

# TRANSCRIPT OF PROCEEDINGS



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## SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

### THE HONOURABLE CHIEF JUSTICE MCCALLUM AND A JURY OF SIXTEEN

SCC 264 of 2021

DAY 3

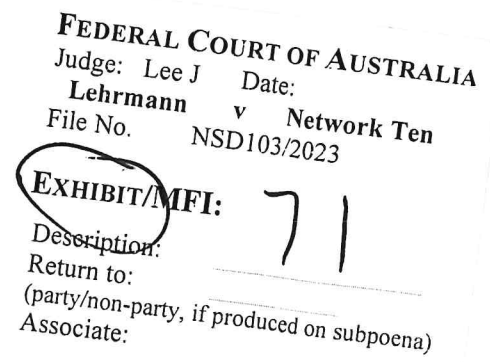
DIRECTOR OF PUBLIC PROSECUTIONS  
and  
BRUCE LEHRMANN

CANBERRA

10.02 AM, THURSDAY, 6 OCTOBER 2022

MR S. DRUMGOLD SC with MS S. JEROME appeared on behalf of the Office of the Director of Public Prosecutions.

MR S. WHYBROW with MS K. MUSGROVE and MR B. JULLIENNE appeared on behalf of the Accused.



So could you perhaps orient us with regard to the plan?---In relation to the map, it's the space in between the minister's office, 8E1.402 and the ministerial offices office 83.1.407.

5 So 71. If we have a look at the – where the double doors on 8E1.402 are effectively those double doors and we're on the outside of the ministerial office?---That's correct.

10 Thank you and that signage, this is photo 72 23.3 is the picture?---I'm not exactly sure. I didn't pay attention really to the individual little glass room point numbers but I think it might be either the ministerial – I think it's the minister's office from the picture.

15 Thank you?---That's the minister's office.

So that's photo 73. If we could just go back a couple?---Of course.

20 So there photo 71, we can see a fairly distinctive picture and there's a sign on the left?---M'mm.

And if we could go one further, that appears to say the same distinctive picture?---Yes.

25 So it looks like 23.3 is actually outside of the minister's office itself?---Yes.

So this is photo 73. This is looking through the double doors of the minister's office?---That's correct.

30 We will talk about it more but you referred to the event occurring on a lounge. That's the lounge, is it?---That's correct.

And if we could just go back one, 74, that desk on the left is the minister's desk?---That's correct.

35 And the little round table just, what is that? That just belongs to her?---Yes, that's just the minister's personal meeting table.

40 But just to be clear, 74 appears to be 8E.1.402 on the map?---That's correct, yes.

Thank you. 75 just appears to be a close-up of the lounge?---M'mm.

76 – now, that's the minister's office also?---That's correct.

45 Now, we see a man – if we could go back one – we see a man at a door and if the next picture the door appears to be closed?---M'mm.



Where is that door on the minister's office?---So it's the other side of the minister's office and it sort of attaches itself to ministerial offices office 83.1.408. It's just like a straight walkway through essentially if you don't want to go through the big double doors.

5 And if I haven't said, that's photo 77. Now, if we could go to the next, 78. Photo 78, again to be clear, that's the lounge in the minister's office, is it?---Yes.

10 And the next one. That just appears to be a close-up. That is the table that we saw but a close-up of the table in the minister's office?---Yes.

15 Okay, the next one and now this appears to be the minister's office but from back to the window looking back towards the double doors that head out from the minister's office into the ministerial offices office facing that direction?---That's accurate.

20 Now, we see a bathroom, what appears to be the outside of a bathroom. Can you orient us as to where that is?---Of course. It's right beside the minister's desk and it's her private bathroom. So it's labelled Bathroom 8E1.404.

So 81 appears to be taken from back where the words 8E1.5.70 Cabinet Recess appears to be, but looking into the bathroom. Is that correct?---Yes.

25 And that is photo 81. Thank you. We see a shower at 82. Is that inside the bathroom?---Yes, that is.

30 And with regards to the map it doesn't sort of show a shower. Where in that diagram that says Bathroom 8E1.404 is that shower?---On the lefthand side.

Bottom or top?---Like, you walk in, there's a bit of a space and it's on the lefthand side. So, I guess if I'm orientating myself it is that longer part in the bathroom picture/diagram, the lefthand side.

35 I see. So we see what appears to be two recesses - - -?---Yes.

- - - backing on to the ministerial officer's office, but in the bathroom. Is that all shower, that - - -?---Yes, that longer part is the shower.

40 Okay.

HER HONOUR: Does anything turn on this, Mr Prosecutor?

45 MR DRUMGOLD: I don't know, your Honour. The jury – I can't predict what the - - -

HER HONOUR: I just think for some of these matters you could probably take a short course.

MR DRUMGOLD: Yes.

5

And if we go to the next one. Now, that is a sink in the minister's office – in the bathroom in the minister's office. Is that correct?---Yes, that's correct.

10

And where is that in the bathroom?---Directly beside the shower.

15

Thank you. Eighty-four appears to be a close up of the lounge again in the minister's office. Eighty-five is another photo of the lounge in the minister's office. Eighty-six appears to be another photo inside the minister's office that is self-explanatory. Eighty-seven again is inside the minister's office, just from a different perspective. Now, 88 appears to be the lounge – the lefthand side of the lounge with a tape measure. Eighty-nine appears to be a close up of that, as does 90, as does 91. Now, 92 appears to be the close up – if I am looking at the lounge, the armrest on the lefthand side of the lounge as I'm looking at the lounge?---M'mm.

20

Or if I'm sitting on the lounge it is the righthand side of the lounge. I will have to get you to verbalise the - - -?---Yes, that's correct.

25

Thank you. And 93 seems to be the – if I'm sitting on the lounge, the lefthand side of the lounge?---Yes, that's correct.

I am just going to pause there?---M'mm.

30

Now, at the point that you gave evidence in your evidence-in-chief interview - - -?---Yes.

- - - that you were woken up with a pain in your knee, when you realised the accused was having sex with you - - -?---Yes.

35

- - - where was your head? If we could go back to seven - - -?---It was on that cushion. It was - - -

40

On that cushion?--- - - - orientated that way and my face was looking out at the windows.

And that cushion appears to be wider than the width of a head. Whereabouts on that - - -?---Was my head?

45

- - - cushion was your head?---I was jammed up into the corner, so I would say probably right – right in that corner, right in between sort of the headrest and the armrest. I was jammed up.

So where the back of it is, you say you were jammed up between the armrest and the back of the lounge?---Yes.

5                   Where were your legs at that stage?---Spread open.

Do you remember where your left leg was?---My left leg was my outside leg and it was pinned open. The other one was pinned up open closer to the couch and half bent up, so I was fully exposed.

10               Was your left leg on the lounge or off the lounge?---It was on the lounge. It was pinned down in between his leg – or his knee and the actual couch itself.

15               And your right leg?---Was pinned up beside – like, I was like a prop pinned into that corner and my leg – one was flattened on that side and the other one was pinned up on the couch on that side.

And you said you felt pain in your leg?---Yes.

20               Which leg?---The outside leg. The one that he had down.

So that would be your left leg?---Yes.

25               And that was between some of his body part and the lounge. Is that correct?---Yes.

If we could move through that. So, again, if we are looking at photo 94, your head is pointing toward where that power point is and where the door is?---Yes.

30               If you could move forward. Sorry, that was photo 94. Photo 95 just appears to repeat the same photos of the office. Ninety-six again, 97 again, 98. Now, this photo, 99, where is that in the office space?---In the office space that is from the minister's officer's perspective looking out through 8E1.408 through into the support staff broader area, which is 8F1.209.

35               So - - ?---And you're looking all the way through to the outside exit, which is the little slip door.

40               So photo 99 is taken from inside the minister's office, looking toward the support staff area through the ministerial officer's office. Is that correct?---That's correct, yes.

45               If we could move to the next one. 100 is the same. 101 is the same. 102 is closer and 103?---Yes, so that's the inverse of what we just saw but now we're in support staff 8F1.209.

Now, in your evidence-in-chief you spoke about – I will just try and find the precise words. I am going to ask you questions about you entering the minister's office and what occurred?---M'mm.

5 I'm sorry, I can't recall where the question was. But immediately on entering the minister's office where did you go?---We've clearly walked through the Reception waiting room and I recall sitting on those ledges, looking over into the Prime Minister's courtyard by myself for a period of time.

10 That is what you said. You said you went into the staff support area and remember sitting on the ledge. Do you know where Mr Lehrmann was then?---No. To my understanding, he was gathering whatever he said he was picking up - - -

15 Could you - - -?--- - - - so I was by myself.

With regards to the plan could you perhaps tell us where Mr Lehrmann would normally sit to work?---He had sort of like a – so in support staff 8F1.209 he had put three desks together in the back corner. So he had a  
20 whole back section to himself.

And where was that located?---Directly sort of – the whole space directly opposite the sort of corresponding – where the lift is. He had that whole back section to himself.  
25

So on the back end of the lift or the side of the lift?---The lefthand side of the lift. If you just imagined there was like two desks put out and one desk down, he had that whole back corner.

30 So effectively between the left – as we're looking at that right way up, the lefthand side of the lift and window - - -?---M'mm.

- - - but next to the lift was his desk?---Yes.

