley:
35

36 In doing so I will liaise closely with Minister
37 Tinley's office; the Department of Jobs, Tourism,
38 Science and Innovation; and the Department of Foreign
39 Affairs and Trade to ensure my engagement aligns with
40 and maximises strategic opportunities for Western
41 Australia.
42

43 I think each of these documents are in similar if not
44 precisely the same terms, and I'll just move through them
45 before I come to ask you some questions on them. But the
46 next one, Commissioner, on page 14 is again dated 5 October
47 to the Honourable Peter Tinley, minister then for Asian
48 Engagement. The next one on page 15 dated 5 October 2020
49 is to Ms Sharyn O'Neill, Public Sector Commissioner?
50 ---Correct.

1
2 And then on 5 October 2020, the next on page 16 is to
3 Mr Richard Sellers, Director General of the Department of
4 Jobs, Tourism, Science and Innovation at that point in
5 time?---At that point in time head of JTSI, correct.
6
7 They look very similar without necessarily being identical.
8 But they've obviously come off a template?---Oh, I wrote it
9 and then gave - er, effectively personalised it for each
10 audience.
11
12 I'll just start with the first of the documents. Sorry, I
13 missed one. The final one on page 17 was to Mr Michael
14 Barnes who is the Under Treasurer, again dated 5 October
15 2020. I'll just go back and ask the questions initially in
16 respect of the letter to Mr Quigley dated 5 October 2020.
17 In the third to last paragraph at the end you have said:
18
19 In doing so I'll liaise closely with Mr Tinley's
20 office; the Department of Jobs, Tourism, Science and
21 Innovation; and the Department of Foreign Affairs and
22 Trade to ensure that my engagement aligns with and
23 maximises strategic opportunities for Western
24 Australia.
25
26 First of all, what did you have in mind that you would be
27 doing that would maximise strategic opportunities for
28 Western Australia at this point in time, 5 October 2020?
29 ---Um, yeah, I had a really clear view about that, and in
30 fact actually remember putting these letters together. Um,
31 and I didn't have - let alone any sense of ego, I didn't
32 even have pride about the idea of being the president, but
33 I was very proud of my state and my capacity to serve it.
34
35 **THE COMMISSIONER:** I think the question was what did you
36 have in mind - - -?---Well, that's what I had in mind.
37
38 - - - that you would do - - -?---Yeah, well - - -
39
40 - - - as I understood the question?---Oh, okay. I'm sorry,
41 Commissioner, I didn't mean to sound querulous at all.
42 You're - you're right, I'm wrong.
43
44 **PORTER, MR:** Mr Field, I'll just be blunt about it?
45 ---Yeah.
46
47 It's sort of bureaucratic language, 'Maximise strategic
48 opportunities for Western Australia'?---Oh, okay, yes.
49

1 What things did you think that you would be doing or you
2 were intending to do to maximise strategic opportunities
3 for Western Australia?---All right. Sorry. And - and,
4 Commissioner, apologies. What I was - I absolutely had in
5 mind the idea that I would be doing things like, um, er,
6 not just meeting with ambassadors, but meeting with trade
7 commissioners and others as part of that role of president.
8 And that I was hopefully and positive that with the various
9 key stakeholders I was meeting not just with those but
10 other ombudsman, ombudsman who were often members of
11 Parliament in their own country, um, unlike our system who
12 had been - who would be - that this would create potential
13 trade, tourism, and other opportunities to meet with those
14 key stakeholders, represent our state in a positive image,
15 represent it professionally. That's what I had in mind.
16

17 To the extent there's specificity in there, 'Open up trade
18 opportunities,' what in your mind did you see as you being
19 able to achieve by way of opening up trade opportunities at
20 this point?---Ah, at this point it would have been things
21 like, um, MoUs, um, other bilateral agreements that went
22 to, um - so it wouldn't have been about maximising sugar
23 imports, it would have - or exports. It would have been
24 about the idea of government instruments, other instruments
25 that assisted and supported all of those things that are
26 fundamental to, you know, reducing sovereign risk and good
27 relationships between trading nations. It was - it was
28 around the ombudsman's role in that - the concepts of the
29 rule of law and good governance.
30

31 You've mentioned MoUs there. I mean, I had assumed that
32 given that you've previously answered that you started to
33 have this genesis of an idea about MoUs between WA and
34 European provinces that this is something that you had in
35 mind as the trade opportunities. As you say, it wasn't to
36 increase volumetric imports of sugar, it was just you had
37 this thing in mind?---That's correct. And - and the thing
38 was around the concept of good governance, the rule of law,
39 reduction of sovereign risks, these fundamental
40 underpinnings to what trade and strategic opportunities
41 are. That's what I meant.
42

43 Okay. So just in your mind making for better ombudsman
44 offices around the world is a structural issue which
45 improves governance and therefore potentially has an
46 economic effect, and so that economic effect could flow on
47 to Western Australia as a trading nation. Essentially you
48 had that general view, is that a fair description of it?
49 ---Exactly.
50

1 But specifically you had these ideas, these things that you
2 thought in this new world and in this new role that you
3 could achieve, you could bring home?---Indeed. And even as
4 early as this time the OECD was one of those as it shares
5 all of those fundamental underpinnings of good governance,
6 the rule of law to maximise trade and wealth.

7

8 Just leaving aside the OECD for a moment, I mean, there's
9 no anticipation in these matters, but you are subject to
10 examination for serious matters?---Mm.

11

12 And it may be that a view forms that it's more than passing
13 strange that in your role as Ombudsman even with the dual
14 hat of president with the International Ombudsman Institute
15 that you have these ambitions around some national MoUs.
16 Now, people might have a view that that's strange. What
17 I'm interested to try and understand for the Commission's
18 benefit is when you started having this view that this was
19 part of your role wearing these dual hats, but also when
20 you started communicating not just the general vision about
21 landing MoUs but about the actual thing of an MoU, do you
22 remember when you first discussed the potential for an MoU
23 between Western Australia and the Austrian state of Styria
24 with anyone in Western Australian government?---It was
25 after my return from Austria as I recollect it.

26

27 So that's the trip between 7 and - - -?---Yes. Not as
28 early as this.

29

30 No, just let me finish. That's the trip between - - -

31

32 **THE COMMISSIONER:** June 2022.

33

34 **PORTER, MR:** - - - 7 and 17 June 2022. The question is do
35 you think that the first time that you spoke to anyone in
36 Western Australia government about your ambition to
37 conclude a Memorandum of Understanding between WA and
38 Styria was after this trip to Austria 17 June 2022?---Yes.

39

40 So that's two years give or take after these letters had
41 been sent out. So at the point of sending out the letters
42 you had the idea of an MoU potentially, but it crystallises
43 into this particular MoU between Western Australia and
44 Styria later after that trip to Austria that we've just
45 mentioned. Just is that about the timing of it?---Correct.

46

47 How many trips to Austria had there been prior to that 2 to
48 17 June 2022 trip? Austria was where the IOI was
49 headquartered, is that right?---Correct.

50

1 Do you remember?---That June '22 trip was the first I took
2 as, ah, president.

3

4 But you had been to - - -?---Oh, yes, correct, I had been
5 there before.

6

7 And the selection of recipients for this letter - so the
8 5 October 2020 letter. Mr Quigley, Attorney-General,
9 Minister for Asian Engagement, Public Sector Commissioner,
10 Director General of Department of Jobs, Science and
11 Innovation and the Under Treasurer. There's a lot of
12 ministers in the state government. Why that selection?
13 ---Ah, well, variously in turn, um - - -

14

15 Well, I'm just asking you as a group?---Oh.

16

17 Is there a commonality to that group?---There is a
18 commonality to that group. They were all people who I
19 thought had significant influence within the government and
20 people to whom I ought to be conveying, ah, ah, views about
21 what my role was. To take, for example, Michael Barnes as
22 the Under Treasurer that obviously travel would come as an
23 expense. Travel flows from the presidency and that's an
24 expense.

25

26 And I'll just look at the first of those letters.

27

28 **THE COMMISSIONER:** Maybe we can look at them at
29 two o'clock.

30

31 **PORTER, MR:** Yes, Commissioner. I lost track of time.
32 Thank you.

33

34 **THE COMMISSIONER:** We'll adjourn till two.

35

36 (LUNCHEON ADJOURNMENT)

37

38

39 **CHRISTOPHER JAMES FIELD RECALLED ON FORMER OATH AT 02.10
40 PM:**

41

42 **THE COMMISSIONER:** Please be seated.

43

44 **PORTER, MR:** Mr Field, before the lunch break we discussed
45 these letters dated 5 October 2020 that went to the
46 Attorney-General, Minister for Asian Engagement, the Public
47 Sector Commissioner, Director General of JTSI, and the
48 Under Treasurer. And then you sent another letter which is
49 in the bundle at page 18 dated 5 October 2020. And we'll

1 just scroll down to your signature panel, there is your
2 signature?---Correct.
3
4 And the letter is CC'd to Ms Sarah Hooper, Director Western
5 Australia State Office, Department of Foreign Affairs and
6 Trade?---Correct.
7
8 So I take it that's the state-located office of DFAT
9 (indistinct) is that right?---Correct.
10
11 If we just go back up to the top of that letter Frances
12 Adamson is, as is recorded there or was at the time, the
13 Secretary of the Department of Foreign Affairs and Trade?--
14 -Ah, correct.
15
16 Why did you write to her?---Ah, I had a very specific
17 intent in writing to her because as the president elect of
18 an international human rights body, um, I felt it was
19 critical to write to the Secretary of DFAT to inform her of
20 that role and my aspirations or views about what that role
21 entailed.
22
23 And if I look at the final paragraph on that page:
24
25 During my term as president I will seek to advance
26 Australia's economic and trading, social, cultural, and
27 good governance interests globally, including in the Asia-
28 Pacific region where my office already has longstanding,
29 highly positive relationships.
30
31 And it continues over the page:
32
33 In doing so I will liaise closely with the Department of
34 Foreign Affairs and Trade to ensure that my engagement
35 aligns with and maximises strategic opportunities for
36 Australia.
37
38 Now, that looked very similar to that, well, sentence or
39 two that was in the five letters to West Australian office
40 holders substituting words 'Australia' for 'Western
41 Australia'?---Yes.
42
43 That's a fair summary?---Yes, correct.
44
45 And we've discussed what you had in your mind would
46 potentially be this expanded role of yours when you're
47 writing to the West Australian office holders. I take it
48 the same thing was in your mind when you were writing to
49 Ms Adamson?---Correct.
50

1 Did you write to anyone else in Commonwealth government
2 that you recall?---Ah, I don't recall writing to anyone
3 else in the Commonwealth government.

4
5 Now, letters like this will go out from time to time
6 insight as your experience as a senior civil servant where
7 people send a letter informing other office holders that
8 they've done something or achieved a position. Do you
9 always expect a response to those letters?---Ah, no, you
10 don't always expect a response.

11
12 You did get some responses in respect of these now six
13 letters that we've considered, that's correct?---Correct.

14
15 If I can go to page 20 in the bundle, that is dated - it's
16 a little bit obscured but I think that's 10 October 2020.
17 Do you agree?---Yes.

18
19 Your signature at the bottom there - no, sorry, this is
20 from Frances Adamson. This is the response letter?---
21 Correct.

22
23 And she says:

24
25 Thank you for your letter dated 5 October 2020.
26 Congratulations on your election as president of the
27 International Ombudsman Institute. I'm delighted to see an
28 Australia leading the IOI for the first time during what is
29 a particularly complex and challenging domestic and
30 international environment.

31
32 I'll read that last paragraph:

33
34 The future demands active and determined diplomacy and
35 strong international partnerships to help advance a secure
36 and prosperous Indo-Pacific and strengthen the rules-based
37 international order. I appreciate the work of the IOI and
38 the institutions you represent in promoting access to
39 justice, contributing to the rule of law, advancing human
40 rights, and supporting developing democracies. I wish you
41 every success in your new role.

