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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE RUTH McCOLL AO
COMMISSIONER

PUBLIC HEARING

OPERATION KEPPEL

Reference: Operation E17/0144

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 23 SEPTEMBER, 2020

AT 2.30PM

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This transcript has been prepared in accordance with conventions used in the Supreme Court.

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<REBECCA LOUISA CARTWRIGHT, on former affirmation[2.45pm]

THE COMMISSIONER: Mr Robertson.

MR ROBERTSON: Commissioner, can I summarise what's occurred during the course of the adjournment for the benefit of those following along. As you know, you made a direction under section 35(2) of the Independent Commission Against Corruption Act requiring Ms Cartwright to produce the hard drive the subject of her evidence immediately before lunch. There is a question as to whether or not the physical hard drive itself remains the property of parliament or perhaps whether it is now the property of Mr Maguire or perhaps Ms Cartwright. To avoid that issue being one of concern, I recommended to you over lunchtime that you issue a direction under section 35(2) to the Clerk of the Legislative Assembly. That recommendation was made following a discussion that I had with the Clerk and also with the Speaker of the House and, as I understand it, they had no objection to that course being taken. I am informed that in the meantime the hard drive itself has been secured.

20

There may be an issue as to whether the parliament, whether the House or whether the parliament more generally, should consider the material that's on the hard drive with a view to considering whether any material is properly the subject of parliamentary privilege. As you would know, Commissioner, the Commission has protocols in place to deal with matters of that kind. There will be some working out that will need to take place with respect of that matter, but as I understand it, it's been agreed between officers of this Commission and officers of the parliament to put steps in place to ensure, firstly, that the hard drive is properly secured, which, as I understand it, has occurred; and, secondly, that an appropriate procedure is adopted in relation to documents on the hard drive so that any proper claim of privilege may be dealt with in such a way as to not infringe on the privileges of the parliament. So that in a sense is a work in progress.

30

In the face of that, in my submission the appropriate procedural course forward is this. First, I have some further questions of Ms Cartwright dealing with the issue that we started to get into briefly before lunch and I propose to continue with. It will be convenient, I think, for any cross-examination and re-examination of Ms Cartwright to occur this afternoon in relation to the issues dealt with today. I will ultimately be submitting, though, that she should not be discharged from her summons because there may well be material on the hard drive that calls for some further questioning. I'm not necessarily saying that I will need to further question her but that would be the submission that I'll be making regarding the summons.

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THE COMMISSIONER: Very well. At this stage you can continue with your examination of Ms Cartwright.

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MR ROBERTSON: May it please the Commission. Ms Cartwright, I just want to be absolutely clear about the order of events the subject of questioning immediately before lunch. Mr Maguire resigned from parliament, just to get your bearings, with effect of 3 August, 2018. At that point in time he had already resigned as a member of the parliamentary Liberal Party. He did that on 13 July, 2018, which was the same date that he was before this Commission. So just to help you get your bearings in relation to that matter. Are you saying that Mr Maguire made contact with you between those two dates or was it after he had already ceased as a member of parliament?---I believe it was after he ceased as a member of parliament.

So if you assume from me, if you take it from me that he resigned with effect on 3 August, 2018, your best recollection was that it was after that point in time?---That's correct.

He made contact with you, not the other way around?---I think I might have made contact with him because the hard drive was given to me but, and that was at parliament but I'm not 100 per cent sure.

So just to be precise and just to be clear, Mr Maguire was here on 13 July, 2018. As you would know, there were some telephone intercepts that were played and things of that kind that led to matters of controversy and he resigned. Did you speak to him within a few days of that occurring, which was a matter of some media and other controversy? Or was it not for a couple of weeks that you spoke to him?---It would be a couple of weeks. I, I would say it would be a couple of weeks.

And do you recall whether he made the first contact or whether you made the first contact?---I'm quite sure I called him. He might have called me beforehand but I'm quite sure I called him about the, the hard drive I think, I'm not quite sure.

So what gave you cause to make contact with Mr Maguire?---Because IT had given me his hard drive and I wanted to know how to get it to him.

So when you say IT, you mean IT within Parliamentary Services.---Yeah.

Is that right?---Yes, yes.

At this point in time you're still working in the whip's office. Correct? ---That's correct.

And so someone makes contact with you from IT within the parliament to say there's a, what, there's hard drive of Mr Maguire. Is that the idea? ---Yeah, and they brought the, they brought the hard drive to me.

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THE COMMISSIONER: Why would they do that, Ms Cartwright?
---They just brought it.

You didn't work for him anymore when he, you weren't working for him when he left parliament?---No.

And hadn't been for some years.---No.

10 Before the luncheon adjournment I understood your evidence was that Mr Maguire had instructed the IT people - - -?---IT to bring it to me, sorry, yes, yes.

- - - to deliver it to you?---Yes, correct.

You're not resiling from that evidence, are you?---No, no, yes.

MR ROBERTSON: But when did you first hear that there was going to be a hard drive formerly dealt with by Mr Maguire being delivered to you?
---I think from Mr Maguire, but I had an email from the IT saying that Mr
20 Maguire had asked to put it, to give me the hard drive as well.

So taking physical receipt of the hard drive wasn't something that came out of the blue, you knew that was going to happen at the time that it happened. Is that right?---I don't know if they gave it up on the day they emailed me, they could have emailed me and then given it to me. I can't remember.

30 But there wasn't some surprising occasion where someone comes into your work area and says, "Here's a hard drive," and you're going, "Why are you giving me a hard drive?" It was something that you already knew was going to happen.---No, there was, there was an, there was an email regarding that from IT, from IT Services to me and Daryl Maguire with me cc'd on it.