35 Is that correct?---They were his desks.

And if we could go to the next photo. Do you recognise that space?---From that orientation I think it is ministerial officer's office 831.80 – 408.

40 Okay?---But I didn't spend much time in there.

So that is within that little office that we walked past?---Yes, we walked through it.

45 Okay. If we can go – sorry, if we could just go back. I just want to go back to the support staff area. So are you in a position to say which ledge you sat



on to overlook the - - ?---I really believe it was the second one, or I sat on the second one.

5 Right. The second one being – if we look from the door from the ministerial officer's office there is one ledge and then there is a second ledge with a pot plant on it?---Yes, that's correct.

10 Right, you think you sat on the one with the pot plant on it?---Yes, because it had a clear view of all of like the other supportive desks and I was sitting by myself on that ledge for a period of time.

Again, you do not remember where Mr Lehrmann was at that stage?---I just assumed he was collecting whatever paperwork he said he had to get.

15 Thank you. If we could move on. Again, we seem to have a space outside the minister's office. We have seen the boat oriented before –or the ship, sorry. That is it. Okay, thank you. I tender those photos, your Honour.

20 MR WHYBROW: There is no objection, your Honour.

HER HONOUR: Is that C?

MR DRUMGOLD: D I think we are up to.

25 HER HONOUR: D. The photographs will be Exhibit D.

#### **#\*EXHIBIT D - PHOTOGRAPHS**

30 MR DRUMGOLD: Now if we could move back to the CCTV. I am just – we are just about to see Mr Lehrmann leave and then I will – we will get to you leaving.

35 **AUDIOVISUAL PLAYBACK IN COURTROOM [10.51 am]**

40 MR DRUMGOLD: Now is that the gate that you would normally come through from the outside?---Yes, after hours, absolutely.

Now I will just get you to identify – this is you leaving at 10:01:37?---Yes, the next day.

45 You spoke of getting a jacket from the Goodwill and putting it over your shoulders. That is the jacket that you referred to?---Yes, that's correct.

Thank you. Do you know what are you were doing there? You just approached the table?---I think I would have – I don't remember but I believe I placed the pass that I temporarily would have had and handed it back. That would be my belief.

5

Thank you. Now for your benefit, we are going to see you – this is - there is a pedestrian crossing with somebody walking across it at 10:03:49 and that is you standing on the right-hand side near what appears to be a bus stop, is that correct?---Yes, that's correct.

10

What are you doing there?---Waiting for my Uber to come.

Where were you when you called the Uber?---Inside. I had to charge my phone because it had died so I was inside the office and I had booked it as soon as I could and I wanted to get out of there.

15

Now do you know what you are doing there? Are you doing anything with regard to your phone there?---I don't recall doing anything. I think I was just waiting for my Uber.

20

HER HONOUR: We are all waiting for the Uber, Mr Prosecutor.

MR DRUMGOLD: Yes, I am happy to fast forward that, your Honour, and I - okay, and the Uber appears to have arrived. The entire CCTV will be tendered so if it becomes a question for the jury how long and what occurred during that period the jury can determine how long the wait for the Uber was.

25

**AUDIOVISUAL PLAYBACK CONCLUDED**

**[10.55 am]**

30

MR DRUMGOLD: Thank you. I tender that compilation, your Honour.

HER HONOUR: It will be Exhibit E for echo.

35

**##EXHIBIT E - VIDEO COMPILATION**

MR DRUMGOLD: Now I am going to show you a photo. Now what are we looking at there?---My outside leg, my left leg.

40

Your outside left leg?---Yes, I believe so.

When did you take that photo?---It was the week of budget which was a week after the assault.

45

If this night was Saturday, the 23rd – the early hours of Saturday, 23 March - - -?---Yes.

5       - - - the next week started 25 March to 29 March. Is that the week you are talking about?---I believe so, yes. I just remember it being the day before budget and I took a photo because it was still there and I – yes.

10       Do you – what sort of – well let me ask it this way, are you in a position to estimate how many days after the 23rd of – well, including 23 March how many days after that?---It would be around five.

Around five days.

15       HER HONOUR: Mr Prosecutor, could you just clarify, it is not clear to me and it might not be clear to the jury, whether what is shown is the inside of the thigh or the outside because the outside then the photograph, if it is the left leg, is in mirror.

20       MR DRUMGOLD: Yes.

HER HONOUR: If it is the inside, then it makes sense.

25       MR DRUMGOLD: Can we perhaps clarify, is that the outside or the inside of your leg?---If I was laying down it would have been - - -

MR WHYBROW: Object to that, your Honour. That is not the question.

30       MR DRUMGOLD: Perhaps it would – if I could ask the witness to stand and show on her leg where that bruise is, where that mark is.

35       HER HONOUR: Yes. Ms Higgins, you do not have to show your leg just on your clothing if you wouldn't mind, please?---Okay. Yes, of course. It looks like in that photo that it's taken on this leg but when I was assaulted I was pinned down on this leg so it looks like the bruise is more so on this side than this side.

Are you accepting that that photograph shows your right leg?---It does. It shows that leg, yes.

40       MR DRUMGOLD: Do you know when you sustained that bruise?---I assume during the course of the assault.

Thank you. I will tender that photo, your Honour.

45       HER HONOUR: Exhibit F.

**##EXHIBIT F - PHOTOGRAPH OF COMPLAINANT'S LEG**

5 MR DRUMGOLD: Now you subsequently provided the dress that you were wearing that night to the police. Do you remember when you did that?---The moment I handed over – I handed them a USB filled with all this audio stuff and I handed them the dress at the same time and that was prior to going public, early 2021 in February.

10 After the complaint was re-enlivened, is that correct?---Yes, that's correct.

I will just get you to identify this as being the dress?---Yes, that's the dress.

15 Okay. But this is some two years after the event, is that correct?---Yes.

I will tender that, your Honour.

HER HONOUR: Exhibit G. No objection, Mr Whybrow?

20 MR WHYBROW: I would ask that – it might as well be done now, there is two photos of the dress, the back and the front, so.

MR DRUMGOLD: Yes, I am indebted to my friend, so this - - -

25 HER HONOUR: Did he say you want them marked separately?

MR WHYBROW: No, no, I am happy. I just want them both.

30 MR DRUMGOLD: Yes. This appears to be the back of the dress. We see a zip. Is that correct, that is the back of the dress?---M'mm.

And if we rotate that around, that appears to be the front of the dress?---Yes.

35 Yes, thank you. I will tender that.

MR WHYBROW: There is no objection, your Honour.

HER HONOUR: Exhibit G.

40

**##EXHIBIT G - PHOTOGRAPH OF FRONT AND BACK OF DRESS**

45 MR DRUMGOLD: Now, between when you wore it in the early hours of 23 March 2019 and some two years later when you handed it over to police, what happened with the dress during that period?---I kept it under my bed in a plastic bag for a good six months, untouched, uncleaned; I just had it there.



And I felt – I wasn't sure because of all the party political stuff whether or not – how I could proceed or if I could proceed without losing my job and so I kept it there. It was like this weird anchor for me. And then once it was very clear that I couldn't proceed and maintain my career, I very symbolically washed the dress and I wore it once more, and then I've never worn it since.

Until you handed it over to the police?---That's correct.

Yes, thank you. Now, I am going to show you some text messages.

For your Honour's benefit and the court's benefit, they are already produced at Exhibit A, but your Honour will note that the SMS exchanges with Mr Dillaway at Exhibit A that were shown to the witness during her EICI did not have dates. These exhibits have dates for exchanges.

HER HONOUR: Have you seen those, Mr Whybrow?

MR WHYBROW: I haven't seen what is being tendered. There is probably no problem. Can I just have a moment? It is not – there is a whole lot more in there.

HER HONOUR: Perhaps to assist Mr Whybrow, Mr Prosecutor, you could lead evidence as to how those dates came to be included in the printout.

MR DRUMGOLD: Yes. So the exhibit shown to the witness from – during her EICI were actually extracted from a phone and you have to slide it across to see the date and the time. This is the email exchange extracted from a Cellebrite report from a report from the phone, so it specifically has the date and the time taken as compared to the phone.

HER HONOUR: It is from the Cellebrite extraction?

MR DRUMGOLD: Yes, it is from the Cellebrite rather than from the phone.

HER HONOUR: Does that assist, Mr Whybrow?

MR WHYBROW: No, the only difference I understand is the very first page shows the very first message between Mr Dillaway and Ms Higgins, and then it is a replication of Exhibit A. There is no objection, your Honour.

MR DRUMGOLD: Yes, thank you. I am indebted to my friend. If they could just be shown to the witness first.

Now, I am going to ask you some questions about an exchange with Mr Ben Dillaway. You know Mr Ben Dillaway?---Yes, I do.

Okay. Who is Mr Dillaway?---He's an ex-boyfriend of mine who used to

So the day after is a Sunday?---I meant on the Monday.

On the Monday?--- The next time I saw him.

5

So he purchased you a coffee?---Yes.

And then we have these email exchanges, one at 7.33 am?---Yes.

10

And the next one you responding at 1.15 pm?---Yes.

Whereabouts in that exchange did the coffee purchase occur?---I believe it happened mid-morning. I – yes, it happened mid-morning.

15

And I'm sorry, they are all out of sequence. At page 14, we go back to Friday. Again there's an exchange of Friday that appears to relate to the email at 1. 'Did you get these' at 9.39 am on page 1 and page 14 appears to be, 'No, feel free to forward them on'?---M'mm.