42
43 What was in your mind when you received this letter from
44 Frances Adamson?---I remember being pleased with the
45 letter. And I remember it fortifying in my mind, um, that
46 the aspiration I had for the role of president to work to
47 advance good governance, the rule of law, and human rights
48 and the rules-based international order insofar as it was
49 advantageous to Australia and Western Australia was being
50 encouraged and looked up on favourably. And insofar as -

1 and it regularly turned my mind - I had no personal
2 ambition, but insofar as I felt there was always a lane
3 issue - Ombudsman, president, and there are lanes you stay
4 within. I was comforted by the fact that this was within -
5 I was pursuing matters that were within - well, in the lane
6 that was appropriate.

7

8 Now, obviously it's a very senior role the head of DFAT,
9 the Department of Foreign Affairs and Trade. You would
10 agree?---Very senior.

11

12 Had you ever written to the secretary general of DFAT
13 before?---Not that I ever recollect.

14

15 Had you ever received a letter from the secretary general
16 of - - -?---Not that I recollect.

17

18 I'll just put to you it's likely this would have fortified
19 that you were now in a different league. Is that what it
20 did?---Um, yeah. Look, I want to be clear. There was no
21 personal ego about it but I did think the role itself as
22 Ombudsman and president now is in a different league. That
23 is correct.

24

25 And then if I take you over to page 28 - sorry, 21. Sorry,
26 21. Now, this is a letter to you from the Honourable
27 Peter Tinley MLA who was Minister for Housing, Fisheries,
28 Veterans Issues, Youth, Asian Engagement. It's to you,
29 Mr Chris Field. It's stamp dated 26 October 2020. Do you
30 remember receiving that letter?---I do.

31

32 It reads for itself but I'll just highlight for you the
33 very final sentence:

34

35 The state government looks forward to working with you to
36 further Western Australia's international economic and
37 friendship opportunities, including in the Asia Pacific
38 region.

39

40 What was in your mind when you received that letter?---Ah,
41 I remember that letter particularly strongly, ah, because I
42 had some respect for the minister, and not just that, his
43 service to our country. But I, um - so I was aware of the
44 minister. I was aware of that letter. Um, but I have to
45 say I took particular, um, comfort out of that letter that
46 that which I was explaining I saw as the role of the
47 Ombudsman and President of the International Ombudsman
48 Institute being undertaken for the first time by an
49 Australian or a Western Australian, the sort of things that
50 I had in mind pursuing - and particularly in relation to

1 the Asian-Pacific region - but more generally was getting a
2 very strong level of (indistinct) and support from, um, the
3 most senior levels that would be relevant to me to write
4 to.

5

6 So you've used this word a couple of times, Mr Field,
7 comfort. You were comforted by the response. Now, this is
8 a response which is a direct response to a letter that
9 you'd sent to Mr Tinley - - -?---Yes.

10

11 - - - in which there was that passage that we have read
12 which was talking about liaising closely with his office.
13 Just let me check that.

14

15 I will liaise closely with your office, the Department of
16 Jobs, Tourism, Science and Innovation and the Department of
17 Foreign Affairs and Trade to ensure that my engagement
18 aligns with and maximises strategic opportunities for
19 Western Australia.

20

21 So it was a direct indication to the minister that you were
22 going to engage with his department on the things that you
23 had noted?---Correct. And very - yeah, very deliberately
24 so.

25

26 Okay. And then you received this response that you say
27 comforted you. What sort of response would have created an
28 opposite effect of discomfort? Are you able to say that?--
29 -Ah, well, any response that indicated, um, that they were
30 matters that otherwise were the province of JTSI, DFAT, um,
31 matters that weren't within the province of either the
32 Ombudsman or the president, um, matters that were
33 discouraging me, dissuading me, directing me away. As I
34 say, words like "delighted to hear that you'll be working
35 to advance our global interests", that they looked forward
36 to working with me to further those economic and friendship
37 opportunities including particularly the Asia-Pacific
38 region. Um, the opposite of that would have been words
39 that were effectively either directly or indirectly saying
40 to me, "Get out of this lane".

41

42 I just want to put to you that there's a lot of letters
43 that go to and from - - -?---Yes.

44

45 - - - people in the civil service. Now, you didn't view
46 this as proforma perfunctory?---Oh, not in the slightest.

47

48 Well, should you have?---No, I don't believe I should have.
49 I profoundly don't believe I should. I've sent a lot of

1 letters and I - I didn't think I should have seen this as a
2 - as a perfunctory or a proforma letter.
3

4 And these letters from Minister Tinley and Frances Adamson,
5 they were the only two that you received in direct response
6 to the six that were sent out?---That's my recollection.
7

8 Now, just take you to an exchange that you had with the
9 Commissioner at transcript 11 - page 11 from 14 February.
10 Sorry. 14 February and transcript page 11. That is not
11 what I thought it would be. It is? Sorry, yes. I have an
12 excerpt. So I'm just looking at "But nobody ever". This
13 is an exchange, Mr Field, with the Commissioner where he
14 says as an obvious matter of fact:
15

16 Nobody ever asked you to advance trading and cultural
17 matters, did they?
18

19 And prior to that, you have said:

20
21 What I was trying to do was as much as I possibly could to
22 support Western Australia's interest when I was undertaking
23 my role as president.
24

25 And then the Commissioner says:

26
27 Nobody ever asked you to advance trading and cultural
28 matters, did they?
29

30 In your mind at this point in time after the letters from
31 Adamson and Tinley, do you - what did you have in your mind
32 that people were supporting you to do in WA Government?---
33 Ah, advancing, ah, trade, cultural, social, ah, matters and
34 benefits for our state and more generally for our country,
35 but more particularly for Western Australia and then
36 perhaps more particularly again in the Asia-Pacific region.
37

38 And at this point in time, you had if I can put it this way
39 started down this path in your mind of expanding your
40 activities through the role of president of IOI to as it's
41 described perhaps in Mr Tinley's response:
42

43 Trying to further Western Australia's international,
44 economic and friendship opportunities, including in the
45 Asia Pacific region.
46

47 You had in your mind that that was something that you were
48 going to try and achieve through - if I can use the word -
49 leveraging out of the IOI position?---Ah, I'm not sure
50 there's any way I can describe it that was actually better

1 than those words. That is exactly what I had in mind.
2 Look, over 17 years I had seen more proforma letters than I
3 can imagine. I actually got quite a few when I got my
4 public service medal that I thought were utterly proforma
5 letters. What I can say is I thought neither of those
6 letters were proforma. I thought they were quite specific
7 about the fact, "Hey, you're not the most important person
8 in town. You're far from it. But in so far as you're
9 doing a role, you - this is a lane you can be in to the
10 advantage of our state and our country".

11

12 I just want to put to you that - on whether they were or
13 were not proforma, you don't have a concern now that you
14 were seeing something that you wanted to see in those
15 letters?---No, absolutely not because I didn't have, ah, a
16 personal ambition for the presidency, um, uh, beyond
17 initially being president of the peak body. The - the
18 evolution of the further value that could be provided to
19 the state was one that involved through the imprimatur,
20 encouragement and support, um - sorry. I indicated to
21 people that was an aspiration and ambition and it was only
22 because of the responses I was getting that I felt, um,
23 enabled and empowered to do it.

24

25 And at this point in time, I'm talking now at the date of
26 the letter from Minister Tinley, 26 October 2020. You feel
27 so encouraged. And it's certainly the case that no one has
28 given you a signal to turn around or to not do what it
29 appears is in your mind that you wish to do?---That is
30 100 per cent correct, and - and indeed if I'd received a
31 letter from the, ah, secretary of DFAT saying, "You should
32 absolutely not be doing this", that would have weighed very
33 heavily in my mind as to not doing it.

34

35 We'll just stop there for a moment. You - you obviously -
36 by virtue of the evidence that you've given - given,
37 considered yourself exclusively responsible to parliament
38 in the conduct of your office and the discharge of your
39 duties?---Correct.

40

41 You were having quarterly meeting with people that you
42 clearly viewed as your superiors. Now, I've used the - the
43 word in putting it to you, "Note of caution", as someone
44 asking you to turn around or - - -?---Correct.

45

46 - - - effectively telling you that this might not be a
47 great idea - - -?---Yes.

48

49 - - - but no one had done that at this point?---Absolutely
50 not.

1
2 Okay. Now, you - you had an exchange with the Commissioner
3 yesterday. I don't have it in front of me, but it was - it
4 was about the - the letter from the treasurer, Rita
5 Saffioti, basically asking you to pull the OECD agreement.
6 You had quite a - a - an emotional response, if I can put
7 it that - that - that was not appropriate because she was a
8 member of the executive. You recall that exchange?---I do.
9
10 Just of - of the people that you were meeting with,
11 Mr Field, on a regular basis in these quarterly meetings or
12 others, was - was there anyone from whom a - a - a - a - a
13 note of caution or a - a pulling up of you would have
14 resounded with you and changed your attitude or - - -?---
15 Ah, the director general department of premier and cabinet,
16 the premier's chief of staff, ah, the, ah, public sector
17 commissioner, certainly. Um - ah, not that - not that they
18 could direct me not to do something, or if they attempted
19 to do so, I would say, "Yes, I won't do it", but in terms
20 of sounding, um, matters to which I would give
21 consideration to in terms of exercising my - ah,
22 independently exercising my role, I would have considered.
23
24 So you did. You obviously didn't feel yourself responsible
25 in the sense that they could direct you, but if Sharyn
26 O'Neill had pulled you up or sounded a note of caution or
27 raised a potential conflict, you would have paid serious
28 attention - - -?---I would - - -
29
30 - - - to that?--- - - - have paid serious attention to
31 that.
32
33 And what about if it came from the director general of
34 DPC?---I would have paid serious attention to that, and
35 indeed the same for DFAT as well.
36
37 I'm going to put to you an impression that an observer of
38 these examinations might have, Mr Field. You can comment
39 on it, but that you have a want to please people that you
40 view as your public sector superiors?---Ah, I think that's
41 probably true. It's probably part of the reason why I'm
42 here after 17 years.
43
44 Were - were you - was some - in some corner of your mind,
45 were you expecting to get a - a pulling up or a note to
46 turn around or turn back from the people that you were in
47 quarterly meetings with?---No, and the encouragement -
48 well, no, because the encouragement, ah, and support, the
49 enthusiasm, even excitement was so strong, it actually
50 didn't occur to me that that would be something that would

1 be said to me. I didn't actually feel as though that was
2 the atmospherics of anything I was ever discussing.
3

4 So we're now at the point of time where you had sent out
5 letters about your election, and your election as president
6 has been in your annual report table through parliament,
7 and it - it's essentially your evidence that you continued
8 discussing the position of president of the IOI, the
9 activities that you're undertaking in that position, with
10 these senior people in government in these quarterly
11 meetings between February 2020 and May 2021, which is when
12 you physically commenced your term?---(No audible answer)
13

14 Is that a fair summary?
15

16 **THE COMMISSIONER:** Sorry, you have to respond?---Oh, I'm
17 so sorry. The nodding's - - -

18 Nodding is - - -?--- - - - (indistinct).
19

20 - - - not picked up by the microphone?---Yes. I'm sorry,
21 Commissioner. Stupid of me. Um, yes. Correct.
22

23 **PORTER, MR:** So now I'm going to draw your attention to a
24 number of meeting agenda documents, which commence in our
25 papers from 22, and they finish with an agenda in respect
26 to the meeting with Ms O'Neill on 19 May, which is
27 document 29.
28

29 **THE COMMISSIONER:** 19 May 20 - - -
30

31 **PORTER, MR:** 2021, so it - they start - the first one is
32 with Mr Darren Foster(?). That's at page 22 of the
33 materials. They start 4 March 2020, and the continue
34 through to 19 May 2021 - - -
35

36 **THE COMMISSIONER:** Thank you.
37

38 **PORTER, MR:** - - - at page 29 of the materials.
39

40 Now, I'll just shortcut this by - by summarising that
41 there's a - a meeting with Darren - the agenda indicates
42 that there was a meeting with Darren Foster, the director
43 general of DPC, on 4 March 2020; with Mr Guy Houston, the
44 Premier - the chief of - Premier's chief of staff, on
45 3 June 2020; Mr Guy Houston, the Premier's chief of staff
46 on 9 September 2020; Ms Sharyn O'Neill, the public sector
47 commissioner on 8 December 2020; Ms Sharyn O'Neill, the
48 public sector commissioner, on 23 February 2021 Mr Michael
49 Barnes, who was the under treasurer, on 4 March 2021;
50