So before receiving physical delivery of the hard drive you received an email from someone within IT associated with the parliament saying that there's going to be a hard drive delivered to you at some point. Is that right?
---Yes.

40 And did that email make clear that it was Mr Maguire's former hard drive? Is that right?---Yes, yes.

And did that email give any particular instructions, was it saying in effect that this is Mr Maguire's hard drive to deliver to you or there was some direction given, something along those lines?---I believe that Daryl Maguire requested for them to deliver it to me.

How did you know that, is that something that was implied in the email?
---I think that was in the email, I think that was in the email.

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So your best recollection is you receive an email from the IT Department within the parliament, saying that there's going to be a hard drive delivered to you because Mr Maguire has told Parliamentary Services, or at least the IT Department within, to give a copy of that hard drive to you.---Ah hmm.

10 Have you ever worked in the office of a member of parliament who has then ultimately retired from parliament and thus had to deal with records changes and things of that kind?---I worked within the whip's office. If members have retired, I might forward things on to former member, not necessarily whips, but just former members as well.

So is it right to say that other than Mr Maguire you've worked for other whips who have since retired from parliament?---Yes, yeah.

And did a similar approach happen in relation to those former members of parliament where there was a process dealing with the records of that particular member of parliament?---Not that I recall, no, no.

20 Were you ever involved, in relation to the others other than Mr Maguire, in assisting in either collating records or destroying records or anything of that kind for the benefit of other members of parliament, former members of parliament who have retired?---No.

30 So back to Mr Maguire so I've got the chronology exactly right. Is it right that the first you heard of the fact that a hard drive was going to be delivered to you in relation to Mr Maguire when Parliamentary Service sent you that email or IT sent you that email, or did you know about it beforehand from Mr Maguire or anyone else?---I don't know which one was first.

Did you have a discussion with Mr Maguire regarding the hard drive before you took physical delivery of it?---I, I had a discussion about the hard drive and I, I think I had already got the hard drive when I had the discussion with Daryl Maguire.

So your best recollection is that your first discussion with Mr Maguire regarding the hard drive happened after you were in physical possession of it?---I believe I had already had it, yes.

40 And so as best we can ascertain, the chronology is email from IT Department, physical delivery of the hard drive and a discussion with Mr Maguire?---Correct.

Now, I asked you some questions about that discussion with Mr Maguire. Have you now told us everything that you can recall about what Mr Maguire said to you and what you said to Mr Maguire during that conversation?---To the best of my recollection the words, wording was, "Yes, post it. It'll get

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lost in the post.” And I said, “Oh, okay.” And then, it wasn’t a very long conversation. I don’t remember much more of the conversation.

So to be clear on the words as best you can recall it, “Yes, post it. It will get lost in the post.” Is that, do I have that right?---Yeah.

“Yes, post it. It will get lost in the post.”---Yes.

10 And Mr Maguire said it in such a way as to make it clear to you that he wanted the hard drive to be lost?---He didn’t want it posted to him but - - -

Not only did he not want it posted he wanted it to, as it were, disappear?
---Well, yeah, he just didn’t, he didn’t want it posted. Didn’t say disappear. Just said he didn’t want it posted.

20 But as I understood your evidence before lunch, and again tell me if I’ve got it wrong, the way in which Mr Maguire said it, both the words he used and the way in which he said it, was to make clear to you that he didn’t want to see this hard drive see the light of day, he wanted it to - - -?---He didn’t want the - - -

- - - for practical purposes disappear?---He didn’t want it posted to him. I, just he didn’t want it posted to him. He didn’t say destroy it. He didn’t say get rid of it. He said it gets lost in the post. He didn’t want it.

30 But what I understood your evidence to be before lunch, but maybe I got it wrong, was that Mr Maguire was, as you understood it, seeking to communicate to you that he didn’t want to see the hard drive see the light of day. He wanted it to be lost or at the very least not be seen by any organisation such as ICAC that might be investigating him. Is that a fair summary of your evidence and your understanding of what Mr Maguire was attempting to communicate?---Yes, he, yes, he didn’t want it sent to his house. He just didn’t want anything sent to his house.

Yes, he didn’t want it sent to his house.---Yeah.

But he also didn’t want you to send it for example to ICAC or to the police.
---Yes, yeah, yes.

40 And both in the words that he used and the way that he was communicating that to you at least as you understood it he was making that position clear. Is that right?---That he didn’t, yeah, he didn’t want, yes, he didn’t want it.

He didn’t want the hard drive himself.---No, he didn’t want the hard drive himself.

But he also didn’t want the hard drive to find its way into the possession of ICAC.---Well, that would be the, that would be the reason for the - - -

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Or some other investigative authority, perhaps the police or someone else?
---Or (not transcribable) yeah (not transcribable) yeah. Yes.

Now, I had the impression before lunch, and again I might have had this wrong, but you had more than one conversation with Mr Maguire regarding this particular hard drive. Is that right? I think at one point you said no, maybe I called him back or had another conversation with him.---No, there would be conversation, there'd be only one conversation about the hard drive. The email from the IT and the conversation about the hard drive. I didn't speak to him about the hard drive again.

And you gave some evidence before lunch about a call in which there was a complaint about ICAC and things didn't work so well - - -?---Was just, just angry with I think just everyone.

He was angry about what happened, et cetera, et cetera.---Well, yes.

Did that happen in this particular telephone call you're talking about?---No.