20

And that's a response to that?---Yes.

And then we go to page 17, 'Will do' from Mr Lehrmann to you and you understood that to relate to will forward them on?---Yes.

25

And then at 10.29 am in the middle of those exchanges, you seem to send him - - -

HER HONOUR: Sorry, Mr Prosecutor, you said, 'in the middle of those exchanges'. The pages are out of order.

30

MR DRUMGOLD: Yes, they are.

HER HONOUR: It starts on the Friday, 'Do you get these? No, I don't. I'll send them to you' and it ends on the Monday.

35

MR DRUMGOLD: That's the Monday.

HER HONOUR: The jury just needs to be notified that they weren't sent in the order in which you went through them.

40

MR DRUMGOLD: Now – yes, the – I apologise for that. Then we go to the single exhibit which is Exhibit K which is the following Tuesday and this is – as we will get to in a moment, this is the day that you were ultimately spoken to by Ms Brown. Is that correct?---Yes, that's correct.

45

'Hi, Bruce, I'm phoning for a friend. Need some help with the task Drew set me. I'm hoping to utilise parliamentary network to get portfolio stats.

Essentially we are wanting to get state territory one page breakdown'. What are you saying to Mr Lehrmann? 'I'm phoning a friend'?---Yes.

5 HER HONOUR: Words speak for themselves, Mr Prosecutor.

MR DRUMGOLD: Yes so what are you saying there in that email?---I'd been set a task that morning in preparation for the election and he had the most extensive knowledge of everyone's backbench advisers and so in a work context, I needed his help so I reached out to him to get help to do a task that  
10 was set to me by a higher adviser on the minister.

So where - - -

15 HER HONOUR: What does TP stand for?---Talking points.

Thank you.

MR DRUMGOLD: So just to be clear, where it says, 'Hi Bruce, I'm phoning friend', this is an email. What is phoning referring to?---Reaching out asking for his help because it was outside his job responsibility technically to have  
20 to help me but I asked because I knew he was the only one I kind of knew had that network so I did ask.

25 Right so phoning meant email?---It – yes.

Do you remember if you phoned him?---I did not.

HER HONOUR: Mr Prosecutor, the expression 'phone a friend' is quite well known, I think. It's brains trust or phone a friend. It's the three kinds of help  
30 you can have on Who Wants to be a Millionaire. The witness can explain what they mean but I think they speak for themselves.

MR DRUMGOLD: Phoning does speak for itself with respect, your Honour, but this is not a phone call. This is an email.  
35

HER HONOUR: I think that's also clear, Mr Prosecutor.

MR DRUMGOLD: Thank you, your Honour.

40 HER HONOUR: If I may say so with respect.

MR DRUMGOLD: Now, that was the last email exchange that you had with him?---Yes.

45 Did you have any conversations with him on Tuesday?---No, I – it was too hard. I could do it behind, you know, a computer screen but actual conversation and having a real human interaction was too weird. I was trying

to silo myself and just pretend it didn't happen as much as humanly possible and try to normalise the situation. So I think this is the last of our correspondences.

5 Now, can we walk through that Tuesday? You remember Bruce being called into Ms Brown's office?---Yes, yes, that's correct.

And what happened when he came out of Ms Brown's office?---He kind of walked quite quickly into his back corner and seemed to collect his things.  
10 He didn't talk to anyone and then he promptly left out that back slip exit door and he didn't – he didn't say a word to anyone on his way out.

And did it come to pass that you spoke with Ms Brown?---Yes.

15 And this is for abundance of clarity, this is Tuesday, 26th?---Yes, that's correct.

Can you walk us through that conversation?---Yes, of course. So Fiona called me into the Chief of Staff office which you sort of saw before with the glass and she sat me down and she told me that she was aware that the  
20 minister's office had been accessed late at night. At that point, I said, 'yes'. I was full and frank about absolutely I was there. 'I came in. I don't remember really coming in' and then from that point, I unpacked what I – she asked me, 'What do you mean you don't remember coming in' and then from that point,  
25 I unpacked everything that I've told you and I guess on the basis that I'd never vocalised any of this to anyone before, it kind of hit me like a ton of bricks and I had a bit of an emotional moment as I can do when I'm talking about this and it was the first time I had identified it as a sexual assault. I'd already known it in myself but I hadn't – I hadn't vocalised it yet. So I think  
30 vocalising it had this power of just really translating a lived experience to something else, but that was the general gist of our conversation.

So to be clear, on Tuesday - - -

35 MR WHYBROW: Sorry I object your Honour I've got no idea what was said.

MR DRUMGOLD: I'm just about to ask that question?---Sorry.

40 On Tuesday 26 March?---Yes.

What word did you use?---I said assault, I was he was on top of me, I said I was barely conscious.

45 Okay. I'll just show you some exchanges between yourself and Ms Brown via text?---M'mm.



Not the WhatsApp but the SMS?---Thank you.

5 Now I'll just get you to identify that this appears to be a text exchange between yourself and Fiona Brown, the chief of staff, it begins on 19 March to add some context, and then it moves over to the 26th and it's numbered one through six?---M'mm.

Yes, I tender those your Honour.

10 MR CAMPBELL: There's no objection, your Honour.

**#\*EXHIBIT M - TEXT EXCHANGE BETWEEN MS HIGGINS AND FIONA BROWN**

15

MR DRUMGOLD: Now it begins on the 19th, so this is the beginning of the week, this is the Tuesday of the week. Just, so Ms Brown, was she always in this suite?---No she was - she was based elsewhere and she would only come  
20 down usually for sitting weeks, so she was kind of a manager from afar.

So there's some communication between you and her about work related issues about time you get in etc on the Tuesday before you went out?---  
25 M'mm.

And the next exchange appears to be on the Tuesday the 26th at 5.25. Now, sorry your Honour excuse me. Evidence will be led for abundance of caution, your Honour, that 5.25 is UTC, at that time we were eastern standard  
30 daylight savings time, so this will be evidence that will follow, this is 4.25.

HER HONOUR: Do you accept that Mr Whybrow?

MR WHYBROW: No, not necessarily, your Honour. What message we  
35 talking about? No, it might be a TBA your Honour, I'm not going to agree to that just yet.

MR DRUMGOLD: Well we'll - I appreciate that's a pertinent - that's an appropriate position to take, your Honour. We will say that we will lead evidence of the precise time, but for the purposes of this it doesn't really  
40 matter:

Hi Brittany, checking to see how you are. I'm here if you need anything, happy for you to work from home tomorrow or come into the office, let me know.  
45

Had you had a meeting - do you remember receiving that text?---Yes.

Had you had a meeting with her as at that stage?---Yes.

So this post dates the meeting that you had?---That's correct.

5 And you respond, at 5.36 is the time on this, let's say 11 minutes later, "Sorry  
I missed your call, I'm doing fine. Just vocalising things in such a way is  
quite confronting. I'll be in office tomorrow, honestly I enjoy being busy,  
plus there is plenty of work,' et cetera, et cetera. 'Just vocalising things in  
10 such a way is quite confronting.' What do you mean by that?---I was  
referring to the sexual assault because it was the first time I'd gone into  
details about A the night, how I'd got there, and then what happened  
afterwards. And it was the first time I had vocalised it, as I said.

15 And is this the first meeting that you had with Ms Brown in her office?---  
That's correct, yes.

20 Okay, then her response speaks for itself at 5.55. Then at 7.53, this is - now  
we jump two days forward, that's the end of the exchanges between you and  
her on the 26th. Now in that first meeting with Ms Brown, what did you do  
immediately after the meeting?---I think she sent - I got sent home, I cried  
and I got sent home. I was really upset.

25 Did you have another meeting with Ms Brown?---I did, I had a follow up  
meeting and that meeting was very different, initially I felt she was very  
supportive and then it changed very quickly.

30 So on Tuesday the 26th, that's the first meeting and that's this exchange,  
where were you on Wednesday the 27th? Did you work from home or come  
into the office?---From my understanding I went into the office.

Did you have any exchanges with Ms Brown on the Wednesday the 27th?---I  
think - not that I can recall, no. Not the specificities of them.

35 When was your next meeting with Ms Brown that you recall?---I know it was  
that week, I believe - I believe it was the Thursday, and it was - it was  
definitely a lot more formal in tone and at that point it had sort of become  
political and she made me re-sign a code of conduct and there was record of  
that somewhere.

40 All right, so sorry if we could just go back to the 26th, 'Happy for you to  
work from home tomorrow or come into the office.'?---M'mm.

45 It appears from what you're saying - so that was the 26th, referring to the 27th  
- that the option you took was to come into the office. And you don't know  
the date of the next meeting precisely?---Not precisely, no.

But we see on the 28th, which again is the following Thursday, 'I just wanted

to see if it would be okay if I took tomorrow off,' that's referring to Friday the 29th?---M'mm.

5 'To go to a doctor's appointment. I'm currently on top of the campaign, state  
packs' etc, and the rest of that speaks for itself. Walk us through what you're  
saying there?---Yes, I would have this thing I guess because I was in such a  
weird depressive state where I would have all this intention to go out and do  
all these active things to look after myself like go to the doctors. And it  
10 would get to it and I just physically couldn't get out of bed, so the bare  
minimum I could do was get to work, put on a face, go on autopilot and then  
I'd have these collapse days. And I did have intention on that day of going to  
a doctor's appointment, but I was just so broken that I couldn't leave the  
confines of my room. I - I tried to power through it like nothing had  
happened, but I just couldn't. So that's what that was referring to.