1 Mr Daniel Pastorelli, the Premier's chief of staff, on
2 13 April 2021; and then again Ms Sharyn O'Neill, the public
3 sector commissioner, on 19 May 2021. So in general terms,
4 does that reflect your recollection of the procession of
5 these quarterly meetings in that period?---Yes.
6

7 Now, I'll start with the agenda item on page 22, and you'll
8 see that item number 44 is:
9

10 President IOI -

11 - and this is for the meeting with Mr Darren Foster,
12 4 March 2020. You recall that meeting occurring?---Yes.
13

14 And you went to Mr Foster's office, did you?---Ah, I don't
15 believe I ever didn't go, so I - my recollection would be
16 yes.
17

18 Do you recall how long that meeting went for?---No, not
19 specifically. I think the meetings with Darren were
20 generally between about, ah, 30 minutes to an hour.
21

22 Now, the fourth agenda item I noted to you, do - this
23 question is do you remember what you actually spoke to him
24 about under that agenda item:
25

26 President IOI -

27 - at this meeting, 4 March 2020?---Ah, discussing at that
28 stage, ah, my, ah - ah - ah, election as president and
29 the views I'd be having - the views I was taking in
30 relation to the role of the president, particularly the
31 work that I thought would be advancing Western Australian
32 interests.
33

34 And did you give anything specific in that meeting about
35 what that work advancing Western Australia's interests
36 might entail?---Yeah, I - I did. I was, ah, discussing, ah
37 - ah - ah, as most of these meetings were, there was a
38 particular focus on the Asia Pacific region, um, new and
39 emerging markets and the - and, ah - ah, the importance of
40 good governance in the rule of law, and the ombudsman's
41 role in promoting that in those regions.
42

43 In the next meeting agenda on page 23 is with respect to a
44 meeting with Mr Guy Houston, who at that point was the
45 Premier's chief of staff. It appears that meeting would
46 have occurred on 30 June 2020. Do you remember the meeting
47 occurring?---Ah, I don't have a specific memory of that
48

1 particular - I mean, I remember meeting with Guy. I don't
2 remember that necessarily specific meeting.
3

4 So if I ask you whether you remember what was particularly
5 discussed under agenda item 6, which is - reads a little
6 bit differently:
7

8 President IOI, Premier's letter.
9

10 ----I - the Premier's letter, I think, was thanking him for
11 the letter the Premier had sent to me, is my recollection,
12 um, and the president of the IOI would have been a very
13 similar conversation to the one I'd had with Darren Foster.
14 I mean, there - there - there was a strong alignment of -
15 of - of that message.
16

17 And the Premier's letter that was likely the subject of
18 that discussion would have been that letter that I took you
19 to, which is dated 16 March, where the Premier said that:
20

21 I'm sure you'll bring a breadth of expertise to the role
22 and continue to deliver excellent outcomes for the State of
23 Western Australia.
24

25 ----Yes. My recollection of what I was doing was actually
26 thanking the Premier's chief of staff that the Premier had
27 the courtesy, ah, to - to write to me in a very positive
28 way.
29

30 And then the next one on page 24 is again with Guy Houston,
31 again the Premier's chief of staff at the time, 10 am,
32 9 September 2020. Do you recall that meeting happening?
33 This is later in the year?---Yeah, I have, ah - well,
34 partly because of the agenda items, ah, somewhat more -
35 somewhat greater memory, um, of, ah - ah, of the details of
36 that, and certainly the president of the IOI in that
37 meeting was very much focused, as it says there, on the
38 commencement date, um, from when that position would be
39 commencing and, um, very specifically, how I saw that, ah,
40 role, and that would have been around the time I started
41 also discussing very clearly, um, with, ah, central
42 government, um, that there would also be a financial
43 impost, um, of the role as well.
44

45 Well, I'll just stop you there. I think your - your
46 evidence is that that would have been around about the time
47 that you were talking about a financial impost?---That
48 there would be travel involved.
49

50 Right?---Correct.

1
2 But is that something that you recall specifically raising
3 in this meeting with - - -?---No, no. I - I can't - it -
4 look - yeah, I could - I would mislead the Commission to
5 say I have a specific recollection of that discussion at
6 that meeting.

7
8 But - but if you've said in evidence here that this would
9 have been around about the time that you were having
10 discussions - - -?---Yes.

11
12 - - - about a financial impost, with whom would those
13 discussions have been occurring?---Ah, with the Premier's
14 chief of staff, the, ah, director general of the, ah,
15 Department of Premier and, ah, Cabinet, ah, public sector
16 commissioner, under treasurer.

17
18 So is - is your evidence that those discussions would have
19 been happening in these meetings that we are now
20 going - - -?---Yes, and - - -

21
22 - - - through?---And these meetings, and going forward from
23 these meetings, flagging for the fact that there would be
24 travel and there would be a cost involved.

25
26 But you don't specifically remember that explicit part of
27 the conversation - - -?---No.

28
29 - - - in this meeting 9 September?---No. I can't say -
30 this - this - I certainly wouldn't have put a number on the
31 costing, for example, and I - I don't have - if I did, I
32 don't have a recollection of doing so.

33
34 Do you have an idea as to how - a recollection of how long
35 this meeting would have occurred for?---I think the
36 meetings with Guy were generally about half an hour.

37
38 Okay. The next one's on page 25, and that's with Ms Sharyn
39 O'Neill. It's - indicates that there was a meeting on
40 Tuesday, 8 December 2020, 10.15 am. Do you recall whether
41 that meeting occurred?---Ah, where it occurred?

42
43 Whether it occurred?---Ah, well - so as I say, it, ah -
44 Commissioner, I've used, ah, every possibility I could, um
45 - ah, to check every one of these agendas, not only against
46 my (indistinct) EA system as to whether they occurred or
47 not, because sometimes meetings were cancelled, but also
48 against my calendar entries as well and my memory, so to
49 the absolutely best of my ability, I believe that meeting
50 occurred on that day.

1
2 And item 5 there is:
3
4 IOI - UN resolution and international work -
5
6 - but I just pause. The agenda items for IOIs just in this
7 bundle has looked slightly different each time. The - the
8 first meeting on page 22, it's:
9
10 President IOI.
11
12 The next meeting on page 23, it's:
13
14 President IOI, Premier's letter.
15
16 On page 24 with Mr Houston, it's:
17
18 President IOI - May 2021.
19
20 On page 25, which is the meeting we're now on, at 5, it's:
21
22 IOI - UN resolution and international work 2021.
23
24 Do you remember discussing the agenda item 5 at this
25 meeting with Sharyn O'Neill on this date?---Yes, um, cos I
26 certainly remember - if we start at the first item, um, but
27 also, ah, that my particular, ah, discussions with Sharyn
28 in that meeting about the IOI, not just the international
29 work that was happening in 2021 as proposed under the
30 presidency, but I wanted a very clear discussion with her
31 about the UN resolution and what I thought was the
32 importance of that, um, for - because it was - the
33 resolution was about good governance, and I felt that was
34 particularly resonant to discuss with a - the - the - the
35 head of the public service about good governance in the
36 public service.
37
38 What was the UN resolution?---The UN resolution on
39 ombudsman and mediator institutions and their role in good
40 governance, ah, the rule of law in human rights.
41
42 Okay. And that (indistinct) fairly recent happening, had
43 it?---Yes. Um, and, ah, there's been iterations, but
44 that's exactly right. That was present at that time, and a
45 relevant matter.
46
47 And then the end part of that agenda item says:
48
49 And international work 2021.
50

1 Now, first of all, do you have now, in your mind, a concept
2 of what you meant for that agenda item to cover at it is -
3 as it is drafted?---Ah, was - it was very much about
4 articulating that there would be a, ah - a suite of work
5 that would be undertaken in '21, ah, both as part of the,
6 ah - ah, quadrennial world conference, but then the work
7 that would flow after that, so that there would be an IOI
8 world board meeting after that, um, and that, ah,
9 presidents receive invitations, ah, to countries, I'll be
10 going to those, ah, et cetera, so that was what was being
11 discussed at that time.

12
13 So it - it was essentially that part of the - the agenda
14 item was pertaining to your travel as part of your
15 IOI - - -?---Yes, it was very much part of what I was, ah,
16 wanting to - I wanted to be utterly transparent about the
17 fact it involved travel.

18
19 Okay. So you've mentioned that the quadrennial
20 world - - -?---Oh, sorry. Ah, the - the - the - the - the
21 world conference, it was in, um, May 2021 in Dublin.

22
23 Where was that?---The year? The, ah, Dublin conference.

24
25 All right. And then the board meeting, was that the IOI
26 international board meeting?---Then follow on after that.
27 That's exactly right.

28
29 The same location?---No - oh, well, there was a world, ah -
30 there is a board - there was a world board meeting, um, at
31 the Dublin conference. Um - ah, of course, we were - it
32 was still in the COVID period as well, so it was going to
33 be also that work which was being done remotely too.

34
35 So these two meetings were to occur remotely, were they?
36 And I - I'm now talking about the quadrennial world
37 meeting?---Ah, in May '21, um, which was the, ah, Dublin
38 meeting, yeah.

39
40 So that was an actual trip?---No, no.

41
42 It was when you became president at the
43 (indistinct) - - -?---(Indistinct) it's - it's - my - it's
44 not your fault, counsel. It's my bad explanation. Um,
45 that was - still because of the COVID period, that was May
46 '21, um - ah, and that was being held remotely. It was
47 originally meant to be 2020, and then it was moved to May
48 2021. Because of COVID, it was held remotely.

1 So - so this was prefaced by my question about whether you
2 were - whether you now are able to say what that part of
3 the agenda item was about:

4
5 And international work.
6

7 You've given that description. Do - do you have a
8 recollection of talking to Ms O'Neill about these specific
9 things, the online quadrennial world - -?---Oh, yes.
10 Absolutely.

11
12 Okay?---Yeah.
13

14 The - the board meeting - -?---Yes.
15

16 - - - (indistinct)? So - so you are briefing Sharyn
17 O'Neill on your virtual meetings?---At this - at that
18 stage, on those virtual meetings. That's exactly correct.
19

20 I just pause there, Mr Field. Is Ms O'Neill listening to
21 this? Is she paying attention? Do you recall?---Um, she -
22 I - I always believe, gave me her undivided attention.
23

24 Did she - was she a note taker in these meetings, do you
25 recall?---I don't recollect Sharyn being a - a particular
26 note taker, um, so I think the answer to that is no. Some
27 people were, some people weren't.
28

29 You weren't?---No, I wasn't. Um - ah, actually, my
30 experience with the vast majority of director generals I've
31 met is they're not note takers. Some are.
32

33 So I'm now going to go to the next page, 26. This
34 indicates that a meeting might have occurred on - at 2 pm,
35 Tuesday, 23 February 2021. Again with Ms O'Neill. And
36 again that looks to sort of follow that quarterly pattern?--
37 --Correct.
38

39 And then at 4 you've got - sorry, 3:
40

41 IOI: presidency, UN resolution.
42

43?---Yes. And - and very much at that stage, we're
44 enforcing or firming up on these are exactly what are the
45 details that are happening. There's the, ah, presidency
46 that I assume, ah, in May '21, ah, a first major step of my
47 presidency will be, ah - ah, the fortification, ah - ah,
48 continuation, expansion of the UN resolution, ah - ah,
49 meeting - virtual meetings going into then in face meetings
50 after COVID-19.

1
2 In terms - I'm just pausing there. In terms of you, in
3 your own mind, looking for something to do with this new
4 platform that you've got, I just want to put it to you, it
5 looks like at this point, you're thinking about something
6 to do with this UN resolution?---Yes. That was a
7 particular concept - I inherited that from my outstanding,
8 um, predecessor, and I felt that was a very critical next
9 step in the - in the, ah, evolution of, ah, the Western
10 Australian Ombudsman, Australian Ombudsman
11 (indistinct) - - -

12
13 Okay. Mr Field, correct me if I'm wrong, would - would it
14 be fair to say there's not actually that much to do with
15 the UN resolution? It's passed. It - it's there. What
16 would you do with it?---Oh, no, it, ah - it - the - it had,
17 but it has, ah, ongoing iterations where it's - it's
18 reviewed, um, and, ah - and expanded. And that's already
19 occurred during my term of presidency.