That's a different telephone call?---Yes.

So to get the chronology. Email from IT, physical delivery of hard drive, conversation with Mr Maguire where you're essentially saying I've got this hard drive now, what do you want me to do with it.---Ah hmm.

What's the next communication you had with Mr Maguire as you recall it?
---I cannot remember the next communication I had with him.

30 THE COMMISSIONER: In terms of the conversation about the hard drive, was the phone call in which Mr Maguire was angry about ICAC before that phone call?---I believe that was before that, yes.

And did he raise in the course of that phone call in which he was angry about ICAC any question of whether you might take custody for example of something like the IT hard drive?---No, not, not during that conversation, no.

40 When you got the email from IT about the hard drive, did that come as a surprise to you?---Not necessarily. No, it didn't come to a surprise. He was a former member. They, IT weren't going to, IT wasn't going to forward it to him because he'd finished in parliament.

What about one of his former staff members? Wouldn't one of those persons have been somebody he might thought he might ask to forward the - - -?---But there was no one, there was no, there was no other staff members there.

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They had all left when he departed then?---When he, yeah, they, they left, yeah. So he had only had, well in the electoral office, it would be Wagga, so he didn't have any staff at Parliament House, yeah.

Thank you.

MR ROBERTSON: So there was no staff of his own at Parliament House between when he resigned from the parliamentary Liberal Party and when he resigned from parliament a few weeks later. Is that - - -?---He, he didn't, I can't remember when Nicole had finished working with him, he wouldn't have staff in his office when she finished working.

So the call that you have discussed in relation to being angry about what happened at ICAC, did that - - -?---Well, it wasn't just ICAC, it was just, he was angry but just - - -

But that particular call, no discussion about the hard drive or records, documents, et cetera, is that?---No. There was not. No.

20 Did he contact you or did you contact him?---He contacted me.

And was that a telephone call or was it some other form of communication? ---A telephone call.

And if you take it from me that he appeared before ICAC on 13 July, 2018, did that happen in the day or within a few days or what's your best recollection of that?---I would say a few days after.

30 And so, what, that was in the nature of, what, a general social call and complaint-type call, was it?---Yes. Just, just, yeah.

And although you had stopped working for Mr Maguire sometime before, you remained in fairly regular contact with him?---That's, yeah, correct. Fairly regularly, yeah, yeah.

You'd regard him as a friend?---Yes, yes.

40 And that was the context of that particular telephone call a couple of days after he's resigned from the parliamentary Liberal Party, things are not going well, he's ringing you up essentially as a friend and expressing his anger, disappointment, et cetera, et cetera. Is that right?---Correct.

But says absolutely nothing about hard drives, records, documents, et cetera, et cetera?---Absolutely not. No, no.

You get the email from IT saying, in effect, Mr Maguire has said his hard drive is going to be delivered to you, correct?---Ah hmm. Correct.

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You get physical delivery of the hard drive, correct?---Ah hmm. Correct.

You made contact with Mr Maguire regarding it, is that right?---I think I did make contact. I'm pretty sure I made contact.

To an effect to say, "I've got the hard drive. What do you want me to do with it?"---Ah hmm.

10 And you have the conversation that you have already relayed?---Ah hmm.

Where Mr Maguire talks about, "It might get lost in the post," type matters?---Yep. Ah hmm.

Did you have, after that conversation, did you have any other communications with Mr Maguire regarding the hard drive or regarding any records that may have been kept in connection with his role as a member of parliament?---No.

20 None at all?---That, I don't recall having any, no.

Did you call him up at some later stage and say, "Look, by the way I've still got this hard drive"?---No, I did not.

"Do you want to come and pick it up?"---No, no.

30 After it came to your notice that this Commission was investigating Mr Maguire himself, did you contact Mr Maguire and say, "I've got this hard drive. This might be something of interest to the Commission. What do you think we should we do about it?"---No, I did not.

So no conversations about that hard drive at all between the one you have mentioned, "If you put it in the post, I will get lost," to this very day, is that right?---Not that I, yeah, not - I don't remember having any conversations of that - - -

I want you to be quite clear on this. If you want to pause to think about it, that's completely fine.---I don't recall having conversations after that, a conversation - - -

40 Just pause and give it close consideration because it's an important matter. Is it your evidence that you had one and only one conversation with Mr Maguire regarding hard drives, records, documents, et cetera, which is the one conversation after you've got physical possession of the hard drive and Mr Maguire says, "It might get lost in the post," or something to similar effect?---I do not remember having other conversations about hard drives or loss of records.

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And to be clear I'm being as broad as possible. Conversations, emails, nods, winks, directly, indirectly, of any kind whatsoever, through Ms Hatton, through intermediaries?---I'm trying to, I, I do not remember having other phone, phone calls with him about - - -

THE COMMISSIONER: Or any form of communication, Ms Cartwright? ---I don't know, I don't know if I sent him a text for Christmas, I can't, I might have done that, but that's - - -

10 About the hard drive.---No, I don't remember having any more conversations about the hard drive.

Or any other forms of communications about the hard drive?---Not that I, I don't believe, remember having any more conversations about that.

MR ROBERTSON: Now, after that particular communication about the hard drive, talking about the post, et cetera, what other communications have you had with Mr Maguire since that date on any topic at all?---I, I really can't remember more conversations with him.

20

Well, you're not suggesting the last time you had any communications with Mr Maguire was way back in 2018, are you, two years ago. You've had communications since then?---Maybe a text or a Christmas or something but not, not a, I don't remember having a phone call conversation with him in the last couple of years.