15 So did you go to a doctors?---No.

No?---No, I - I had many, many appointments that were never followed  
through.

20 Then we move to what appears to be a response to that, you wanted to take  
tomorrow off, Ms Brown's query, 'Would you like me to say you're working  
from home or away sick for the day'?---M'hmm.

25 Who did you understand her to be referring to? Would you like me to say to  
who?---The broader office, because it was sort of - she didn't want it to be  
known about the actual assault itself, it was about, would you like me to tell  
people you're sick, or are you working from home? She didn't want anyone  
to know what happened.

30 All right. And then you appear to have accepted that invitation to work from  
home?---Yes.

35 Which again would be the Friday the 29th, and do you remember if you  
worked from home on the Friday the 29th?---I believe I did, yes. Yes.

And then she replies, 'Done, see you Monday.' That's Thursday the 28th.  
Then we move forward to - well, I'll wrap these up because there is an  
intervening event that we will get to in a moment?---Of course.

40 We jump over 1 April?---M'mm

45 And Fiona Brown sends you an email, 'Hi Brittany, checking if you're okay.  
I haven't seen you around the office for a while.' Then again on the 7th, 'I  
hope you've had a good weekend' etc. And then on the 7th you respond -  
what happened between the 4th and the 7th?---That first message was - I was  
at work that day. It was the first time I experienced a proper panic attack and

5 so I locked myself in the work bathroom closest to the suite and 123 and I think I was there for about three or four hours, I couldn't leave. I was hyperventilating and so she was in the office that day and was aware that I was somehow not at my desk so that was her contacting me saying, 'Where are you?' The successive message, 'As we discussed' – then suddenly it became a conversation and I felt a lot of pressure about deciding whether I would stay in Canberra or go to WA for the election. The general consensus was if you stayed in Canberra for the election you weren't going to be employed in the new government, that was just the conversation so it was a lot of pressure about 'Are you going to WA or are you staying?' and that was what that next message started to allude to, that's – conversation.

15 Right, and just – I know we are throwing a lot of dates around, but just to orient, the 23rd, a week after the 23rd was 30 March and a week after that was 6 April, so this was – this is – we are just coming into two weeks and one day for that final message. Now, what was the cause of the panic attack?---I think – I don't think. I was in the office suite and I don't know what it was but something about being in the office suite on that particular day or maybe someone referred to him or something but it – something really triggered me inside the office suite and I just – I couldn't breathe and felt like I was having a heart attack but it wasn't and I just had to confine myself in a really small space just to kind of get control, so not exactly sure but I think working in the space where something traumatic has happened is difficult and it does trigger things at different times and I – at that point that was my first real panic attack.

I am going to show you another document?---Thanks.

30 I am doing my best not to jump around but there are documents - - -?---That's okay.

- - - that interlay that we – I am trying to get a date sequence for these things. That is your signature that appears on the cover of that?---Yes.

35 It is acknowledgment of standards – acknowledgement of statement of standards and ministerial staff?---Yes, that's correct.

I tender that, your Honour, and we will ask some questions about it.

40 HER HONOUR: Have you seen that, Mr Whybrow?

MR WHYBROW: Is this the one dated 28 March?

MR DRUMGOLD: That is correct, yes.

45 MR WHYBROW: No objection.



not a fair assumption, but that's just – as someone going into that space the first time after something traumatic had happened there, to then have such an intense and loaded conversation about whether or not I take police action, it – my interpretation was that was quite an adversarial space.

5

And what problems did you – was it your perception that they were communicating to you?---That this could theoretically be perceived in the broader public sense as a political problem for the Liberal Party with women.

10

Now, we are at 1 April here, we are in a meeting. The Prime Minister hadn't called the election at that stage. Were you aware of whether or not that was pending?---Yes, I was already making material and packs and we've known since the moment even Steve Ciobo was let go out of Cabinet that the election was imminent, so we were ready.

15

So I think it ultimately came to pass that the announcement of the election was 11 April and the – it was 10 days after that and the election was called for 18 May. Did you know that level of detail at that stage?---We knew kind of to the week. Like, the week - - -

20

The date of the election - - -?---That it would be - - -

- - - or the date it would be called?--- - - - that week. We didn't know the specific day.

25

Now, evidence will be led that you went and spoke to two federal agents in Parliament House on 1 April?---That's correct.

30

How did that come to pass?---On the basis of what the security breach reported, it naturally triggered a series of events inside Parliament House and the AFP were alerted, which is how I then first came into contact with the AF – or, sorry, not the AFP. I – the police unit inside Parliament House.

35

Yes?---I'm not quite sure what their title is.

What detail did you give to Linda Reynolds and Fiona Brown at that meeting on 1 April?---Pretty – I didn't go into the specificity of that we were at The Dock or that we were at – like, the names of the bars. I said that I was very, very drunk, I was very inebriated, it was the weekend and Bruce and I had came – come through security and that I'd been assaulted on the couch. So the high level detail is what they knew, not like the granular things that are now privy to everyone.

40

45

And I would just like to ask you in as accurate a language the language that you used. I know we have used different languages. You have just used the word 'assault'. Is that the word that you used?---Yes. So, when I would speak with them we would call it 'the assault', but whenever we WhatsApped

or messaged it was always 'the incident', and there was always a very clear delineation when messaging what we said as opposed to when speaking frankly in person.

5 Now, as we have covered, we will lead evidence that you sat and you spoke to two federal agents on 1 April. This is the same day as the meeting with Minister Reynolds in her office?---Yes.

10 You disclosed some detail to them?---M'mm.

And what did they ask you?---I don't recall. At that point after the meeting I'd had with Reynold it – I was – it was all quite traumatic, so the specificity I don't recall.

15 In the general nature were they asking you about a security breach - - -?---No, no, no.

- - - about you attending Parliament House?---No, they were - - -

20 Were they ask - - -?---They were asking about the sexual assault and about the fact that I'd been found by security guards naked and all this non – like, they were asking about the assault.

25 And do you know how they came to be in possession of that information?---Because they have a direct tie between Parliament House security and the Parliament House police unit. They work kind of symbiotically, to my understanding.

30 Right. So that is your understanding. You have no direct knowledge how - - -?---No.

- - - the issue of a sexual assault came to be in Federal Agent Thelning's mind, but they started asking you questions - - -?---Yes.

35 - - - about a sexual assault and not about a security breach?---That's correct.

Okay, thank you. Now, they then referred you to police officers. Is that correct?---Yes.

40 And you remember speaking to police officers from the Sexual Assault Unit?---Yes, that's correct.

45 And walk us through that?---We arranged a time and they collected me from Parliament House. I believe one of them was named Rebecca Cleaves and the other I forget. There were two women.

So Rebecca Cleaves and Kate Thelning - - -?---That sounds correct.

- - - are the two federal agents you spoke to on 1 April 2019 at Parliament House?---Okay. I don't know their names then. Two women picked me up from Parliament House.

5 I don't think it will be disputed, but you spoke – then spoke a week later on 8 April to Detective Senior Constable Sarah Harman and Constable Kristy Anderson - - -?---Yes.

10 - - - and we will hear from both of those people?---Okay.

15 Walk us through that?---They picked me up from Parliament House, they took me to the Belconnen station at Winchester Centre, which specialises in sexual assault in crimes, I think, and I – they gave me the rundown of what lodging a complaint looks like. I spoke in broad details about the assault. It wasn't a formal police statement, but they introduced me to a woman from the Canberra Rape Crisis Centre, they took details about where we were, like, which bars we were at, ascertained sort of who from the group was there, just like basic sort of outline details, and she made reference to the fact – she told me that she was having difficulty getting CCTV footage from Parliament House.

20 Sorry, and I have just jumped over just for abundance of caution – I won't run through the names, but in your evidence-in-chief interview you speak about talking to a number of other people within the office and making that complaint; Mr Payne – Mr Christopher Payne and a couple of others I won't run through because we will hear from them directly, but that was before this event - - -?---Yes.

25 - - - that you had started speaking to them?---Yes, that's correct.

30 Okay. So that meeting of Monday, 8 April, when you spoke to Detective Senior Constable Harman and Constable Kristy Anderson, where did that conclude?---We were discussing organising a formal statement and what that would look like and when that would happen because I had sort of – the election was imminent and so when would the formal statement take place and she undertook to start acquiring footage from The Dock just in case they started taping over things. So she acquired footage and started doing police work.

35 What were you doing – that was Monday, 8 April. There was Tuesday, 9 April and Wednesday, 10 April. What were you doing in those days? I am talking about the two days immediately following talking to Detective Senior Constable Harman and Constable Anderson? Were you at work on those days?---Yes. Yes, I was at work.

40

45

Were you aware that – the election came to pass was called on the Thursday.  
Were you aware that that date was coming?---Yes.

5 When did you become aware that there was an election coming – being called  
on 11 April for 18 May, on and for? On being the day that the Prime  
Minister drives to Government House and says, 'I am calling an election' and  
for meaning the date that they say that the election is being called. When did  
you become aware of the date that the election would be called on?---I  
10 couldn't tell you exactly what day. It was at some point during that week  
because we were already making travel arrangements of Fiona Brown trying  
to send me to WA so that was how I knew it was a – the – in – like  
imminently happening so it would have been – in those text messages when  
she was telling me, 'All right, well this is when we're going' or 'When you're  
going to WA'.