20
21 Do you recall how long this meeting may have been for?---
22 Oh, the meetings with Sharon were generally around 45
23 minutes to an hour.

24
25 Then if I move on over onto page 27, this indicates a
26 potential meeting with Michael Barnes on 2 pm,
27 4 March 2021. Mr Barnes was the Under Treasurer, which is
28 the head of the Department of Treasury in WA, correct?---
29 Correct.

30
31 And agenda item 4 reads:

32
33 President.

34
35 And there's a date:

36
37 27/5/21; UN resolution

38
39 They give a slightly different formulation. What do you
40 now recall that formulation was meant to prompt you to
41 speak about?---Ah, no. I was very clear about my
42 discussions with Mr Barnes, um, and that was one -
43 obviously yes, to inform him about the election as
44 president, the commencement date of that, ah, the work on
45 the UN resolution. Uh, but it was also because of course
46 he was the Under Treasurer, uh, to inform him that there
47 would be an impost, um, to the state, um - - -

48
49 Is there something in that agenda item that indicates to
50 remind you to talk about the financial impost or - - -?---

1 Oh, no. Well, that's - that's the very nature of talking
2 with the Under Treasurer. It was always about money.
3
4 Right. So did you have quarterly meetings with the
5 Under Treasurer?---I think they were actually twice a year.
6
7 All right. Do you recall specifically this meeting
8 occurring on 2 pm, 4 March 2021?---Every record I have
9 checked says that meeting did occur.
10
11 But just - do you recall it occurred?---Oh, I don't have a
12 physical recollection of that particular day and that
13 particular meeting.
14
15 Does it follow then that you can't specifically recall what
16 was discussed around agenda item 4 or - - -?---Oh, I never
17 had a meeting with the Under Treasurer that didn't discuss
18 money. The whole - that was every - every - every point on
19 every agenda was "Is this going to save money? Is this
20 going to cost money?"
21
22 And when - do you recall specifically talking to the
23 Under Treasurer about travel costs?---I do. Um, and part
24 of the reason I remember it is because I made very specific
25 references to the fact that I intended to use where
26 appropriate and possible, um, virtual communications, um,
27 to save costs to the Western Australian taxpayer. Um, uh,
28 on short haul travel, economy flights. I had very specific
29 discussions about - oh, and also, um, that there would be
30 reimbursements from the IOI for travel and also people who
31 invite you, um - that they meet some rule of the costs. So
32 I wanted the Under Treasurer to know that this wasn't just
33 me saying, "It'll be all paid for out of consolidated
34 revenue".
35
36 But you can't recall whether or not a conversation of that
37 type occurred in this particular meeting?---I can say it
38 occurred in meetings with the Under Treasurer during that
39 year, and I think I only had two.
40
41 Right. So there's a - there were records about another
42 meeting with the Under Treasurer on 9 December 2021. Would
43 that sound - - -?---Correct.
44
45 - - - right to you? So your evidence is that you had a
46 conversation with him in that year 2021 about
47 finances - - -?---Yes.
48
49 - - - in specific respect of travel costs attached to your
50 presidency, but you can't remember which of those two

1 meetings it was in?---Uh, in fact I think it's more likely
2 that the detailed level of discussion was actually in
3 December. But I think it was actually flagged on the 4th.
4 The only reason is certain, um, matters ever have exact
5 numbers attached to it, um, is because at that stage, there
6 was precise costings to those particular items. But as I
7 say, every item on that agenda was about either something
8 costs money or something - - -
9

10 Right?--- - - - saves money.

11
12 Okay. I see. So you - you're now referring say for
13 instance to the first arrow bullet point, charitable trust
14 0.6 FTE, \$237,000?---Correct.

15
16 That is an indication that you were prompting yourself to
17 talk about how much it would cost to do a certain amount of
18 work using - - -?---For that function, correct.
19

20 Okay. 0.6 of an FTE at 237,000 seems rather a lot. Do you
21 have a recollection of what that's about?---Sorry, for
22 which one, counsel?

23
24 Charitable trust, 0.6 FTE, 237,000. That's an expensive
25 FTE?---Ah, my recollection is it was - - -
26

27 **THE COMMISSIONER:** Always put in a bid, Mr Porter.

28
29 **THE WITNESS:** Bid up, Commissioner. Bid up. Um, in fact,
30 Commissioner, um, I - I didn't follow the public service
31 rule of, uh, ah, uh, working out an amount and times-ing it
32 by your grandmother's age. Ah, in fact I still think I'm
33 the only public servant in the state who's ever given money
34 back to treasury, um, for a functions where we didn't need
35 the entire appropriation.
36

37 **PORTER, MR:** Okay. But just - - -?---But for the - for
38 the - that was trying to say that there was, uh, ah, a
39 range of capital costs and also FTE costs, um, that would
40 be necessary for the creation of that function.
41

42 Now, given that we don't know whether it was at this
43 meeting or the latter meeting in - - -
44

45 **UNIDENTIFIED SPEAKER:** December.

46
47 **PORTER, MR:** - - - December of 2021, when you recall
48 having this conversation about the financial impulse of
49 your travel as IOI president, was there any response that
50 you recall from the Under Treasurer?---I - I have an

1 absolute recollection of that, and there was, uh, no
2 indication to me, um, that that costs - that that cost was
3 inappropriate, prohibitive, or something that couldn't be
4 done.

5

6 But do you recall whether or not in this conversation at
7 one or either of these meetings whether there was any
8 figure attached to - - -?---No. And - - -

9

10 - - - what estimated travel would be?---And, counsel, I - I
11 - I can be clear that - for example, in this meeting, if
12 I'd thought the number was say \$85,000, that would have
13 been patently written there and say, "I think that's what
14 the amount is". So, um, I didn't have a specific amount in
15 mind. I mean, I would have said - I - sorry. I know in
16 the conversations with the Under Treasurer I was talking to
17 him about - that these are - "We're not talking about
18 amounts in the millions, Michael, we're talking about
19 amounts in the - you know - tens of thousands, a hundred
20 thousand". That sort of - that sort of range.

21

22 Do you recall whether or not the Under Treasurer was
23 attentive and listening when you had this conversation
24 about financial impost of travel?---I always thought we had
25 an outstanding relationship and he was extremely attentive
26 to my meetings with him, partly because we were, um - we
27 were considered I think a very high performing agency in
28 terms of budget acumen.

29

30 If I go and take you to page 28. So this indicates the
31 potential occurrence of the meeting with Daniel Pastorelli
32 on 1 pm on Tuesday, 13 April 2021. And at agenda item 5
33 it's:

34

35 IOI: presidency.

36

37 Now, previously the Premier's chief of staff was
38 Mr Houston?---Correct.

39

40 Mr Pastorelli at some point in time takes over that
41 position prior to 13 April 2021. Do you remember roughly
42 became - when he became the Premier's chief of staff?---I
43 don't have a good - exact recollection of that.

44

45 Okay. Do you recall this meeting occurring?---Ah, yes.

46

47 And this was your first - was this your first meeting with
48 Mr Pastorelli?---That - that's my recollection.

1
2 What, ever? Or in this position?---Oh, I'd never met
3 Mr Pastorelli before. Not - not to my recollection.
4
5 Now, I think it's a fair summary that by this stage you've
6 spoken to a number of senior people in government about the
7 IOI presidency being prompted in this quarterly meetings by
8 an agenda item. Do you recall speaking to Mr Pastorelli in
9 this meeting about the IOI presidency?---I do. And it was
10 important to me, uh - and I remember it being particularly
11 important to convey to him, um, not a gravitas - that
12 sounds egotistical and wasn't certainly not meant to be
13 that. What I - what that position was, what it entailed,
14 um, and that included what I perceived to be, uh, its
15 innate benefit - that is as the president of the peak body.
16 I remember making some point about the fact that I was the
17 first Australian elected, um, as president in 50 years, and
18 that was a positive thing for - because I was a Western
19 Australian, that was a positive thing for
20 Western Australia. I remember specifically having that
21 conversation. And I also do remember indicating that there
22 would be travel involved. But, uh, as with always - and
23 indeed, with the Premier of the state at that time who for
24 example chose to fly economy I understand on short haul
25 flights, I would try to, uh, minimise costs wherever
26 possible.
27
28 And this is your first meeting with Mr Pastorelli?---That's
29 my recollection.
30
31 Do you recall him being attentive and listening to you?---
32 In fact I remember him being highly attentive.
33
34 How long did the meeting go for?---It was about half an
35 hour.
36
37 Did he have anything to say in response to your briefing on
38 the IOI presidency as you've described it?---I remember him
39 being very enthusiastic. I remember him congratulating me,
40 um, and, uh, I also remember the fact that, ah, he appeared
41 to be, ah, very supportive. I think he also indicated to
42 me that the Premier had a very favourable view of me, but
43 that might have been in another meeting. But it was in one
44 of the meetings he said that - - -
45
46 The Premier had a what?---Favourable view of me. A
47 positive view of the work I was doing.
48
49 I'll take you to the final of these documents in this
50 bundle. 29 - page 29. And that is with - it appears a

1 potential meeting occurred on 4 pm, Wednesday, 19 May with
2 Sharyn O'Neill?---Correct.
3
4 And a number of agenda items. There the IOI item reads:
5
6 IOI: Presidency (CEO gateway).
7
8 Now, first of all, do you recall that meeting occurring?---
9 Yes.
10
11 Okay. Do you recall how long it went for?---Ah, meetings
12 with Sharyn were - I don't have a specific recollection of
13 that meeting but they were generally in that - somewhere
14 between 30-minute to an hour range.
15
16 All right. Now, when I ask you the agenda item as it's
17 depicted there, it was meant to prompt you to talk about
18 something. What was it meant to prompt you to talk about?--
19 --Yes. That one was very specific. Uh, that one was to
20 mention to, uh, ah, Ms O'Neill that, uh - whether she would
21 consider - it was entirely her prerogative to do so or not
22 - um, whether she would consider publishing in the CEO
23 Gateway my election as president.
24
25 And what is the CEO Gateway?---The CEO Gateway is an
26 announcement about, uh, significant achievements,
27 significant appointments, significant matters, um, that
28 have occurred for CEOs in the state. And I think it's sent
29 to around - I'm guessing, um - and I apologise,
30 Commissioner. I'm not being - trying to be reckless in the
31 number. I think it's around 250, 300, 400 recipients.
32
33 Now, this meeting is on 19 May 2021. So I've taken you
34 through a number of these agenda - - -?---Yes.
35
36 - - - items. But before this point in time, there was a
37 previous meeting with Ms O'Neill on 23 February 2021?---
38 Yes.
39
40 A previous meeting with Ms O'Neill on 8 December 2020?---
41 Yes.
42
43 Previous meeting with Ms O'Neill on 10 September 2019?---
44 Yes.
45
46 At the very least, the IOI appears as an agenda item on
47 each of those previous three meetings?---Yes.
48
49 And you've given evidence which I won't repeat but which
50 summarised what you've spoken about, and in those meetings,

1 um, the presidency is certainly discussed?---Yes. I was
2 very surprised, um - - -
3
4 Well, I just - - ?---Yes.
5
6 The presidency was discussed?---Yes, it was.
7
8 And then in this particular meeting you were asking
9 Ms O'Neill to basically advertise your election as
10 president of the IOI on the internal emailing list?---When
11 you say it like that, counsel, it sounds like a hubris I
12 hadn't intended, but that's exactly what I had intended.
13
14 Now, that is quite a specific thing to ask. Do you recall
15 what her response to that was?---Uh, it was exceptionally
16 positive, and she agreed to do it.
17
18 Okay. Is that - is that the only aspect of the IOI
19 presidency that you recall speaking about at this - - -?---
20 On that - - -
21
22 - - - meeting?--- - - particular day, I think it was
23 specifically around that issue.
24
25 Sorry. You think that - - ?---It was - it was that - it
26 was that specific thing I was talking about, yep. CEO
27 Gateway. Sorry. Of course, that - - -
28
29 **THE COMMISSIONER:** When you finish that particular line,
30 I'd like to give the witness a break for five minutes.
31
32 **PORTER, MR:** That email would go out, is that right?---The
33 CEO Gateway?
34
35 Yes?---Yes, it did.
36
37 And I think, Commissioner, that takes me to the end of
38 those meeting agendas, so that may be an appropriate time.
39
40 **THE COMMISSIONER:** We'll just have a five-minute break,
41
42 (Short adjournment)
43
44 **FIELD, CHRISTOPHER JAMES RECALLED ON FORMER OATH AT**
45 **03.07 PM:**
46
47 **THE COMMISSIONER:** Please be seated.
48

1 **PORTER, MR:** Mr Field, I want to take you to document 30,
2 the bundle that has been provided on your behalf. Page 30,
3 I'm sorry.