He hasn't made any communications with you – be it by telephone, text, et cetera – saying, “Well, what happened to that hard drive I gave you?” Something like that?---No, he didn't. No, he hasn't.

30

And post that particular conversation or any attempts of contact at all, perhaps a Christmas text I think you mentioned?---There might have been, yeah, a Christmas text but I haven't had a phone contact. I think he told me he's changing his number but I, but I don't know if he, that was his, I know he told me he was changing his number but I can't remember when that was.

So have you had any - - -?---That was before, I don't know, I can't remember about the changing of the number.

40

THE COMMISSIONER: Did he give you his new number?---He did, I think he did give me his new number but I, I didn't use his new number, I don't - - -

MR ROBERTSON: So other than that call, which may have been before or after the “lost in the post” call, I'll call it, were there any other oral communications, telephone or using the oral version of WhatsApp, WeChat, et cetera, between you and Mr Maguire other than the “lost in the post” call

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and the one that you referred to about I've got a new number? At the moment I'm just talking about oral communications, ordinary telephone call or a modern equivalent of that like WhatsApp, FaceTime, et cetera.---The other conversation that I'd had with him was about the three-tiered for the election, didn't he didn't want a three corners (not transcribable)

THE COMMISSIONER: Three-cornered election.

10 MR ROBERTSON: The potential three-corner contest.---Three-cornered, yeah.

So Mr Maguire was concerned about the consequences of him resigning, the bi-election that was thereby called.---But I - - -

And in particular what candidates might stand for that election.---Yes.

20 And when you say three-cornered contest, I assume he's concerned, amongst other things, that an independent might come in and ultimately get elected, which of course is what ultimately occurred.---I think he was more concerned that a National Party person's going to be put up, so it should have been just a Liberal and a whoever, but not a National, so that's the, so it would be a Liberal seat and not a National seat.

So that means, doing the best we can, we've now got three telephone calls, do we, post - - -?---I can't remember that, I remember that phone call but I don't remember the time line of that phone call. I don't know if that was in between or after he'd left, it was during that period, because - - -

30 So it could have been before or after what I might call the hard drive call. ---Yes, yes.

During the one about the three-cornered contest, did you have any discussions about either ICAC's investigation or about hard drive, documents, records et cetera?---No, I didn't.

Not at all?---No.

So I've just been focussing on oral communications.---Ah hmm.

40 Have we now exhausted your recollection of oral communications? ---I do believe so, yes.

So when do you think is the last time you had an oral communication with Mr Maguire, not way back in 2018, surely? Surely you've spoken to him since then.---No, I haven't (not transcribable)

You haven't called him up and said, "Look, I'm really concerned about this ICAC investigation. I might be dragged along."---No, I have not.

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“In the process where you’re being investigated, what should I do?”---No, I have not.

So you’re saying it’s your best recollection, the last time you had any oral communications with Mr Maguire was way back in 2018, some two years plus ago?---Correct.

10 And what about any other form of communication, text-based, direct, indirect?---Indirect, a text from Joe Alha on his 60th birthday. I replied to Joe, I think. And - - -

And so there might have been a text at some point in connection with Christmas or something like that, you’ve mentioned.---There might have been, but I can’t (not transcribable)

But there’s been nothing more substantive than that?---Yes, ah hmm.

20 And so do you say that you’ve never had any discussion with Mr Maguire regarding this Commission’s investigation into him?---Correct.

Did you tell him that you’d been summoned to give evidence before the public inquiry?---No, I did not.

I apply for the direction that was given under section 112 of the Independent Commission Against Corruption Act, in relation to the compulsory examination of Ms Cartwright, be lifted insofar as it would otherwise permit me from referring to the fact that Ms Cartwright gave evidence before this Commission in a compulsory examination.

30 THE COMMISSIONER: On what date?

MR ROBERTSON: On 21 November, 2018.

THE COMMISSIONER: Yes.

MR ROBERTSON: And at the moment I’m only seeking it to be lifted in relation to the fact of that compulsory examination.

40 THE COMMISSIONER: Very well. I revoke the direction given on 21 November, 2018 prohibiting the fact that Ms Cartwright had given evidence in the course of a compulsory examination before this Commission, on and from this date.

MR ROBERTSON: I think, Commissioner, you’ll find it was on the 20th of November, rather than the 21st, is my note.

THE COMMISSIONER: Oh, I’m sorry. 20th of November, 2018.

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VARIATION OF SUPPRESSION ORDER: I REVOKE THE DIRECTION GIVEN ON 20 NOVEMBER, 2018 PROHIBITING THE FACT THAT MS CARTWRIGHT HAD GIVEN EVIDENCE IN THE COURSE OF A COMPULSORY EXAMINATION BEFORE THIS COMMISSION, ON AND FROM THIS DATE.

10 MR ROBERTSON: Ms Cartwright, you participated in a compulsory examination before this Commission in November of 2018?---Correct.

You know that there was a direction given at the start of that compulsory examination preventing you from publishing the fact that you had participated in a compulsory examination, correct?---Correct.

There was a direction given by the Commissioner who was sitting up where the Assistant Commissioner now is.---Ah hmm.

20 Telling you not to tell anyone that you've been before the Commission. ---Ah hmm.

Other than lawyers, did you tell anyone that you had been before the Commission on that day?---Told my mother.

Anyone else?---My partner.

Anyone else?---No.

30 Sorry, was that no?---I don't, no, I don't believe - - -

And after participating in the compulsory examination, did you tell anyone that you had participated in a compulsory examination or tell anyone about what happened at the compulsory examination?---No, I did not tell.