15 Perhaps if I could ask it more directly, on Monday 8 April when you spoke to  
detective senior constable were you aware that on the following Thursday the  
Prime Minister was about to call the election?---I knew probably the next  
week he would be, yes.

20 Right. Now I am going to show you an email that you sent on 10 April.  
Now just to be clear, that is an email – sorry. That is an email headed 'Good  
afternoon, Sarah'. Do you see that?---Yes, yes, I do.

25 I tender that, your Honour.

MR WHYBROW: No objection, your Honour.

30 HER HONOUR: No objection. That will be Exhibit P.

**#\*EXHIBIT P - EMAIL SENT FROM COMPLAINANT TO  
SARAH HARMAN ON 10/04**

35 MR DRUMGOLD: Was that P?

HER HONOUR: P for papa.

40 MR DRUMGOLD: P, thank you. Sorry.

HER HONOUR: As with most email trails, members of the jury, it starts at  
the end and you have to read backwards to the beginning.

45 MR DRUMGOLD: Should just be a single page. Sorry, your Honour.

HER HONOUR: It has got her email and the reply. They can be tendered



together, can't they, Mr Prosecutor?

MR DRUMGOLD: Yes, thank you, your Honour.

5 HER HONOUR: On the second page at the bottom is her email to the police officer and then the police officer's reply is on the first page.

MR DRUMGOLD: Yes, thank you, your Honour. So:

10 After careful consideration I have decided not to proceed.

Sorry, this is 13 April. This is Saturday, 13 April. On the Thursday the Prime Minister had called the election two days before that?---M'mm.

15 What was – what were your concerns there? This – I am asking you why you decided to not proceed any further in regards to the complaint?---I felt pressured from my workplace not to pursue it any further at that time. I'd tried to sort of make other arrangements to see if they'd be accommodating and they weren't and it became really apparent that it was my job on the line  
20 so I toed the party line and I decided not to proceed at that time.

What were the other arrangements?---I asked about Comcare assistance, maybe potentially – I really wanted to try to see if I could work from home during the election, if I could go to the Gold Coast and proceed with my  
25 police complaint while working from at least a home base where I had a community or a support system because I knew if I was just left in Canberra (a) everyone who got left in Canberra didn't get picked up again after the election and (b) I did want to contribute, I did want to keep working but I also wanted to go through the police process and in no uncertain terms  
30 Fiona Brown verbatim told me that if I didn't go to WA that I wouldn't have a job and at that point I'd gone my entire life working for this moment. I'd gone to uni, this was the dream. Like why was I going to let this person take it away from me?

35 I am sorry just for abundance of caution, I have thrown around some dates and I have thrown around some incorrect dates. The Monday, 8 April was the day that you met with Harman and Anderson. Saturday, the – sorry, Thursday, 11 April, the day after that meeting was the day the Prime Minister called the election and this email was sent on the following Saturday,  
40 13 March – 13 April 2019. Now it came to pass that you went to Perth with Senator Reynolds for the course of the election campaign?---Yes.

Can I ask when in those timeframes was that agreed that that is what you would do, you would leave Canberra and go to Perth?---I was still to'ing and  
45 fro'ing with Fiona Brown up until the week of – she was getting quite frustrated with me that I wouldn't confirm with her what I was doing because it was all up in the air, like whether I go to the police, whether I – can I go

home and all – and she wasn't willing and so it only – I think I only gave her a finalised decision maybe a – two days before it was – and then at that point it was all kind of over.

5 That is your decision. The request that triggered that decision, if we – if the election was called on 11 April, so we all knew that the election was coming on 11 April, that was the media announcement, when in relation to that date was the request made for you to leave Canberra and go to Perth for Senator Reynolds' campaign?---I don't have that specific email on me. I don't  
10 recall but I am sure someone does.

Sure. Was it before or after the election was called?---Probably – I believe it was before.

15 Okay. Did you know that you were being asked to go to Perth when you sat down and spoke to Harman and Anderson on 10 April 2019?---I was still trying to negotiate getting home so I was hopeful that we'd find some sort of resolution at work.

20 Yes, I am sorry. At the time – so you sat down with Harman and Anderson on 8 April, I am sorry, and the election was called on 11 April?---M'mm.

I am indebted to my friend for that correction. But it came to pass that you went to Perth?---Yes.

25 What were your functions in Perth?---I was hopping in a few seats that were considered potentially marginal for Ken Wyatt, Steve Irons and just generally helping Senator Reynolds but she didn't like having me around anymore so I didn't see her all that much.

30 Now just to be clear, not all senators are up for election at every election. Is that correct?---That's correct.

35 They split the senate into two and half are up for election in each election. Was Senator Reynolds, to your recollection, up for election on 18 May?---I believe so, yes.

40 Right, okay. You stayed in Perth working until the day of the election and the day after, being 19 May?---Yes.

We have already tendered the email that you sent to Mr Dillaway on 6 May saying 'If you want to maintain your job I can't talk about it'. Was that a reference to this - - -?---Yes.

45 What this dynamic that you are talking about that you felt that there was pressure?---Yes.

MR DRUMGOLD: Yes, court please. I am going to show you two other emails. Yes, I will perhaps pause there. Excuse me, your Honour, for a moment. Thank you, your Honour. Those are the questions.

HER HONOUR: Yes, Mr Whybrow.

**<CROSS-EXAMINATION BY MR WHYBROW**

**[2.13 pm]**

MR WHYBROW: Thank you, your Honour. Ms Higgins, you understand I represent Mr Lehrmann?---I do.

You said a moment ago before lunch that you had retained the dress that you were wearing that night for about six months in a bag under your bed?---That's correct.

Okay, and then as I understand your evidence you said that you had then washed it and worn it on one occasion?---Yes, that's correct.

Do you recall – just going past the dates that the learned prosecutor asked you about, after those emails that were sent on 4 February to the police, police got back to you didn't they?---Yes, they did.

Then on 6 February you and Mr Sharaz attended the Belconnen police station and spoke with the lady police officer who is, in effect, the investigating officer, Emma Frizzell?---Initially there were two other officers but eventually Emma Frizzell was a sort of primary point person.

By that stage, on 6 February, you had already sat down and had the video recorded interview with Ms Wilkinson?---Yes.

Had a number of discussions with Ms Maiden?---Yes.

Were aware that this story was going to be released in the upcoming days?---I didn't know about when but yes.

You advised the police, I suggest, that you had it on good authority that a media article will be published in one and a half weeks?---Yes.

Okay, and you were asked what happened to the dress?---Yes.

You stated as according to the police, so you may disagree, 'She has retained the dress she wore at the time of the incident having washed it only once and has not worn it again.' ?---Yes, I subsequently saw a photo of myself



wearing it one more time and so that statement that I gave to police at that time was incorrect. What I told to you today was correct.

5 You had forgotten that you had worn the dress that you were wearing the night Mr Lehrmann had sexually assaulted you?---I – forgotten's the wrong word. I just mis-spoke to police.

10 Was it a big deal for you to put that dress on again six or 12 months later and wear it out?---I think symbolically, yes, it was.

Can you remember what the occasion was?---I can. It was an event, a Liberal party event/dinner. I don't remember the exact date but I can find the photo if that helps.

15 Yes, I call for the photograph if the prosecution has it at some stage. Now, Ms Higgins, you went to Perth?---I did.

20 The dress you were wearing, I think you described it to the police as a very particular style and type?---Yes, I did.

You were then campaigning with – campaigning for Senator Reynolds?---Yes.

25 Okay, and at the end of the campaign do you recall that there was a dinner at 15 May, the last week of the campaign?---Probably, yes, yes.

I think it might have even been the day before Linda Reynolds' birthday?---Yes, we had a birthday celebration for Minister Reynolds.

30 That was at the Pan Pacific Hotel in Perth?---Yes.

Excuse me a second, your Honour. Now just so we know the dress we are talking about, can I just show you this. It is a still from the footage that we saw this morning?---Thanks.

35 Do you recall seeing that first of all when you were shown it by the police back on the 25th, I think, of May last year?---Yes.

40 Then saw it again today?---Yes.

Okay, and that is the dress that you describe in some detail that you have and that we are talking about that stayed under your bed for some six months or more?---Yes, it stayed under my bed for a period of time.

45 You described it in your record of interview at, just so I am accurate, 24 February, sorry, the first one, at question 110:

It's a white cocktail that comes just below the knee. It has like these sort of spaghetti straps. It's got like a square neckline. It's like a little pencil dress.

5 That is the dress we have just given you a copy of?---Yes.

I tender that, your Honour, and could I have copies - - -

10 MR DRUMGOLD: No objection.

HER HONOUR: Show it to the prosecutor. Have you seen it, Mr Prosecutor?

15 MR WHYBROW: It is just a still from the CCTV.

MR DRUMGOLD: No objection.

HER HONOUR: This is a photograph from the footage we have seen?

20 MR WHYBROW: Yes, it is a screenshot from the footage.

HER HONOUR: It will be Exhibit 1.

25 **#\*EXHIBIT 1 - SCREENSHOT FROM CCTV FOOTAGE OF DRESS  
WORN BY COMPLAINANT**

30 MR WHYBROW: Now, I just referred to a dinner that was held – I'm going to ask you if you can identify any of the people in this photograph?---Of course.