4
5 0030^
6

7 **PORTER, MR:** Now, that is headed up there with a from
8 line. Ther's an email:

9
10 Ceogateway@psc.wa.gov.au. June 10 2021, 12.53 pm -
11
12 - and then it goes out to a group which is delineated(?) :
13
14 Ceogateway@psc.wa.gov.au.

15
16 You see all of that?---I do.

17
18 Is that the result of your request that your election as
19 president be - - -?---Yes. That's a - - -
20
21 - - - (indistinct)?--- - - - direct result of that request,
22 counsel.

23
24 And it's - at the bottom, reads:

25
26 Sharyn O'Neill, public sector commissioner.

27
28 There wasn't - wasn't a habit to put these in a signed form
29 or attach an electronic signature?---No. I don't believe
30 they had electronic signatures, no.

31
32 And:

33
34 I'm pleased to share with you that Chris Field,
35 Western Australian Ombudsman, has been elected
36 president of the International Ombudsman's Institute
37 for a term of four years.

38
39 Then it - it describes the body, and then it describes
40 that:

41
42 Among Chris' first priorities will be engaging with
43 the United Nations following the recent adoption by
44 the general assembly of the resolution on ombudsman
45 and mediator institutions.

46
47 I just pause there. It - it seems logical that the reason
48 that that is in there is because you told her that's what
49 you were going to have a focus on at this point in time?---
50 Yes. It had been the subject of my - well, as the agenda's

1 also indicated, the subject of my discussions in my
2 meetings with here.

3
4 And - and where I previously - - -

5
6 **THE COMMISSIONER:** Sorry, I just want to be clear about
7 one thing in relation to these agendas. Were they given to
8 the other party or - because I understood your earlier
9 evidence is they were your sort of aide-memoire notes?---
10 Commissioner, you are exactly right. They were my
11 aide-memoire, so, ah - I - they would be in front of me
12 here.

13
14 No, that's - I would - I was just not sure. We've called
15 them agendas, and I'm happy to call them agendas, but as
16 long as I understand they were your aide-memoire?---
17 Commissioner, you are correct.

18
19 Thank you.

20
21 Sorry, Mr Porter.

22
23 **PORTER, MR:** Not at all, Commissioner.

24
25 I just - while we're on that point, I think we'd seen on a
26 previous occasion that there was a version of one - of a
27 aide-memoire or agenda document that had red tracked
28 changes in it?---Yes.

29
30 And I - I think I asked you earlier whether you drafted
31 these or someone else did?---Oh, no, I drafted them. Yeah.
32 The - the tracked changes would have been done by my EA on
33 my instructions.

34
35 Now - now, my question was that this paragraph about your
36 priorities, that is based on what you had told Ms O'Neill?---
37 --Correct.

38
39 My earlier question was on the issue of you having a
40 platform looking for a purpose, and at this point in time,
41 you're - in your own mind, a central purpose of your role
42 or your future activities as president was to do with the
43 UN resolution. Correct?---That is correct.

44
45 And then it says:

46
47 Chris is also deeply committed to advancing Western
48 Australian interests during his term as president.

49

1 Now, this is - this is Ms O'Neill's email. Is that coming
2 from you, that statement?---Ah, well, no, I didn't write
3 it, ah, is my recollection. Ah - um - ah - ah, I can't
4 remember exactly how - I actually, honestly, can't remember
5 how those words, ah, came about, whether we actually even
6 provided, ah, as - we may have. We may have provided some
7 form of copy. In fact, I think that's the way they give
8 word, that you were asked to provide copy, and then the,
9 ah, Commission would, ah, settle a version of it and send
10 it. I think that's what was asked of us in relation to
11 (indistinct). But what I can say is the words, "I am
12 deeply committed to advancing Western Australia's interests
13 during the term as president" was exactly the words I was
14 saying to the commissioner, ah, during the, ah, meetings.
15 Um, whether they asked on this occasion - I can remember on
16 one occasion - not this occasion, where we were asked to
17 provide copy, ah, and then that was edited by an editor in
18 the commission before the CEO Gateway was published. Ah -
19 ah, that may have occurred on this occasion. I don't have
20 a recollection.
21

22 So up - up until this point where we've described that
23 there are one, two, three, four quarterly meetings with
24 Ms O'Neill that we've discussed, where in those meetings
25 you have said words to the effect that you were committed
26 to advancing Western Australia's interests during your term
27 as president? Can you ever recall an occasion where
28 Ms O'Neill sought further and better particulars about
29 that? Like, what did it mean or - - -?---No, I was. Ah,
30 no, I don't recollect - well, sorry. The discussions I
31 recollect with Sharyn were, ah - were very clear. Ah, one,
32 ah, around the UN, ah, resolution. I was particularly
33 focused on the good governance aspect of that, um, with
34 Sharyn, perhaps for obvious reasons, given her role in good
35 governance for the state's public sector, um, and in
36 relation to Western Australian interests and because, ah,
37 Sharyn had such a proximate relationship to the Premier,
38 um, the - the closest of anyone in the state along with his
39 chief of staff, as I understood it, um, I very much wanted
40 to be focused on talking to her about, um, the sort of
41 interests that I'd be pursuing, ah, if it was appropriate
42 and people continued to see it was appropriate, ah, in
43 relation to, ah, Asia Pacific and other bilateral,
44 multilateral trade, ah, cultural, social interests.
45

46 Now, we're now - that gateway email was sent out on 10 June
47 2021, and at this point in time at 10 June 2021 where to
48 the public service at large there is this notification of
49 your election as president, it's still the case that no one
50 has cautioned you or - or pulled you up about anything that

1 you had said to them in your quarterly meetings about your
2 role as president or the travel you're undertaking?---Ah,
3 not just that, counsel. The exact opposite. There was
4 strong support.

5

6 And no one at this point has raised any of those
7 jurisdictional issues, which you acknowledge are issues,
8 but no one raised them?---I acknowledged them as issues.
9 They were never raised with me.

10

11 Now, it may seem a while ago now, but you were awarded the
12 public service medal?---I was.

13

14 What is that?---Ah, it - it's, ah, within the Australian
15 Honours system, ah, a order of merit, um, which is given
16 to, ah - ah, public servants, ah, I think it's who have
17 shown some form of conspicuous service.

18

19 When you're saying, "Order of merit", is this part of the
20 Australia Day Honours, this process? Is - - -?---Yes,
21 it - - -

22

23 - - - that right?--- - - - is. Correct.

24

25 And when you say, "Order of merit", how far up the pecking
26 order of awards to public servants does this - the public
27 service medal sit?---Oh, in terms of the order of merit, my
28 understanding is the public service medal is the top of the
29 order of that pecking order. There, of course, are AO, AC,
30 ah, AM, but in terms of the, ah, service awards, for the
31 public servant, the PSM is the highest award.

32

33 And - and these things, the - sorry, PSM? Is that - - -?--
34 -PSM. Sorry. Public service medal, PSM for short.

35

36 So they're - they're announced on Australia Day. Is that
37 right?---Ah - Ah, yes. I think there are two. The King's
38 birthday and Australia Day.

39

40 But yours was announced on Australia Day - - -?---Correct.

41

42 - - - 2023. Is that right?---Correct.

43

44 Now, I want to take you to document - - -

45

46 **THE COMMISSIONER:** Sorry. Which Australia Day? Which
47 year?

48

49 **PORTER, MR:** 2023.

50

1 **THE COMMISSIONER:** Okay.

2

3 **PORTER, MR:** Is that right?---(No audible answer)

4

5 Mr Field, is that right? 2023?---Yes. That's my

6 recollection.

7

8 Now, I want to take you to document - page number 31 in the

9 - the bundle, Mr Field. Now, you'll be able to certify

10 this, I think, Mr Field. But this is a - just a print out

11 that you can get by looking on the Internet about WA public

12 service leaders recognised in Australia Day Honours. It

13 was updated on 27 - last updated 27 January 2023. You see

14 that?---I do.

15

16 So this would - embarrassing to forget what day Australia

17 Day is, but this a day after Australia Day?---Yes.

18 Correct.

19

20 Now, if we can go over the page, these - these are the West

21 Australian public servants that were awarded this medal in

22 this year of 2023 - - -?---That is - - -

23

24 - - - in January?--- - - - correct.

25

26 And there are some names there from the subject of

27 questions. There's Rebecca Brown, there's Sharyn O'Neill

28 as well, Emily Roper. You see those?---I do.

29

30 You're there, Mr Field?---I am.

31

32 What did you win, if that's the right word, your public

33 service medal for?---Ah, for, ah - ah, being the Western

34 Australian Ombudsman, ah, and also being the president of

35 the International Ombudsman Institute.

36

37 Can you read to me what is says there?---I can. Ah:

38

39 Chris Field PSM, Western Australian Ombudsman, for his

40 dedication to overseeing and investigating public

41 authorities as ombudsman, and president of the

42 International Ombudsman Institute.

43

44 And obviously, and is conjunctive. You always understood

45 that the award was for doing both those things. Is that

46 right?---I - I strongly understand it was - well, I - it -

47 yes, the "and" is conjunctive, ah, as a matter of grammar,

48 but I understood absolutely, counsel as you say, it was

49 very much for both roles. Ah, in that particular year,

50 counsel, just to be absolutely as clear as possible for the

1 Commissioner - he may know this anyway, um, that there were
2 a series of additional awards for COVID-19 work, so there's
3 a range of awards that were given for COVID-19 specifically
4 in that year, and then the - and then public service medals
5 for general service.

6

7 Now, is it - is it correct that the single award criterion
8 for a PSM is outstanding public service, which is said to
9 include:

10

11 Service above and beyond the normal requirements of
12 the position, special achievement or success in a
13 performance of duty in difficult or unusual
14 circumstances, sustained performance with a focus on
15 outcome and recognisable benefits to clients, the
16 workplace, or community.

17

18 ---That is my understanding.

19

20 Do you have an understanding about how a person in this
21 state as a public servant comes to win a public service
22 medal? What's the process? How do you, one, get
23 nominated?---Ah, my understanding is, ah, that - well, any
24 person can nominate. Sometimes people are approached, um,
25 to nominate people. Ah, there is a committee that
26 considers those nominations, and then those committee's
27 nominations go before the Premier, and then after the
28 Premier's consideration, they go to Government House -
29 sorry, ah - ah, Australian Government House, not Western
30 Australian.

31

32 Okay. So do you - sorry, you - do you nominate yourself or
33 does someone nominate you? What happens?---Don't know if
34 you can nominate yourself, but, ah, you certainly, ah - ah,
35 someone can nominate you.

36

37 So obviously someone did nominate you?---Yes. That's
38 correct.

39

40 And is it the case that nominations are considered by
41 something called the WA Public Service Medal Committee?---
42 That's my understanding.