And to be clear, you definitely didn't speak to Mr Maguire or Mr Elliott regarding the fact that you had been required to attend before a compulsory examination?--- Definitely not

40 Or what happened at the compulsory examination itself?---Absolutely, no, I did not.

In relation to what I've described as the hard drive call, do you recall what telephone you used for that purpose? Was that your Parliament House phone or was it a mobile telephone?---Parliament House. Parliament House phone.

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And did you use Mr Maguire's, what I might call his old telephone number, the telephone number that you had been using in the past, or did you use some other telephone number?---I believe his old telephone number.

Is that your best recollection?---That's my best recollection.

Don't say it out aloud, but do you happen to know what his new telephone number is?---No, I don't.

10 But that's in your phone at the moment, I take it?---I, I don't believe that it is, actually. I - - -

How was that mobile telephone number communicated to you by Mr Maguire?---He texted it to me I think or he, yeah, yeah.

So your best recollection is texted to you in or about 2018?---Yes. Mmm.

20 But I thought, maybe I've got this wrong, I thought you said your best recollection was that there was some telephone call separate from the hard drive call, where Mr Maguire said, amongst other things, "I've changed my telephone number and here it is."---I know he spoke about a new telephone number but - - -

So maybe he said, "I'm going to get a new telephone number and I'll text you the details," something like that.---Yes. Yeah, yeah.

30 Pardon me for a moment, Commissioner. You said a little while ago that you understood from both what Mr Maguire and from the way that he said it – and this is probably my language rather than yours – but that he didn't want the hard drive to see the light of day and perhaps it should get lost. ---Mmm. Mmm.

Why was it that you kept the hard drive as opposed to seeking to destroy it or remove it outside of the parliament or something along those lines?---I just put it in the office and did not, just put it in the office and didn't

No, but you've accepted before, I think, that – as you understood it – Mr Maguire didn't want the hard drive to see the light of day, correct?---Yes.

40 And one way of achieving that would be the physical destruction or disposal of the hard drive itself, would you agree?---I agree, yep.

Why did you not take a course like that and instead decided to keep the hard drive in Parliament House?---Didn't want to destroy parliamentary property.

So is at least part of the explanation for taking that course, you realised that what Mr Maguire was asking you to do was something that would be quite wrong?---Correct.

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That was something that troubled you, correct?---Correct.

And you took that into account in deciding not to do what you understood Mr Maguire wanted you to do – get rid of it – but instead kept it. Is that fair?---Yes. I just didn't want to be involved and I just kept it in the office.

So you knew that even keeping it in your drawer was misconduct on your part, correct?---No, I did not realise (not transcribable)

10

Well, you at least knew it to be inappropriate conduct that you were keeping away from organisations like ICAC material that might be relevant to ICAC's investigation. Do you agree with that?---Sorry, can you say that again?

I think you accepted before lunch that you deliberately kept the hard drive away from this Commission because the material on it might stand to implicate Mr Maguire, is that right?---Correct.

20

And you realised doing that would be the wrong thing to do, correct? ---Correct.

But you decided to do that anyway, correct?---Correct.

But you thought it would be even worse for you to do what you thought Mr Maguire wanted you to do – get rid of the hard drive – and that's why you kept it, rather than destroying it, is that right?---Correct.

30

That's the examination at this point in time, Commissioner.

THE COMMISSIONER: Did it concern you, Ms Cartwright, that what was on the hard drive might somehow implicate you in Mr Maguire's conduct? ---No, it didn't concern me, no.

Mr Harrowell, do you have any questions?

40

MR HARROWELL: Just some short questions, Commissioner, if I might. Ms Cartwright, you were asked by my learned friend Counsel Assisting about the process of the members of parliament exiting from parliament, and you said you'd had a little bit to do with that process through your role in the whip's office, I think.---Ah hmm.

If a member of parliament leaves, what happens, for example, to their computer?---I'm not actually a hundred per cent sure how that, how that's done. I would, I don't, I actually don't know. You'd have to speak to the IT Services. I actually don't know.

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And the computer, their parliamentary computer, is provided by the parliament.---That's correct.

It's not their personal computer.---No, it's not.

10 So do you know, and what about mobile phones?---Mobile phones, I believe they can be, they're owned by the parliament, but I'm not sure if they can buy them or keep – I'm not a hundred per cent sure. Some of the, there is, the phones are then, I think, are bought through their electorate allowance, so they, they'd own the phone. I, I don't know a hundred per cent.

You were asked some questions about the first angry phone call, which appears – from your answers to Counsel Assisting – was sometime after Mr Maguire attended a hearing here on 13 July. At that time was Mr Maguire distressed at the fact that he was likely to be forced out of parliament?
---Absolutely, yes.

20 Was that also approximately when his son-in-law died?---It was, I think it was very close to that time. He, I can't, I can't remember when his son-in-law died but it was during the investigation, I think.

And, I mean, you had worked with Mr Maguire for some time.---Correct.

Would it be right to describe him as fairly shattered at that stage?
---Absolutely. Yes, yeah.

And he just wanted to give it away and get out of the place?---Correct.

30 And he basically, from his perspective, rightly or wrongly, had come to a view that he had been abandoned to some extent by his party and that he just wanted to get away from parliament?---Correct.

And did he ask you to locate any other items that might have belonged to him during his career in parliament, leaving aside the hard drive, but any other items in the parliament, some particular souvenirs or something that might have been there?---Not that I recall but he could have.