And I want to suggest to you this photograph was taken on 15 May 2018 at the Pan Pacific Hotel.

35 HER HONOUR: 2019?

MR WHYBROW: I apologise, 2019, thank you, your Honour, Pan Pacific Hotel in Perth. Do you remember that photograph being taken?---I do.

40 Do you remember that night?---I do, yes.

45 Do you remember making some comments to Ms Wilkinson about how nobody wanted to sit next to Linda Reynolds and you were the last person there and that's how you ended up sitting there?---Yes, that's correct.

Okay and you're wearing the same dress, aren't you?---Yes, I am. That was



the dinner I was referring to before but clearly the amount of time I alluded to that had passed between it being under my bed and it being worn was shorter than I originally remembered but that's the dinner I was referring to, the Liberal Party function.

5

I tender that photograph, your Honour.

MR DRUMGOLD: There's no objection, your Honour.

10 HER HONOUR: There's no objection but she's accepted everything you've put to her, Mr Whybrow.

MR WHYBROW: I beg your pardon?

15 HER HONOUR: She has accepted everything you've put to her.

MR WHYBROW: Yes.

20 HER HONOUR: I'm not clear why the photograph needs to be tendered.

MR WHYBROW: Because there was also the aspect of where she was sitting and why that will become relevant, your Honour.

25 HER HONOUR: All right, so Exhibit 2.

MR WHYBROW: Thank you.

30 **#\*EXHIBIT 2 - PHOTOGRAPH TAKEN 15 MAY 2019 AT PAN PACIFIC HOTEL IN PERTH**

MR WHYBROW: If that could be distributed. You said before lunch that it was six months - - -?---I was wrong - - -

35

Hang on, well, let me finish the question please?---Sorry.

40 You said before lunch it was six months that this dress stayed in a bag under your bed. Is that correct?---It stayed under my bed for a period of time. I was wrong in saying it was six months. It was clearly shorter than that but it stayed under my bed unwashed for a period of time.

Okay. Well, you - - -?---So - - -

45 Sorry?--- - - - I was wrong.

I want to suggest to you that you weren't wrong. You were not giving true and correct evidence when you said that?---I made a mistake. I wasn't trying to do any – I was just wrong.

5 Okay. You travelled to Perth as I understand it almost against your will on about what date?---In early April.

About 8 or 13 April? ---Yes.

10 Okay. So in the dress that we have in front of us – and just so it can be clearer – can you confirm that this is another photo you took on your phone on that evening at the Pan Pacific?---Yes.

15 And you sent that photograph to Mr Dillaway that evening, didn't you? ---I did, yes.

And again, to be clear, that's the same dress that's in Exhibit – is it 1, your Honour? The CCTV?---Yes.

20 Okay. So that incident, the alleged assault of you, occurred on the night of 22-23 March, correct?---Yes, correct.

And you put the dress under your bed for some unknown period of time?---Yes.

25 Which was no longer than 13 April because you'd got it out, washed it and gone to Perth with it?---I don't necessarily think I washed it prior to leaving. I think I may have done that at the hotel because everything was quite shambolic between moving from – I know it sounds ridiculous but that's just  
30 how I kind of was. I would have to launder my clothes on the go but yes, in substance.

Why did you take that dress to Perth?---Honestly I think I was reclaiming my agency.

35 Okay?---It may sound ridiculous to you but I think it was kind of an empowerment thing of saying this – the worst thing in the world happened to me in this dress and I never wore it beyond this time, the one time, but I just – I don't know, it felt like this moment and I wanted to reclaim agency in the  
40 dress. It sounds stupid but that's just the truth.

It sounds completely inconsistent with your evidence before lunch, I suggest, that you'd left it under your bed for over six months?---I'd left it under my bed for a period of time and I was wrong about that time and I acknowledged that but I told you that I went to a Liberal Party dinner which was – there's a  
45 dinner so I don't – I understand where you're coming from though.

Thank you. Now, you - going back to your first conversation with Emma Frizzell on 6 February?---Yes.

5 Or it might have been a few days later, the police certainly asked you for your phone to download data from it?---Yes.

10 And you were reluctant to hand it over because you had concerns about privacy and things of that nature?---Not necessarily privacy but I was – I felt really connected to my phone particularly at that point in time given the media furore that was happening and the ongoing back and forth with myself and the government. So I felt like it was like my armour and I – I wasn't ready to hand over my phone without appropriate legal advice, yes.

15 Okay. When you eventually did hand it over on 26 May - - -?---Yes.

- - - the police kept it for about two or three hours and handed it back to you, didn't they?---I don't recall how long it was but it was a lot shorter than I anticipated absolutely.

20 It was a matter of hours?---Yes, it must have been.

25 Okay. Now, you understand that as part of the data that they extracted police were able to prepare a report of all of the events that had occurred using your SIM card for your account for a particular period of time?---Yes.

30 And that included from when you started at Senator Ciobo's office in October 2018 through until when you handed the phone over on 26 May 2021, correct?---Yes.

And so you have an appreciation that, like a diary in some respects, it is a contemporaneous record of things that you did, at least with your phone?---Yes, to an extent.

35 So when you send a message to somebody you understand that it would normally turn up on this report at the time you sent it?---For the most part, yes.

40 Now, I want to show you a document which is a couple of pages of an extract of that report from 15 May 2019, which is the night of this dinner?---Okay.

45 Now, the first couple of pages you see that in the afternoon of 15 May you are having some conversations, whether it be text, instant message or WhatsApp, with Mr Dillaway while you are in Perth?---Yes.

And you and he were in regular contact with each other whilst you were in Perth?---Yes, we were sort of – we started to rekindle our relationship, or attempted to for a period of time.

5 And he sent you flowers on several occasions while you were over there?---He did.

Now, at the bottom of that page, the first page, 24540 - - -?---Yes.

10 - - - you will see that it says image location for an image 6625 and then some location data?---Yes.

Now, it doesn't appear to be in dispute, but would you accept that the location data if you put it into Google Maps comes up at the Pan Pacific Hotel in Perth?---I'd assume so. Either that or I sent it to him later that night when I got back to the hotel, either or.

15 But the photo that her Honour rejected was taken in the bathroom of the Pan Pacific at that dinner?---Yes.

20 Now, if you turn over, this then I suggest records some further messages between you and Mr Dillaway. He was on the East Coast at this stage wasn't he?---Yes. Yes, he was based on CHQ.

25 And that was in Brisbane, was it?---Yes, that's correct.

CHQ being Campaign Headquarters?---Yes.

30 And so when you are sent a message by him at 9.15 pm 'Hey, you still up' he is, from your understanding, sending a message at 11.15 his time?---Sure. That makes sense to me.

He was two hours ahead of you at that point?---Yes.

35 Now, if you can go to the last page that I have sent you – sorry, I have provided to you – or before you go to that. From your recollection how did you find the dinner?---It was actually the one sort of nice moment I had with Linda Reynolds, to be honest. We sort of had a half conversation almost that felt normal and it was nice. It was nice to have a nice moment with her.

40 Yes, because you see on the back page in front of you at entry 21246 you sent a message the next morning at 16 – sorry, 16 May at 8.54 am to Mr Dillaway, 'Linda came over and sat next to me. We had a solid chat. She even shouted everyone dinner. It was awesome'?---Yes.

45 I thought you said you had to go and sit next to her. Was that a mistake?---It was incorrect. I went and sat next to her. She didn't sit next to me by choice,

I came in late and sat next to her. So I've clearly abbreviated it and sent that to Ben, so I wouldn't say that that text is reflective of how I came to sit next to Linda Reynolds.

5 There is a big difference between 'There were no seats left, I had to sit next to her' and - - -?---But it was an abbreviated - - -

- - - 'Linda came over' - - -?--- - - - conversation with - - -

10 HER HONOUR: Ms Higgins, I will just ask you to wait until the question comes?---Of course.

And part of the reason for that is sometimes the question might be objectionable?---Yes.

15 Just wait until you hear the end of the question.

20 MR WHYBROW: I suggest there is a big difference between what you have told the jury was the situation, that you had to go and sit next to her, and your message to Mr Dillaway the next morning, 'Linda came over and sat next to me'. They are completely opposite, aren't they?---It was a message with a partner about the night. I didn't need to go into the granular detail of describing I sat next to the minister. That was – that was the function of what I was trying to convey to him. So, yes, I sat next to the minister, it was the last seat. I didn't put that in fulsome text to him because we were just throwing away – texting quite quickly. I – like, the substance of it was I sat next to the minister but there was an open space at the time and I can't – like, that's just – yes.

30 MR DRUMGOLD: I am just going to – this has been – I have been letting this go on without – 102 seems to be a barrier to this. 103 is of course an exception if there is some sort of substantial probative value. I have been - - -

35 HER HONOUR: I have the sections open in front of me, Mr Prosecutor. I was waiting for you to take the point.

MR DRUMGOLD: I have been waiting for – to get to that.

40 HER HONOUR: How does this evidence substantially affect the assessment of the credibility of the witness, Mr Whybrow?

MR WHYBROW: Because the witness has made quite significant statements about - - -

45 HER HONOUR: Sorry, I will withdraw the question. I don't want you to address points by way of submission in the presence of the jury for the



And apart from this night, effectively there was no relationship between you?---I've never said no relationship. I said I went to very sparse events. Over six weeks I went to very, very few events with the minister.