43

44 And that comprises the public sector commissioner, who is
45 the chair and core member?---Correct.

46

47 The director general, Department of Premier and Cabinet,
48 core member?---Correct.

49

1 The director general agency rotated annually, so another
2 director general of another agency?---Correct.
3

4 Then it says on the website:

5 Director general agency rotated annually -
6
7 - so there are four people. Permanent members are the
8 public sector commissioner and the director general of the
9 Department of Premier and Cabinet, and then there are two
10 other director generals of an agency that are on rotation?--
11 --That's correct.
12

13
14 **THE COMMISSIONER:** It might have been different this
15 year - - -
16

17 **PORTER, MR:** It - - -
18

19 **THE COMMISSIONER:** - - - because two of the four are
20 recipients.
21

22 **PORTER, MR:** Well, it had occurred to me that - unaligned
23 conflict issues that there - it - - -
24

25 **THE COMMISSIONER:** Yes.
26

27 **PORTER, MR:** This is - - -
28

29 **THE COMMISSIONER:** I would assume that there may have been
30 two different ones this year.
31

32 **PORTER, MR:** Yes.
33

34 Do you - do you know who was on the public service medal
35 committee in the year that your nomination was considered?--
36 --Ah, it's my understanding that I was nominated by Sharyn
37 O'Neill, um, and, ah, I thought she was on the committee of
38 the year of my appointment, but I - that I do not know.
39 That's information I don't know, and I - I've never sought
40 to find out.
41

42 But as the Commissioner points out, in - in your year, if I
43 can put it that way, Sharyn O'Neill herself won a PSM - was
44 awarded a PSM?---Correct.
45

46 **THE COMMISSIONER:** As was Emily Roper?---Indeed.
47

48 **PORTER, MR:** And it - I - I think it's clear that you
49 don't know, but it's not known whether or not they were
50 totally off the committee that year or whether they were

1 off for their own consideration. We - we - we don't know?--
2 --What - what - what I - what I do - well, sorry, when I
3 say I was nominated, my understanding is I was nominated by
4 my deputy after my deputy received a call from Sharyn
5 O'Neill that I should be nominated. That is my
6 understanding.

7
8 So I'm just - I'm going to take you to some references that
9 appear to be references that have been sent about you to
10 the public service medal committee, and the first of those
11 is at page 33 of the bundle.

12
13 0033^

14
15 **PORTER, MR:** And if we scroll down just to see who this is
16 from?

17
18 So it's signed there by Peter Tyndall. And can you refresh
19 our memory? Who is Peter Tyndall?---Ah, immediate past
20 president of the International Ombudsman Institute.

21
22 Okay. And just that last paragraph there, it says:

23
24 It's a pleasure for me to provide this reference.
25 Mr Field is an outstanding ombudsman who had served
26 the people of Western Australia with distinction both
27 at home and abroad. I strongly support his nomination
28 for the Australian Public Service Medal.

29
30 And if we can just go up to the first two paragraphs, thank
31 you, Madam Associate?

32
33 He's writing in his capacity as immediate past president of
34 the IOI, and then the second paragraph, speaking of you,
35 Mr Field, he says:

36
37 He is highly respected at an international level, and
38 has spearheaded moves to make the IOI more
39 influential, especially in making major strides in
40 developing the relationship with the UN, which was
41 cemented by a motion of the general assembly in
42 December 2021. In his international activities, he
43 has worked closely with the Australian Diplomatic
44 Service, which has been crucial in developing the
45 standing of the IOI.

46
47 So just - it seems obvious from the face of that, that the
48 accolade for you that has been (indistinct) to the
49 committee is about your work on the IOI. Would you agree?--
50 --Ah, that's correct.

1
2 And then the next one is at page 35 of the bundle.
3
4 0035^
5
6 **PORTER, MR:** And that is signed by Connie Lau, chief
7 executive - - -
8
9 **THE COMMISSIONER:** Bring it up a bit. Thank you.
10
11 **PORTER, MR:** Chief executive officer of the Breast Cancer
12 Foundation. Who - who is Connie Lau?---Ah, formerly the
13 ombudsman of Hong Kong.
14
15 Second paragraph was the Ombudsman of Hong Kong?---Correct.
16
17 Also President of the Australasia and Asia Pacific
18 International Ombudsman Institute?---Yes. She took over
19 from me in that role.
20
21 Third paragraph:
22
23 I experienced first hand Chris's commitment to public
24 service and his exemplary representation of Australia
25 at international settings.
26
27 And then the final paragraph:
28
29 I have no hesitation in endorsing Chris Field as a
30 recipient for any award that recognizes excellence in
31 public service, particularly his excellence in service
32 of the Australian values on an international stage.
33
34 So again, obviously it's about promoting to the committee
35 or international work?---Yes.
36
37 The next one's on page 36 of the bundle. And this one is
38 from Mr Rob - - -?---Behrans.
39
40 Behrans, Mr Rob Behrans. And he appears to be the
41 Ombudsman and Chair Parliamentary Health Services
42 Ombudsman?---Of the United Kingdom. Correct.
43
44 Dated 15 July 2022. And again, the final paragraph:
45
46 The Ombudsman world is benefitting hugely from his
47 wise leadership and we're grateful to Australia for
48 allowing him to operate on the world stage at a
49 critical time.
50

1 So again, more on your international role?---Correct.
2
3 And I just - I note that one there is addressed to "Dear
4 Commissioner O'Neill", which would be Sharyn O'Neill?---
5 Correct.
6
7 But we don't know whether or not she was on the committee.
8 And then at page 37 - page 39 is the signature block. And
9 this one is signed by Catherine Fletcher, who's Information
10 Commissioner in WA?---Correct.
11
12 And if I go back to the beginning of that letter, thank
13 you, Madam Associate. Yes. Information Commissioner
14 appointed in July 2019 for a five-year term. If we can go
15 to page 38, the second to last - or the last paragraph. So
16 this is a senior domestic West Australian officeholder?---
17 Correct.
18
19 More recently I've had the opportunity of observing
20 Chris in his role as President of the International
21 Ombudsman Institute both through our discussions and
22 also the publicity of his work by the IOI. Chris's
23 role as the President of the IOI is of considerable
24 importance not only because he is a leader to other
25 international member entities but because in that
26 role, he strives for universal respect for the rule of
27 law and has an impact on international humanitarian
28 issues and foreign relations. Chris's role also
29 enhances the standing and contribution of WA and also
30 Australia in these (inaudible).
31
32 Again, that is about your international work - - -?---
33 Correct.
34
35 - - - in the presidency. I'm just going to put to you -
36 you end up being past embarrassment through these
37 proceedings, but quite often these things are orchestrated
38 and organised by the person who's being nominated. Did you
39 write any of these?---No, I did not.
40
41 Now, I just want to - - -?---I was humbled by them, but no,
42 I did not.
43
44 Do you ever recall a conversation with Sharyn O'Neill where
45 she passed on anything from the Premier about you or your
46 work?---Yes. I have a specific recollection, um, in
47 Hale House in - in her office, uh, where, uh, we were
48 talking - in fact, what I did is I said to her, uh, that I,
49 ah, was incredibly humbled and appreciative by the award of
50 the public service medal, um, and if, um, the Commissioner

1 would be so kind as to do so, would she pass that, ah - the
2 fact that I'd been so humbled onto the Premier, knowing her
3 very close relationship with the Premier. And she
4 indicated to me, um, that "He holds you in very high regard
5 and has been very impressed by the work you've been doing",
6 um, which I certainly took to include - if not entirely but
7 certainly to include the international work.

8

9 So it seems evident that that conversation that you had
10 with Ms O'Neill occurred after your award of the PSM?---It
11 was.

12

13 So it's not part of one of the four meetings that we've
14 recently discussed?---No. It was after the award, and I
15 have a very clear recollection of that meeting.

16

17 Well, was it in person or by telephone?---Oh, it was in
18 person.

19

20 Where?---Ah, in Hale House at her - at - at the breakout
21 table of her office.

22

23 And why were you there?---Oh, it was one of our quarterly
24 meetings.

25

26 Right. At a quarterly meeting. So the last one that we
27 discussed recently was 19 May 2021. This is after a
28 quarterly meeting at a future point?---Correct.

29

30 Do you remember roughly the date?---Look, I don't. Um, I
31 have a - I - I do have a very clear recollection of the
32 conversation, um, because I was very, um - I was, uh - it's
33 not something I expected. It's not something I - I - I
34 sought. I never asked for it. I was very humbled by it,
35 um, and - - -

36

37 Did you believe what she was relaying to you was in fact
38 the case? That it was true that it was a message from
39 that?---Oh, not just that - - -

40

41 **THE COMMISSIONER:** Mr Porter, the Commission is not bound
42 by the rules of evidence, may inform itself any way it
43 seems fit, but I still have a sort of echo of hearsay upon
44 hearsay here.

45

46 **PORTER, MR:** You took it - you took the conversation
47 seriously, Mr Field?---Um, I took the conversation as being
48 the exact opposite to disingenuous. I thought it was
49 highly sincere.

50

1 Now, I just want to take you to a point of the transcript
2 from 18 March at transcript page 86 and 87. So I've just
3 put questions to you about four meetings - quarterly
4 meetings that have occurred with Sharyn O'Neill.
5 10 September 2019, 8 December 2020, 23 February 2021,
6 19 May 2021. It is in the final of those meetings that you
7 made the CEO Gateway request which is conceded to.
8 Ms O'Neill sends out that missive about the email about you
9 being appointed. We've just spoken about you having been
10 awarded a public service medal, about there being
11 congratulations on that fact and the medal being awarded
12 for your dual roles. In an exchange yesterday at -
13 starting at T86, counsel - - -
14

15 **THE COMMISSIONER:** Sorry, do you want this up on the
16 screen?
17

18 **PORTER, MR:** Sorry. Yes, if I could. Sorry,
19 Madam Associate.
20

21 **THE COMMISSIONER:** It's 18 March page 86, 87.
22

23 **THE ASSOCIATE:** Thank you, Commissioner.
24

25 **PORTER, MR:** And at the bottom of page 86, thank you.
26 Counsel assisting has said:
27

28 And the Public Sector Commissioner has told the
29 Commission that on one occasion you mentioned that you
30 had been appointed as the President for the
31 International Ombudsman Institute and what an honour
32 it was, and she congratulated you on this.
33

34 And then it goes on:
35

36 And that in relation to overseas travel that you
37 mentioned at some of your - - -
38

39 **THE COMMISSIONER:** Excuse me, just scroll it up.
40 Thank you.
41

42 **PORTER, MR:**
43

44 And that in relation to overseas travel that you
45 mentioned at some of your meetings with her that you
46 had just been somewhere or you were about to go
47 somewhere.
48

49 Now, then counsel assisting read out what I think is
50 clearly a direct quote from evidence that Ms O'Neill had

1 given with respect to that second point about - in relation
2 to overseas travel. I just want to focus your mind on this
3 first point where it's put - not by a direct recitation of
4 evidence within an examination, but it's put by way of
5 summary.

6
7 The Public Sector Commissioner has told the Commission
8 that on one occasion we mentioned that you had been
9 appointed as the President of the International
10 Ombudsman Institute.

11
12 Now, in light of the matters that have just been put to
13 you, what do you say about that?---Ah, well, first, when it
14 was raised yesterday, I was somewhere between
15 surprised - - -

16
17 **THE COMMISSIONER:** Well, your reaction yesterday doesn't
18 matter. I think what counsel's asking you is to comment on
19 the factual situation that counsel assisting put - whether
20 you agree or disagree?---Well, the - I only had one honest
21 view. It's in one of two parts. Either, um, that, uh, the
22 Public Sector Commissioner had so many meetings with so
23 many people that, uh, this matter had - - -

24
25 Well, sorry. I think this is important. Counsel's - it's
26 a very important question, but your supposition - and
27 basically I think what counsel is putting to you is do you
28 agree with the facts there or do you disagree with the
29 facts that were put to you?---Oh, let me be succinct. I
30 profoundly disagree with the facts.

31
32 **PORTER, MR:** And you gave evidence that in these meetings
33 that Ms O'Neill was attentive, that she was listening to
34 what you were saying?---Gave me full focus. They were
35 lengthy meetings and highly attentive.

36
37 If I can just take you to page 87 at the top. So I've just
38 asked you about the - your response to the factual
39 assertion about the Public Sector Commissioner being told
40 by you on one occasion that you had been appointed as
41 president. And 87 here at the top, counsel assisting then
42 summarised that in relation to overseas travel that you
43 mentioned at some of your meetings with her that you had
44 just been somewhere or you were about to go somewhere. And
45 there is the repeating of what appears to have been said by
46 Ms O'Neill.