40 And are you aware of previously when a member's left parliament of a returning of a hard drive to them from their computer?---Not, not that I'm, I'm aware.

But Mr Maguire's attitude is that he wanted to get out of the place, is that a fair statement, he was over it?---He was, yes, he was over it, yes.

And when you've had the telephone conversation about the hard drive, could it not be the case that Mr Maguire's disinterest in receiving the hard

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drive is because he just didn't want it?---That's, that was his words, he didn't want it and lost it in the post.

Yes, but he didn't want it, not necessarily for the purpose of destroying evidence, but he just didn't want to have anything to do with the parliament, the hard drive or anything else from his time in parliament?---Yes. That's, yeah.

10 So when he had that conversation with you, and you raised what to do with the hard drive, he didn't actually tell you that he wanted to destroy it, did he?---No, he didn't say to destroy it, no.

Is it not really the case, and I know my learned friend's asked you a number of questions on this, that what he is saying is, "Look, I don't care anymore, I don't want it"?---Yeah.

Would that be - - -?---That would be fair.

20 Would that be a fair way of construing that conversation?---Yes.

Rather than a direction to you to get rid of it?---Correct.

I've got no more questions on that point, Commissioner. I might just ask a couple of questions completely unrelated very shortly, just in terms of expenses, matters which I put to Ms Hatton yesterday.

THE COMMISSIONER: Yes.

30 MR HARROWELL: During your time working with Mr Maguire, Ms Cartwright, where expenses were incurred, for instance for G8way, were they ever charged to his parliamentary entitlements?---Not that I'm aware of, no.

If there were expenses that you incurred, for instance, I don't know, collecting passports, for instance, would he pay for that or would that come out of a parliamentary allowance?---He didn't, he would pay for it or my, I got paid by Phil Elliott, I haven't been paid by Daryl Maguire.

40 So that was actually not directly anything to do with Mr Maguire, that was Mr Elliott asked you to collect those passports?---Yes.

And I think you gave evidence earlier today that you did that in your own time?---Ah hmm. Correct.

Now, were you aware of any – there's been a lot of questions asked of you regarding Mr Maguire's business activities.---Ah hmm.

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To your knowledge, at any time were you aware of costs relating to Mr Maguire's business activities which were charged to the parliament or to his parliamentary allowances?---Not that I was aware, no.

I have nothing further, Commissioner.

THE COMMISSIONER: Thank you, Mr Harrowell. Mr Pintos-Lopez, did you want to ask any questions?

10

MR PINTOS-LOPEZ: Commissioner, I may, but if I might, I think consistent with at least one of the previous counsel, ask for a short adjournment if I might be able to confer with my client. I haven't been in a position to speak to her about the events since the 1 o'clock adjournment so
- - -

THE COMMISSIONER: Very well. How long would you like, Mr Pintos-Lopez?

20 MR PINTOS-LOPEZ: Might I be permitted 10 minutes, if that's possible?

THE COMMISSIONER: Yes, yes, by all means. We'll adjourn for 10 minutes.

SHORT ADJOURNMENT

30 THE COMMISSIONER: Please be seated, Ms Cartwright. Yes, Mr Pintos-Lopez.

MR PINTOS-LOPEZ: Thank you, Commissioner. I just have a few questions in relation to the issue of the hard drive by way of re-examination if the Commission permits.

THE COMMISSIONER: Yes.

40 MR PINTOS-LOPEZ: Ms Cartwright, you gave some evidence earlier that the hard drive that has been the subject of some questions from Counsel Assisting, that that hard drive was provided to you by Parliamentary Services or someone from the IT section of parliament. Now, when Parliamentary Services provided the hard drive to you, what, if anything, did they tell you about the hard drive?---That it was a copy of Daryl Maguire's computer.

And what was your understanding then of the computer itself and the original files?---The parliament has, has the files.

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Now, Ms Cartwright, you were asked earlier whether you – and I do apologise to my learned friend if I misstate the propositions that were put, I don't have a transcript – but I think the proposition that was put was that, I think you were asked earlier by Mr Robertson whether you deliberately held onto the hard drive in order to keep the documents from bodies such as the Commission. Do you recall saying something that effect?---I do recall that, yes.

10 And you said, "Yes," I believe.---I did say, "Yes."

Now, why did you say, "Yes," Ms Cartwright?---I felt pressured.

And why did you feel pressured?---Because I, I, I just felt pressured that that's the answer because they weren't listening to what I was saying. I didn't try and hide anything. I, I kept the hard drive and that's it.

20 And, Ms Cartwright, you have an opportunity now to say to the Commissioner what was going through your mind at the time. What was your reason for holding onto the hard drive?---The reason I was holding onto the hard drive was that Daryl didn't sound in a very good state of mind, that he wanted to lose it in the post. I thought that that didn't seem the right thing to do, so I kept the copy of the computer, but it wasn't to keep it from anybody, it wasn't to keep it from anybody. I just kept it.

Nothing further, Commissioner.

30 THE COMMISSIONER: Thank you, Mr Pintos-Lopez. Anything arising, Mr Robertson?

MR ROBERTSON: In answer to one of the questions that you were just asked you referred to the feeling of being pressured. Do you remember giving that answer?---Mmm.

Pressured by who or by what?---By what you were saying, I just, I just felt pressured.

40 I understood you to be saying, but perhaps I got this wrong, you felt pressured to keep the hard drive and not disclose it to the Commission. Is that right, or are you talking about pressure in a different sense?---Pressure talking about it here and I felt pressured here.

I see. You felt pressured to answer the question a particular way?---Yes, yes.