5 MR DRUMGOLD: Sorry, your Honour, that was not the evidence. My friend has just advanced that the reason why - - -

HER HONOUR: It's all right. But the witness has corrected as to what the evidence was, and she is right. Are you objecting – the question has been  
10 asked and the answer has been given. What are you objecting to?

MR DRUMGOLD: The premise to the question was the reason why the – I am just being careful to use the words. The reason why the witness did not proceed with the complaint as of 13 April was in some way related to the  
15 relationship that she had with Senator Reynolds. That is the proposition being - - -

HER HONOUR: She has corrected the part about the description of the relationship, but the premise of the question - - -  
20

MR DRUMGOLD: The premise to the question - - -

HER HONOUR: - - - is otherwise inaccurate.

25 MR DRUMGOLD: Yes, your Honour.

HER HONOUR: No, I understand. Reframe the question please, Mr Whybrow.

30 MR WHYBROW: From your perspective is this fair: you believed that Minister Reynolds regarded you as toxic because of what you had said had happened to you?---Yes, I would say that that's fair.

35 And as a consequence you perceived that you did not have a relationship where you could, essentially, go up and talk to her about things like future plans or things like that?---I flagged, obviously, that I was leaving the office and I bought her a bouquet of flowers as a kind gesture because that's just what I would do, because I'm that type of person. But that's the extent of it, I guess. I wouldn't, like, have long form conversations about my future  
40 because we just didn't have that type of relationship.

Okay. Now, you've given evidence before lunch about a text exchange that you with Fiona Brown?---Yes.

45 I'm not sure which exhibit it is, the jury has it. And there was a text message on 4 April you might recall where she was saying, 'I haven't seen you'?---Yes, that's correct.

5 Is it Exhibit M, I just want the jury to see since they've already got it. I've made sure I've got the right documents, Your Honour. It's messages between Fiona Brown and Brittany Higgins. It's Exhibit M, the ladies and gentlemen have that. Excuse me a second.

HER HONOUR: M for Mark.

10 MR WHYBROW: Have you got that in front of you, Ma'am?---I do.

On page 3, I apologise, on page 5 it says, 'Hi Brittany, checking you're okay. I haven't seen you around the office for a while this arvo.' And that was sent at 3.36 pm?---Yes.

15 And correct me if I made an inaccurate note, you said to the jury that you have a specific recollection of getting that message because you'd been having a panic attack for some number of hours?---That's correct.

20 Okay, and is that your recollection?---Yes, I don't know how long at this point from her sending I'd been, like - the inception of the panic attack, but I'd obviously been gone long enough for her to notice and then it continued for a period. So I'm not quite sure when, but yes.

25 Well, just - and I accept that people give flourishes to say, you know, they've done this a million times when they haven't done it a million times. You said three hours, did you mean three hours?---It was potentially shorter, I'm not exactly sure on the specificity of how long it went for. But it was long enough for her to know, and it was quite a while.

30 Long enough for her to notice you weren't there?---Yes, in the office.

Okay, and are we talking then at least an hour?---I - yes, absolutely, I'd assume that.

35 And that was the first time you had such a significant panic attack at work?---I'd had minor ones, but I think that one felt the most significant at the time.

40 And after this, do you recall when you got that message, were still in the bathroom?---I believe so, I'm not entirely sure to be honest.

Okay. I presume you hadn't returned to work?---No I definitely wasn't in the office. I may have gone to Aussies for a coffee to kind of breath, or out to the courtyard to try and get some air, I'm not exactly sure. But either the bathroom or the centre courtyard or something.

45 And can you recall anything else about that day? Like after you - after this panic attack, can you recall whether you went to a doctor or went home or?---

I definitely didn't go to a doctor, and if - I assume I just would have gone home, but I don't really recall exactly what happened all of that day.

5 Okay. I'm going to suggest to you that your recollection about being in a bathroom and having a panic attack, or an anxiety attack on that day is not accurate?---Okay.

10 4 April 2019 was the day of your former boss Steve Ciobo's valedictory?---Right.

Do you remember that?---I remember the day.

15 Yes, and do you remember Ben Dillaway was in Canberra for that as a part - as a former staffer of his?---Yes.

Okay, and do you remember you and he exchanging a number of messages where he was trying to get you into the chamber so you could be present to see his valedictory speech?---I do recall that, yes.

20 And you didn't manage to get into the chamber because there was only limited space and a number of other people who worked for him?---Yes, that's correct.

25 Okay. And do you remember that Mr Dillaway and a number of other people then went off somewhere and were drinking champagne and things of that nature?---I do recall that, yes.

And do you remember that you went along too?---I do recall that, yes.

30 And indeed you collected the UberEats at parliament house that day?---I do recall that now that you've mentioned it, yes.

35 And there's some messages, and I'll suggest at about 1.02 pm on 4 April, so two and a half hours before the message Fiona Brown sends you, Mr Dillaway says, 'Oh you left, want to brag lunch?' And you say, 'Sure let's do it.' Does that ring a bell?---Yes, I have realised I have conflated dates. But yes I do recall that date.

40 MR DRUMGOLD: Well, I'm sorry Your Honour I'm completely confused, we were asking questions about an SMS on 7 April, we've now jumped to some events on 4 April.

MR WHYBROW: No, it's 4 April.

45 HER HONOUR: No he was asking about the 4 April SMS.

MR DRUMGOLD: Right, okay.

HER HONOUR: 4 April at 3.36.

MR DRUMGOLD: Yes.

5

MR WHYBROW: And you recall that you picked up some UberEats?---Yes, yes I did.

10

And you joined, was it Senator Ciobo was there as well?---And his wife.

Yes. And it was sort of, he'd just finished in parliament, he'd given his valedictory speech?---Yes.

15

And it was effectively a long a lunch for his former staffers?---Yes.

20

And the reason that, I suggest, Fiona said, 'I haven't seen you around the office for a while, checking you're okay' is because you'd been out at a farewell lunch for Steve Ciobo?---Yes, I have gotten two events mixed up, but yes, that's correct.

25

Well, when did you have this panic attack for several hours in the bathroom if it wasn't this day when you specifically recalled that message as the basis?---Either my - okay, what I can I say, I can't assume. I believe it would have been likely after one of the many meetings that I had during that first sort of week. I had always assumed it was on that day based on reflecting back at this message. But clearly I remember going to Steven Ciobo's valedictory, and that was an event that absolutely happened. So I've gotten those dates mixed up. But within that first week I did have my first major panic attack, and there were so many traumatising incidents where it could have been after the first or second meeting. But, no, I absolutely concede that I got that afternoon wrong.

30

Okay, and this was also at a time when you were aware that there was going to be an election called soon?---Yes.

35

And it might be the last - you might be going to the Gold Coast, you might be going to campaign headquarters, you might be going to Perth?---Sure.

40

And so that evening you and Mr Dillaway went out to dinner somewhere, correct?---Yes.

Now you've got this date in mind, Steve Ciobo's valedictory?---Yes, yes.

45

Is this a point where, as you told the police, you were rekindling your relationship, was this in that period?---Yes, I would say that.

Okay. Excuse me. Excuse me a second, Ms Higgins?---That's okay.

You recall the learned prosecutor asking you some questions about our father coming down on the Friday?---Yes, my dad came down at some point.

5 Well, Thursday or the Friday was it, can you recall when?---I don't remember the exact date, but my dad came down.

10 And I wasn't clear, did he come down because you had made a request for him to come and be with you because you were having a – you were upset about what had happened the previous weekend?---I'd obviously asked my dad down. I don't do it often and I think he knew that something was awry on the basis that I asked him down. He'd never been – I'd never asked him to come to Canberra before, so.

15 Is the answer to my question you asked him down following the incident on the Friday night and as a result of and because of the incident on the Friday night?---I don't specifically recall but I eventually told him when he did come down during that period.

20 You have said, 'I would never ask him to come down without a reason.' Is it your evidence you asked him to come down after this and as a result of this?---(No audible reply)

25 You know what I mean by 'this'?---Yes. I don't specifically remember. I just know that I disclosed parts of it to him at that time when he came down and made it clear to him about what happened so I'm not really – it's like a chicken or the egg, I don't really remember.

30 Okay, well again, as a result of the police extracting data from your phone - - -?---Yes.

35 - - - I want to suggest to you that a week before this incident you and your father were talking about the fact that he was coming down to visit you on that Friday that he came down?---Okay.

He did not book flights and he did not come down as a consequence of you needing him to come down?---He did come down and I did tell him.

40 Well that is a separate issue. This is about the reason he came down?---Okay.

I want to suggest to you that he arranged on about 12 March to come down and visit you in Canberra?---Okay.

45 On 13 March – sorry, 12 March he says, 'Good morning, Britt. Hope you got back to Canberra okay with the storms.' You had been up to visit family and friends in the first week of March?---Yes, that's right.



5                   ‘KJ sent me this for brekky when we come visit 30-3.’ Now then he asks you about places to stay, QT. Do you recall these conversations?---The substance broadly but not like obviously the specifics.

                  Okay, and then he sent you flights?---Sure.

                  He came down, I suggest, – sorry, I put – not asking you about what you told him when he came down?---Okay.