47
48 But we didn't have detailed discussions about this
49 other than points of interest of Mr Field. It was
50 clear to me Mr Field's travel related to his role as

1 President of the IOI, and I recall him mentioning
2 speeches. I recall him telling me he had met with
3 Mathias Cormann, Secretary General of the OECD as some
4 part - as some work with OECD as part of his overseas
5 trips. He said that he was doing some work with OECD
6 researchers. It seemed to relate to IOI business and
7 not relevant to my work, and we didn't discuss it in
8 detail.
9

10 Now, you gave an answer yesterday to that that it was
11 largely a very good summary. Now, just pausing here. I'm
12 just - that repeating of what it appears Ms O'Neill said -
13 in light of the conversations that you'd had with
14 Ms O'Neill leading up to your Australia Day PSM award, are
15 you still of the view that that's a good summary?---No.
16 And I do not wish to backtrack at all. Those things
17 happened. That was a - that - that indicates things that
18 were discussed. That we didn't have detailed discussions
19 is profoundly untrue. We did.
20

21 So, Mr Field, I'm just moving on now to do - to put to you
22 some issues around the parliamentary quarterly reporting
23 process.
24

25 **THE COMMISSIONER:** Sorry. The - - -
26

27 **PORTER, MR:** Parliamentary quarterly reporting process
28 issue.
29

30 **THE COMMISSIONER:** Thank you.
31

32 **PORTER, MR:** And also the annual reporting process. First
33 if we could bring up document which is numbered 40 in the
34 bundle. Now, this is the Ombudsman Western Australia
35 annual report 2021, '22, correct?---Correct.
36

37 And these are financial year annual reports?---Ah, correct.
38

39 So this covers the period from 1 July 2021 to
40 30 June 2022?---Correct.
41

42 And it was tabled in the legislative assembly on
43 21 September 2022?---Correct.
44

45 So the financial year ends 30 - well, 30 June 2022. And
46 then this gets to be tabled in September?---Correct.
47

48 And if I take you to page 41 of that document, that's the -
49 your signature in the panel there with the date
50 21 September 2022?---It is.

1 You may have explained previously, but these go direct to
2 someone in parliamentary services, is that right, your
3 annual report?---Correct. Addressed to the president and
4 the speaker. Copies are sent.
5
6 The president of the legislative - - -?---Oh, sorry. The
7 president of the legislative council and speaker of the
8 legislative assembly.
9
10 And does that happen in an email or - - -?---Ah, the system
11 has changed over the years. I - and I don't say that to be
12 pedantic. I'm just trying to remember that particular
13 year, um, but, ah, ah, it - it's - it was either in that
14 year both hard copy and electronic, but certainly
15 electronic.
16
17 Do you recall when this would have been transmitted to
18 either or both the speaker of the legislative assembly or
19 president of the legislative council?---Oh, it's either
20 tabled on that day or the day after is my recollection.
21
22 No, but - - -?---Oh, sorry.
23
24 - - - I'm presuming that it's not sent to Parliament on the
25 day that it's tabled, is it?---It's either sent the day of
26 or the day before. No, in fact I think it's sent the day
27 before. I'd have to double check that.
28
29 And who produces the document?---Oh, it's the - the staff
30 team. I work on it personally. A number of my staff work
31 on it. It's a very - it's a very significant exercise for
32 the office.
33
34 Now, I just put it to you that in previous years - this is
35 prior to the annual report of '21/'22 that is now on the
36 screens that previous annual reports have made mention of
37 work - your work in and with the IOI. That's a fair
38 summary?---Yes.
39
40 But in the '21/'22 report you have an entire chapter
41 dedicated to the IOI?---Correct.
42
43 And that chapter is 11 pages?---Ah, correct.
44
45 If I can, Madam Associate, go to page 48 of this document.
46 So we're now at page 48. Just before I go to that page,
47 just by way of summary - I can take you to the pages if you
48 want, but at page 6 there is an overview. And that
49

1 includes references to the IOI and you being elected as
2 president. Does that - - -?---Correct.
3

4 And at page 10 and 11 there's an ombudsman's overview?---
5 Correct.
6

7 I might actually - I'm sorry, Madam Associate. I'll take
8 you back to that overview which is on page 44 of the
9 bundle. Second last paragraph you'll see there.
10

11 During the year I've had the extraordinary privilege
12 of working with my deeply valued colleagues on the IOI
13 World Board, fellow ombudsmen, public protectors and
14 Human Rights Commission from all around the world, and
15 IOI secretary of staff. I've been involved in a range
16 of initiatives to advance the protection and promotion
17 of human rights, good governance and the rule of law.
18 This work is set out in detail in the annual report.
19

20 They're your words?---Yes. Those were the words as
21 president. I'm also deeply committed to advancing the
22 strategic investment trade and job interests and cultural
23 relationships of Western Australia globally and
24 particularly in the Asian-Pacific region. So vital to
25 West Australian interests.
26

27 Madam Associate, if we can go to page 46 of the bundle.
28 It's an executive management page. That again includes
29 reference to you being president of the IOI?---Correct.
30

31 **THE COMMISSIONER:** Sorry, am I looking at page 46?
32

33 **PORTER, MR:** That's right.
34

35 **THE COMMISSIONER:** Thank you.
36

37 **PORTER, MR:** The second paragraph, Commissioner.
38

39 And then at page 47 of the bundle, there are a list of
40 speeches and presentations?---Correct.
41

42 And none of those relate to the work of the IOI?---Ah,
43 they're contained in the, ah, IOI section.
44

45 Right. I see. So at the bottom paragraph there:
46

47 The ombudsman speeches and presentations as president
48 of the International Ombudsman Institute are detailed
49 in the International -
50

1 - the Institute's section of the report?---Correct.

2

3 And that section commences at bundle page 48.

4

5 0048^

6

7 **PORTER, MR:** And there is 11 pages of it. I'm not going
8 to take you through all of those.

9

10 But if we could just scroll through, Madam Associate, it
11 has descriptions. There are photographs in respect to the
12 world board meeting in New York. There are a variety of
13 photographs of you with other people.

14

15 Okay. Scroll again.

16

17 Speaks to the IOI world board meeting in New York. And it
18 goes on to page 59 of the - the bundle, so I won't labour
19 through each of those entries, but a fairly obvious
20 proposition to put to you that it would not be lost on
21 anyone reading this report that you held the dual roles of
22 Ombudsman of Western Australia and president of the IOI.
23 Would you agree?---I would agree, and that was my intention
24 to convey.

25

26 And that, additionally, you were travelling as president of
27 the IOI?---It was very much my intention to convey that.

28

29 And travelling extensively?---It - it - that was very much
30 my intention to be transparent about that.

31

32 Why does this report contain an entire chapter when
33 previous reports have not?---Oh, there was a very clear
34 reason for that. It was a decision I made personally. Ah
35 - ah, and it followed my election as president, and I knew
36 as president, ah, that I would be taking - undertaking, as
37 each president has before me and will after me, travel, ah,
38 and, ah, I had two fundamental matters in my mind in making
39 the decision to dedicate this chapter and the length of it.
40 Um, one was, ah, just an utter concept of, ah,
41 transparency, um, and, ah, that was particularly
42 transparency to the only body in the state to which I
43 account. Um - ah, sorry. I obviously account to the CCC
44 at the moment but, um, I mean as a broad proposition, and
45 that is the Parliament of Western Australia. Um, I wanted
46 the Parliament of Western Australia to be utterly and
47 completely, transparently informed about what their officer
48 - as I'm an officer of the parliament, what their officer
49 was doing with the money that had been appropriated to
50 them. Ah, it was fundamentally important to me that I was

1 transparent to parliament about that, and the second
2 reason, and this was very, fairly, squarely in my mind the
3 whole time, ah, and it goes to this concept of
4 independence, impunity, approval for travel. I was very
5 mindful that I'd made a decision, um, formed a view about
6 whether I did or didn't seek the Premier's approval for
7 travel. I'd formed the view that I, ah, shouldn't
8 and - - -
9

10 Mr Field, for - for want of going over past ground, I think
11 we're getting into - -?---Oh, the - sorry, that's -
12 that's the - that's the other reason I put that in there,
13 is because I wanted to be very clear that if you approve -
14 if you approve your own travel, you better be transparent
15 about it.

16 Did - after the publication of this annual report on
17 21 September 2022, keeping in mind that it's the first
18 annual report where there's an entire chapter devoted to
19 what was, evidently, extensive travel in your - -?---Yes.
20

21 - - - role as president, do you recall anyone raising the
22 issue of your role as president or the travel in your role
23 as president based on their reading the annual report?---
24 No.
25

26 Mr Field, I'm now going to summarise as quickly as possible
27 the quarterly reporting for travel that occurred in
28 connection to IOI - your IOI presidency role in the period
29 of the financial year 2021 to 2022?---Thank you.
30

31 So beginning 1 July 2021, ending on 30 June 2022. Now,
32 your first overseas trip as president was to New York in
33 May 2022?---Yes.
34

35 I'm just orientating myself (indistinct). And that was 4
36 to 15 May 2022?---Yes.
37

38 And then you also travelled to Austria and France in June
39 of 2022?---Correct.
40

41 And that was 2 to 17 June 2022?---Yes.
42

43 And prior to this, you have not travelled in the '21, '22
44 year because of COVID?---Correct.
45

46 But as we have heard, you still submitted quarterly
47 overseas travel returns?---Yes, I did.
48

1 You submitted nil quarterly reports for the three months
2 ending 30 September 2021 - - -?---Yes.
3
4 - - - 31 December 2022 - - -?---Yes. '21.
5
6 '21. And a nil quarterly report for 31 March 2022?---Yes.
7
8 I understand we actually don't have a physical copy of
9 that, but that's - - -?---Ah, no. I'm still looking in my
10 office, and I apologise, Commissioner.
11
12 Now, I'm going to draw your attention to those in the
13 bundle which commence at page 60 of the bundle. So I - I
14 take it, Mr Field, that that letter and that page there,
15 2 November 2020 - '21, is how this report that I'll show
16 you is attached is transmitted?---Correct.
17
18 And it goes to Maria Sandercott, assistant manager
19 ministerial support unit, Department of Premier and
20 Cabinet?---Correct.
21
22 Did you know Ms Sandercott? Did you know the - - -?---No,
23 I did not.
24
25 Just over the page at 61 there is the - the nil quarterly
26 report, and then at 62, the further nil quarterly report.
27 And as I say, we don't seem to have located the third nil
28 quarterly report, which would have been for the period
29 31 March 2022, but you didn't travel in that period?---No.
30
31 Sorry, just go to the next page down. That is the
32 December.
33
34 Sorry, it's the March - I'm confusing - it's the March 2022
35 report that we don't have?---Correct. And I - I - and,
36 Commissioner, I will find it for you.
37
38 Now, if I take your attention to the three months ending
39 30 June 2022, you submitted your quarterly overseas travel
40 return on 12 August 2022, which is at page 63?---(No
41 audible answer)
42
43 Right. The - this is absent a cover letter in the bundle,
44 simply to save time - - -?---Yes.
45
46 - - - but these would have been transmitted with cover
47 letters similar to the ones we've already - - -?---Correct.
48

1 - - - seen? And this - there documents a period - a - a
2 trip to the United States, and that's the period ending
3 30 June?---Correct.

4
5 And a trip to Austria and France, and then on page - which
6 is on page 64, and this document is dated 12 August 2022?--
7 -Correct.

8
9 And I am going to save the time of the Commission and - and
10 avoid taking you to the descriptions in those boxes, which
11 is going to be a slow process, but inside the:

12
13 Purpose of travel -

14 - column, there is a written description of the travel.
15 Correct?---There is.

16
17 And did you provide that?---I wrote those personally. Ah,
18 there would have been a draft prepared for me, but I
19 settled them personally and wrote and settled them
20 extensively.

21
22 **THE COMMISSIONER:** Mr Porter, although I've read them, I
23 wouldn't want you to be precluded, seeing this is a public
24 examination, from emphasising the point.

25
26 **PORTER, MR:** I thank you, Commissioner. I appreciate
27 allowing for that to occur, and what I might do is pause at
28 a - a representative sample and do it that way.