In light of the questioning that happened before lunch?---Yes, yes.

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And so are you saying that you've now reflected on the answers that you've given, in particular before lunch, and you now have a different answer that you want to give to the questions that I asked before lunch. Is that how we should understand that piece of evidence?---With regard to the hard drive that Daryl wanted to get rid of it, my understanding was not that he wanted it destroyed, he just didn't want it, but that was my understanding on the hard drive.

10

So I thought where we got to before lunch, and I think what you're saying is you want to correct your evidence from that which you gave before lunch. Is that what you're saying?---In regards - - -

Or at least clarify your evidence from lunch?---Yeah, clarify, yeah, to clarify, yes.

20

And so what, you're saying that – I withdraw that. Your recollection is that Mr Maguire said to you, as it were, "Don't put it in the post because it might get lost in the post."---Yes.

So that remains your evidence. Is that right?---Yes, that's correct.

And I thought where we got to at least before lunch was that you understood the message that Mr Maguire to be communicating the idea that he wanted the hard drive to, as it were, disappear. Is that where we got to before lunch?---I said that he didn't want it sent to his house. That was what he said. That's what he didn't want, he didn't want it sent to his house.

30

But I think where we got to before lunch, and I'll come back to what you've said in answer to your counsel's question, but before lunch I think where we got to was you understood Mr Maguire to be saying, "I don't want the hard drive to see the light of day." Is that right?---Well, not, no, that wasn't the words. He just said he didn't want it sent, posted to - - -

40

But have I fairly summarised the evidence that you gave before lunch? I'll come back to the evidence in the last five or 10 minutes or so, did I understand or did I misunderstand what you said before lunch?---He didn't want to see the, he didn't want the drive, the hard drive sent to him. That's my understanding. I - - -

I'll deal with this in parts and I want to deal with this completely fairly to you, so let me deal with it in parts. You've reflected over lunch on some of the answers that you gave in response to the questions I asked you before lunch. Is that fair?---Yes.

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And what you want to say is that, having reflected on them, some of the answers that you gave before lunch you want to revise. Is that the idea?
---Correct.

So having reflected on the matter, is this right, you now say that, as you understood the conversation from Mr Maguire, he just didn't want the hard drive but there was no further suggestion beyond that?---That's correct. He
- - -

10 Is that your honest evidence?---He said he didn't want it, he said he didn't want it posted to the house.

I want to suggest to you that the evidence that you gave before lunch was the truth. In other words, you understood the position to be that Mr Maguire didn't want the hard drive to see the light of day, and that's why you didn't draw that hard drive's attention to this Commission until the very last moment. Would you agree with that or disagree with that?---But the - can you ask the question again, sorry?

20 I suggest to you that Mr Maguire made it clear to you in the words that he used and the way in which he communicated them to you, that he wanted to keep the hard drive away from this Commission and anyone else who might investigate him. Do you agree?---That's not what he said though. I - - -

No, listen carefully to my question. He made it clear to you, both in the words that he used and the way in which he delivered them, that he didn't want that hard drive to be seen by this Commission or any other organisation that might investigate him, do you agree? It was what you understood Mr Maguire to be communicating to you during the
30 conversation about the hard drive. Do you agree?---I agree that he didn't want - it's a, it's a copy of his computer. It's - - -

What's the answer to my question, then?---I agree that he didn't want, that he wanted to see it, but - - -

I'll put the question again. Mr Maguire made it clear to you, in both the words that he used and the way in which he delivered them, that he wanted you to ensure that the hard drive would not be seen by this Commission or by anyone else who might choose to investigate him. Do you agree?---I
40 agree he didn't want anyone to, I agree he didn't want anyone to see it, but it was a copy of whatever was on his computer.

THE COMMISSIONER: What distinction is that, Ms Cartwright? I don't understand.---The copy of the computer, the, it, it still belongs to Parliament House, and there's still access to the computer even though he had a copy of it. So he'd still, so it doesn't matter if he's got that copy or not, there'd still be access to his computer or files on that parliament.

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MR ROBERTSON: Well, can I ask you about that. You said, in response to one of the questions asked of you by your counsel, my note was, "Parliament has the files." The context, you were in effect saying, well, there must be another copy of the file somewhere else. Was that what you were seeking to communicate?---Yes, yes.

What was the basis on which you thought the parliament has the files and that this hard drive was merely a copy?---I, I (not transcribable) yes - - -

10 Why did you think that? Who told you that or what was the other basis for you to think that?---That'd be, they had said in the email from the IT that it's a copy of the - - -

So are you saying you understood from that email that it was a copy of the hard drive rather than the original hard drive, correct?---It's a copy, yes.

And are you also saying you understood from the email, not only was it a copy of the original hard drive, the data on the original hard drive would be kept by someone within the parliament.---Correct.

20

You took that knowledge from the email that you've referred to. Is that the idea?---That's, yes. Because it was a copy (not transcribable)

Not from any other source of information?---That's a copy.

The email, as you recall it, is communicating to you a couple of things. First, there's a hard drive that's going to you because Mr Maguire has asked for it, correct?---Yes, correct.

30 But also that what's being provided is a copy of data that the parliament is going to keep rather than destroy. Is that what you're saying?---Yes.

So back to where, back to the question from before. I just want to be clear, to be entirely fair to you in relation to the proposition.---Yep.

40 Do you agree with the proposition that, in the words that Mr Maguire used and the way in which he delivered them, he made it clear to you that he didn't want that hard drive – in other words, the hard drive that you maintained possession of – to be accessible to this Commission or anyone else who might investigate Mr Maguire?---No, it just didn't, I just, he didn't say that. He said - - -

No, no, no. No.---I know but he - - -

I'll put the question again. Do you agree that, in the words that Mr Maguire used but also in the way in which he delivered them, he made it clear to you that he wanted you to ensure that that hard drive was not made available to

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this Commission or to anyone else who might choose to investigate it?---It was not made available to anyone. Yeah, not, it was, yeah.

Well, not made available to anyone, including anyone who, like the Commission, might choose to investigate it. Is that right?---Yes.

And that's why you didn't proffer up to this Commission the fact that you had that hard drive until the very last moment, when I was completing my examination of you, is that right?---Sorry, say that again. I - - -

10

Mr Maguire's request of you explains why you have had that hard drive for a significant period of time, including in circumstances where you knew that this Commission was investigating Mr Maguire, and because of the request of Mr Maguire you decided not to volunteer to this Commission that you had material that might be relevant to this Commission's investigation. Do you agree?---I, I, I wasn't keeping it to not – sorry. Ask the question again, please?

I'll ask it in a more open fashion.---Yep.

20

Why didn't you volunteer to this Commission, when you participated in a compulsory examination in November of, before this Commission, why didn't you volunteer the fact that you had information that may be relevant to the Commission's investigation?---Because it was – I can't even remember the – because it was a copy of the, of his computer.

But at the time you participated in the compulsory examination, you knew you still had possession of the hard drive, correct?---Yes.

30

You didn't forget about it?---I, I had forgotten about it for a while, yeah. I did actually.

You're not suggesting that when you were here before the Commission in a private hearing that you forgot that you had the hard drive, surely?---No.

You knew about that when you were sitting in the same seat - - -?---Yes, yes, yes. I did know that.

- - - being asked questions by someone other than me, correct?---Correct.

40

So why didn't you tell the Commission, "Look, I have this hard drive. It might possibly assist you in your investigation"?---I can't answer that question why I didn't.

Is the reason that you didn't do it, you thought there might be information on the hard drive that may implicate Mr Maguire and you wanted to take steps to avoid Mr Maguire being implicated?---Possibly, yes.

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Well, not possibly yes. The answer is yes, isn't it?---Yes.

THE COMMISSIONER: And you were complying with what you understood was Mr Maguire's request of you, that in respect of what you received from the Parliament House IT, you not disclose that in effect to anyone in the world?---I'm very sorry, Commissioner. Could you say that again, sorry?

10 Sure. What I understand you were doing until shortly before lunch, when you were asked questions about any communications you'd had with Mr Maguire in recent years, insofar as this hard drive was concerned, you were complying with what you understood was his request of you, that that hard drive, including its very existence in your possession, not be disclosed to the world?---Correct, yep.

MR ROBERTSON: Ms Cartwright, the evidence that you have given since the last adjournment, has that been your honest evidence?---Correct.

20 And you're not suggesting that you have been pressured following the adjournment to give any evidence of a particular kind, correct?---Correct.

Thanks, Commissioner.

THE COMMISSIONER: Very well. As I understand it now, Ms Cartwright, there are no further questions of you today but I will not be discharging you from your summons. It is possible that you will be required to appear before the Commission again in the course of this investigation. So you may stand down now.---Thank you.

30

THE WITNESS WITHDREW

[3.59pm]

MR ROBERTSON: Can I deal with two housekeeping matters?

THE COMMISSIONER: Yes, Mr Robertson.

40 MR ROBERTSON: First, after saying on multiple occasions that today will be an early day, that had proven to be entirely incorrect, of course. I intended to tender material from Mr Tse, T-s-e, this afternoon. That plainly won't be possible given it's 4.00pm. There is a full load of witnesses both for Thursday and Friday so Mr Tse's evidence is unfortunately going to have to fit around other evidence.

THE COMMISSIONER: Yes.

MR ROBERTSON: So the program for Thursday and Friday is likely to be as published, assuming no other complications. The other matter I just raise

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generally is in relation to the hard drive itself. As I understand it, steps are being taken at the moment to obtain an image in relation to the hard drive to, as it were, secure that particular data. As I indicated immediately after lunch, it's conceivable that claims may be made in relation to parliamentary privilege. I don't seriously suggest there will be or will not be. I raise that now and I raise that publicly because it's possible, I suspect unlikely, but it's possible that my learned friend, Mr Harrowell, might wish to be heard in relation to that matter on behalf of his client. I simply raise that because if there is some application to be made, that should be made promptly and probably in writing. I'll have a separate discussion with him in relation to the mechanics of that exercise, but I thought it would be appropriate to raise that matter because there may well be data that needs to be deployed in the public inquiry, and obviously enough we'll be taking steps to ensure the public inquiry itself is not delayed while that analysis process takes place.

10
20
THE COMMISSIONER: Yes, thank you, Mr Robertson. Mr Harrowell, I assume you will have already obtained – and I don't wish to myself breach any form of privilege between you and Mr Maguire, but no doubt you'll be taking instructions from him as to the matters which occur today, and as Mr Robertson intimated, if you have any application which you wish to bring forward on his behalf in relation to it, I'd ask you to notify Ms Clifton in writing as soon as possible.

MR HARROWELL: Yes, yes, Commissioner.

THE COMMISSIONER: Shall we adjourn till tomorrow morning, Mr Robertson?

30
MR ROBERTSON: May it please the Commission.

THE COMMISSIONER: The Commission is now adjourned.

AT 4.01PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.01pm]

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