29
30 Perhaps by way of summary if I put to you, Mr Field, that
31 this quarterly overseas travel return that we are looking
32 at here at page 64, which there it documents an official
33 visit to Graz. Is that - - -?---Graz, correct.

34
35 Yes. That is your description of a trip that goes into a
36 system, if I can put it that way. So it's submitted to the
37 Department of Premier and Cabinet?---Correct.

38
39 And then what is returned, as we've previously discussed,
40 is a shorter - usually shorter description in the
41 parliamentary report?---Yes. I have no control of that. I
42 can control what I send to them.

43
44 And by way of example, if I take you over to page 65, that
45 is - is an indicator of a cover sheet there, the actual
46 parliamentary report of overseas air travel undertaken by
47 ministers, parliamentary secretaries and government
48 officers on official business for the three months, ended
49 30 June 2022.

1
2 And if I take you to page 66, Madam Associate, of the
3 bundle?
4
5 0066^
6
7 **PORTER, MR:** Parliamentary commissioner for administrative
8 investigations, so that trip to Graz appears in those last
9 two entries, 2 June 2022 to 17 June 2022. You see that?---
10 Yes, I do.
11
12 And one of those entries is for Ms Poole, which reads:
13
14 Accompany the ombudsman.
15
16 ?---Yes.
17
18 And then with respect to yourself, the entry reads:
19
20 Speaker at events for the Austrian Ombudsman Board.
21 Appear as witness before the parliamentary committee
22 official side events and business.
23
24 So what's produced is a shorter version of what you put
25 into the system?---Yes. That's done by someone outside of
26 my office.
27
28 And do you know who?---No. I don't know who does that.
29 I - - -
30
31 And - and the cost is what appears there in the subtotal of
32 parliamentary commissioner for administrative
33 investigations?---Correct.
34
35 And the number of visits is enumerated as:
36
37 Four.
38
39 That's meant to denote the number of people who travelled
40 for the parliamentary commissioner for administrative
41 investigations in that three-month period?---Ah, yes.
42
43 And then if we take you over to page 67, this is the next
44 financial year (indistinct) and this is for the period
45 ending 30 September 2022. And again there's your name on
46 the left-hand side:
47
48 Field -
49
50 - and in the:

1 - and then there's a breakdown of costs, but perhaps what's
2 notable there is that there is a contribution to the costs,
3 the overall costs of:

4
5 14,863 -
6

7 - and it says that:

8
9 10,000 Euro was contributed by the International
10 Ombudsman's Institute -

11
12 - (indistinct) ---Correct.

13
14 And then by way of example, the way in which that appears
15 in the parliamentary document is, as depicted at page 68
16 and 69, so the cover page for the parliamentary document
17 notes that it's for the three months, ended 30 September
18 2022, and then over on page 69 there is the two travellers
19 denoted, Ms Poole and yourself? ---Yes.

20
21 And for Ms Poole it's noted that the source of funds is:

22
23 Consolidated funds -

24
25 - and that just means out of your general appropriated
26 budget? ---It - it does.

27
28 And then for yourself, it's source of funds:

29
30 Consolidated funds and overseas funds.

31
32 ---Yes. That's the denotation(?) for any funds that, ah,
33 come from an external body.

34
35 Okay. Can I just note there that - so with this - respect
36 of this trip, that the outside funding was set against your
37 travel costs? ---Yes.

38
39 And in this output document, if I can call it that, the
40 parliamentary document, that does not record the external
41 funding? Is that right? ---(No audible answer)

42
43 It - it notes that there were - if you can just look at the
44 - the document? It notes - - -? ---Oh, yes. I'm so sorry.

45
46 It looks - it notes that there were consolidated funds and
47 overseas funds - - -? ---Yes.

48
49 - - - in relation to your travel, and then it has a figure
50 for your travel of:

1
2 4,895 - - -
3
4 ?---Yes.
5
6 - - - which I suggest appears to be the travel figure minus
7 the - - -?---That - that is correct.
8
9 So it doesn't explicitly state in the parliamentary - - -?
10 --No, it - - -
11
12 - - - document - - -?--- - - - does not.
13
14 - - - what the external funding amount was - - -?---No, it
15 does not.
16
17 - - - and - so the finalised amount there of:
18
19 \$26,039 -
20
21 - is the total net cost where the gross cost was - the
22 overall trip cost minus the external contribution equals
23 that net cost there of 26,039 - - -?---That is exactly
24 correct.
25
26 And the sort of lag period that's occurring between these
27 is - just with respect to this one, for instance, is that
28 the quarterly overseas travel return which you sign and put
29 in for this trip goes in to DPC on 18 November 2022, and
30 then it's - theirs is a significant lag in terms of the
31 publication of the parliamentary document, which then
32 occurs on 15 June of 2023.
33
34 So I'm - here I'm now looking at the Austria and Hungary
35 trip which occurred between 6 and 20 September 2022?---Yes.
36
37 That goes into the DPC system on 18 November 2022 and comes
38 out of the parliamentary system on 15 June 2023?---Yes. My
39 understanding is that lag does exist.
40
41 Now, you don't have any line of sight or knowledge as to
42 what happens in between the submission of the longer format
43 into DPC and the production of the shorter format
44 in - - -?---No, I do not.
45
46 You don't know who does that, you don't know the
47 personnel?---Oh, I assume it's done either by Premier and
48 Cabinet or, uh, parliamentary services but I - there's no
49 possibility I'd wish to swear to that before the
50 Commission.

1 But it is submitted to the Department of Premier and
2 Cabinet, correct?---Correct. It is.
3
4 Which is the department that services the
5 requirements - - -?---Yes.
6
7 - - - and portfolios of the Premier of the State of
8 Western Australia?---That is correct.
9
10 And just if I can take - - -?---And it is my - sorry. It
11 is my assumption that is where those summaries are done.
12
13 Madam Associate, if I move to page 68. This is the cover
14 sheet for the parliamentary (inaudible). And as we read,
15 it's a report of overseas air travel undertaken by
16 ministers, parliamentary secretaries and government
17 officers on official business. Now, minister speaks for
18 itself. Parliamentary secretaries is well known. You fall
19 into the category of a government officer on official
20 business?---Correct.
21
22 Now, it's been noted at length and subject of evidence that
23 you were self-approving travel during this period?---
24 Correct.
25
26 Now, other government officers on official business - do
27 you have an understanding as to who that encapsulates?---
28 Ah, my understanding is it would be perhaps director
29 generals, uh, deputy director generals who might be say for
30 example accompanying a minister or for example might be
31 simply going of their own accord.
32
33 Yes. So one example on page 69, Madam Associate. Just
34 pointing out that's Mr Grant Donaldson there. Has gone to
35 (inaudible) international conference.
36
37 **THE COMMISSIONER:** Sorry. I'm trying to find it.
38
39 **PORTER, MR:** The Lotteries Commission, I think.
40
41 **THE COMMISSIONER:** I have it. Thank you.
42
43 **THE WITNESS:** So I think Grant Donaldson - sorry -
44 Mr Donaldson would be an example of that.
45
46 **PORTER, MR:** And that's travel for board positions I
47 presume on the Lotteries Commission just looking at this.
48 Now, the - well, we'll come at some point to the
49 self-approval issue of travel issue generally. But the
50

1 process that you were going through in terms of
2 self-approval bears resemblance if it's not the same
3 essentially as that which a minister would undertake for
4 travel. They would effectively self-approve. Is that your
5 understanding?---Ah, I'm not sure whether the minister
6 needs to - ministers need to seek the Premier's approval.
7 I'm not sure about that. Um, for most of the approvals -
8 and travel would be similar, um, because there are many,
9 many approvals where I - I - other people have to seek
10 ministerial approval on.

11
12 If you don't know, I think the answer is - - -?---I think
13 the answer I should say is I don't know. I - I thought
14 ministers sought the Premier's approval. I might be wrong.
15

16 It may be that ministers seek that Premier's approval, but
17 certainly ministers are included in this process - - -?---
18 Oh, they are.

19
20 - - - of putting in a quarterly report for their - - -?---
21 They absolutely are.
22

23 - - - travel in their rules as ministers to the DPC, which
24 is described in presumably a longer form and then comes out
25 in a shorter form. What I'll do - and hopefully I can get
26 this done now just by way of entry of the documents. But I
27 just want to take you to the 2022/23 travel period. I've
28 just done the first one. I'm now looking at the three
29 months ended 13 December 2022. You went to New Zealand 9
30 to 14 October 2022. Do you recall that?---I do.

31
32 And then Ukraine and Poland 3 to 14 December 2022?---Yes.
33

34 And then at page 70, Madam Associate, of the bundle. Here
35 is the document that you submitted into DPC. If we can
36 scroll down, Madam Associate, that should be dated
37 14 February 2023. So that's your description of those -
38 both those trips that we've just described. And then if we
39 go over onto - page 71 is the parliamentary document cover
40 sheet. And on page 72 is the parliamentary report that's
41 in regard to those same two trips - New Zealand, Ukraine
42 and Poland. And that parliamentary report is 31 August
43 2023?---Yes.

44
45 And that all accords with your recollection?---It does.
46

47 And then for the three months ended 31 March 2023. In that
48 period, you went to Morocco 26 February to 4 March 2023,
49 correct?---Correct.

50

1 Pakistan 11 to 17 March 2023?---Correct.
2

3 And then if we go to page 73, Madam Associate, of the
4 bundle. That is the input document which should be
5 8 May 2023?---Correct.
6

7 That's what goes off to DPC?---That's what I - - -
8

9 Just pause there. Do you - - -?---Yes.
10

11 - - - recall these words in this document?---Settled,
12 wrote, remembered. Yes.
13

14 And then the next document, Madam Associate, is the -
15 right. Next document 74 is the final column of the DPC
16 document, so I'll just take you through there to 75. And
17 this is for the three months ended 31 March 2023, the
18 parliamentary document which is published on
19 1 February 2024. And, Madam Associate, if I go to page 76
20 there are the trips to Morocco and Pakistan you described
21 in the parliamentary document?---Correct.
22

23 And again, there in the parliamentary document it indicates
24 that there was overseas funds contributing to defray the
25 cost of that trip?---That's correct.
26

27 And then for the three months ended 7 June 2023 -
28 Madam Associate, page 77 of the bundle. And that is with
29 respect to trips to Austria. 5 to 17 May 2023. Slovenia
30 and the United Kingdom 2 to 16 June 2023?---Correct.
31

32 And that document goes into DPC it appears on 16 August
33 2023?---Correct.
34

35 And again, these are your words. You recall the
36 descriptors and descriptions in there?---Precisely and
37 absolutely.
38

39 And then the parliamentary document, Madam Associate, which
40 appears at 78 and 79. That is tabled 13 February 2024?---
41 Yes.
42

43 Beginning of this year. And on page 79 there again is the
44 description of the trips. Correct, Mr Field?---Ah, sorry.
45 Correct, counsel. My apologies.
46

47 Commissioner, the next topic or line of questioning will be
48 about the next annual report which sort of will happen in a
49 block, so it may be that this is a convenient time.
50

1 **THE COMMISSIONER:** If it's a convenient time. I said
2 4.15. Thank you, all. And I will adjourn this examination
3 until 10 April at 9.45 am.

4

5 (THE WITNESS WITHDREW)

6

7 AT 4.15 PM THE MATTER WAS ADJOURNED UNTIL
8 WEDNESDAY, 10 APRIL 2024

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FIELD, C J
(Public Examination)

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The transcript of CHRISTOPHER FIELD heard on WEDNESDAY, 20 MARCH 2024:

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Certified on this 20th day of March 2024 by: Chris Millward, Joelle Burgess, Hannah Wood & Melissa Cain

Full Name:

CHRISTOPHER JOHN MILLWARD
JOELLE BURGESS
HANNAH WOOD
MELISSA CAIN

Occupation: Transcribers and officers of the Commission under the Corruption, Crime and Misconduct Act 2003 ss 182, 3 who has taken an oath before the Commissioner.

Signature:

CHRISTOPHER JOHN MILLWARD
JOELLE BURGESS
HANNAH WOOD
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