10                  I am just suggesting he was coming down to see you anyway?---Okay. I accept that.

                  Is that a possibility?---That is absolutely a possibility.

15                  Okay, thank you. Now when you went to see Lisa Wilkinson you said, and you may have mis-remembered - - -?---True.

                  - - - you had not had an in-depth conversation with Lisa Wilkinson before you sat down in front of the camera?---No, I hadn't had an in-depth conversation with Lisa Wilkinson before the police – that evidence that intended – the police thing, but I'd had a phone call with her in the courtyard of Parliament once and it was like very broad and then we had another chat in person. It was the first time we met in Sydney at a certain date and then we

20                  had the actual interview itself when we decided that it was appropriate and worthwhile.

25                  I appreciate that there is a lot of dates and it is easy to get things mixed up?---Okay, thank you.

30                  But is it your recollection you had gone to the police to re-activate a complaint before you had gone and spoken in-depth with Lisa Wilkinson?---In my mind they were two separate issues so I don't really - the culture at Parliament House was one thing and my complaint

35                  against Bruce was another. Yes, it was the inciting factor that made me have - want to speak about the cultural issues but I don't – they were just - they were the two avenues I went down - - -

                  Ms Higgins - - -?---and in my mind simultaneously. I don't really remember the order in which they all happened.

40                  I want to suggest – well, you have already seen the email - - -?---Yes.

                  - - - to both the different police officers?---Yes, I was reaching out.

45                  One at 6.54 in the morning on 4 February?---Yes.

She had not got back to you and then that night you sent an email to the other officer?---Yes, I wasn't aware if they were still in the police force.

5 Sure, no, fair enough. But suggest to you that you sat down and recorded the interview with Lisa Wilkinson two days early, on Tuesday, 2 February?---Potentially. I don't recall which date it was but if you have it then sure.

10 Well can you have a look at this document, please?---Thanks.

Tell the jury what that is?---It is a stat dec.

HER HONOUR: Sorry, Mr Whybrow, is it her document?

15 MR WHYBROW: Yes.

HER HONOUR: Continue.

20 THE WITNESS: It's a stat dec relating to The Project interview. What else would you like me to read?

MR WHYBROW: Your signature on it?---Yes, yes, it is, of course.

25 When do you say you sat down and recorded that interview?---I said that I didn't recall which specific date but it says here – it doesn't really clearly say the date but is – does – the 10th of Feb, is that what it's - - -

30 No, the first paragraph of the statutory declaration?---Sorry, the 2nd of February.

35 Could you just say what does paragraph 1 say?---'On Tuesday the 2nd of February 2021 I sat down with Lisa Wilkinson for the purpose of recording an interview for the broadcast by Network Ten Pty Ltd on the television program The Project.'

40 Thank you. Could I get that returned, please, madam. Do you accept now your memory has been refreshed that you had sat down with Ms Wilkinson and recorded that interview with her on 2 February?---Yes, I can absolutely agree to that a hundred per cent.

45 In that interview do you agree that you did not confine yourself to talking about the cultural issues of the Liberal party or at least your party that you worked for but - - -

HER HONOUR: Parliament House she said. The culture at Parliament House.

5 MR WHYBROW: Yes, sorry, I apologise. The culture at Parliament but went in to describe how you had been assaulted by Mr Lehrmann on 22 or 23 March?---Yes, there was six hours of interview but definitely a part of it was pertaining to my first inciting experience of inappropriateness in the workplace.

Can I suggest, and you can agree or disagree - - -?---No, go for it.

10 - - - there were two main themes to your – amongst a number of things were discussed, two main themes. One is what Bruce did to you - - -?---Yes.

- - - and what the party did to dissuade you from saying anything about it?---Yes, that's a fair assessment.

15 Okay, and this interview, what you had attached to that statutory declaration, was a transcript of that interview?---Yes.

Do you recall that or do you want to see the document?---No, I trust that it's a - I remember the interview.

20 No, no, it is not a memory test?---Sorry. Yes, I'd love to see it.

Just excuse me. Thank you?---Thank you.

25 Paragraphs 2 and 3, in those paragraphs of your statutory declaration you refer to the fact that a transcript of the interview was, is that correct, prepared?---Yes.

30 What do you say at paragraph 3?---One, two, three, 'And so we are the government's spokesperson in that regard.'

Is that the one? No, sorry.

35 No, no, in – excuse me. Could I have the document back and perhaps – just make sure you have read it so when I read it to you, I have only got the one copy, I am not mis-quoting you?---Okay. No, that's okay.

No, sorry, the front page. Paragraph 3 on the front page?---Okay.

40 Sorry?---'To the very best of my knowledge and recollection the interview as recorded by the transcript of annexure A represents the complete truth of the events surrounding the rape and sexual assault of me by Bruce Lehrmann that occurred in Minister Reynolds' office overnight on Saturday/Sunday, 23rd of March 2019 culminating in my decision to ultimately resign from working in the office of Minister Michaelia Cash on the 29th of January 2021.'

45

Okay, thank you. If that could be returned again. As per my other question, the interview covered two significant things?---Yes, absolutely.

5 One of them was your alleged sexual assault and the other was how you wanted to tell The Project you had been treated?---Yes, the culture and Bruce.

10 And before you did that interview you'd sat down – you had flown to Sydney on 27 January, hadn't you?---Yes. Yes, I've spoken about it.

I beg your pardon?---Yes, I made reference to it earlier. I definitely did.

15 The day after Australia Day you flew down to Sydney and you sat down in a room with Angus from The Project?---That's correct.

Lisa Wilkinson from The Project?---Yes.

Your partner David Sharaz from – your partner, David Sharaz?---Yes.

20 And yourself and Angus indicated he was going to turn on a tape recorder so that they've got a record of this?---I don't recall, but I assume they likely probably would have recorded.

25 And play you where he says 'Is it okay if I record this?' Do you accept that that - - -?---I absolutely accept it. Yes, totally.

30 And so before 2 February there had been a whole day of general talk between the four of you about what had happened, what your story was?---My experience, but sure.

What from their point of view your story was, but your experience?---Yes.

35 And when you came on 27 February – January to have that conversation - - -?---Yes.

- - - was it your intention to – in going to The Project - - -?---Yes.

- - - and having your story put into - - -

40 HER HONOUR: Mr Whybrow, she previously corrected you with the word her experience.

MR WHYBROW: I am sorry, I - - -

45 HER HONOUR: That is the word she has used.

5 MR WHYBROW: When you went to The Project and outlined your experience to them was it your intention to – in doing so hoping that a story might be published that would do as much damage to the then government as could possibly happen?---Weirdly, I know it doesn't sound like it, I wanted to address a cultural problem. I loved my party, I loved the Liberal Party and it sounds absurd. I didn't necessarily want to hurt them, I wanted to reform this issue. So – sorry, can you repeat the second part of your question?

10 No, no, I think - - -?---I didn't – I wasn't trying to - - -

15 HER HONOUR: Was it your intention to do them as much harm as you possibly could?---Not necessarily, no. Like, it – I wanted to talk about something that had happened to me. I never necessarily thought that, you know, the police would ever prosecute this argument, I never thought I'd get here, I never thought his name would ever be published. I just wanted to speak to a cultural problem that I had gone through that was systemic in the system and I never necessarily thought that your defendant's name would be brought up. I tried both avenues. I thought I'll speak about this in the media and I'll do, you know, my like kind – my active service in leaving and talking to the media and I will also speak with the police, and they happened within days of each other. But absolutely I went down both avenues and I stand by my choice. I'm not ashamed of that.

25 MR WHYBROW: Because – sorry. So were you wanting, other than to bring to light the cultural issues within Parliament House - - -?---Yes.

30 I take it you are not suggesting it was just confined to - - -?---No, I don't think solely he is the only perpetrator – sorry, I don't want to say words that are too leading. I'm not saying it's confined to the singular incident. I know it is across the spectrum and I know many stories, so it's not confined to this.

35 So you wanted to bring out the issues of behaviour in Parliament House?---And how they keep these sorts of things silent. That's what I really was fundamentally going to the media for, and that's – and then I went to the police for this, like separate. But I know – understanding from this point of view it doesn't look separate. I - - -

Well, we will come to that?---Yes.

40 But just being clear, it wasn't one of your goals to damage the party you worked for as much as you could, it was to – if I'm getting it right, please tell me if I'm wrong?---Yes.

45 It was to raise the issue, not to damage that party?---Not - - -

HER HONOUR: Sorry. You may have understood the question, Ms Higgins, but I got confused halfway through the question?---Please.



What are you putting? Are you putting that it was her intention - - -

5 MR WHYBROW: No, no, I am asking her - - -

HER HONOUR: - - - to damage the party?

10 MR WHYBROW: Sorry. As I understand your answer - - -?---Yes, of course.

Suggesting to you it wasn't your intention to cause as much damage as you could to the Liberal Party, it was your intention, or one of them, to raise the issue for public debate?---Sure.

15 Okay?---Yes.

I want you to listen to this part of that interview now please?---Okay.

20 Now, it only goes for about 50 seconds and then I will ask you to identify any voices that you can recognise?---Of course.

I'm going to play the audio, ma'am.

25 **AUDIOVISUAL PLAYBACK IN COURTROOM [3.05 pm]**

Right at the end, it said, 'That's why Britt's picked that timeline'. Did you hear that?---Yes, I heard that.

30 HER HONOUR: I'm sorry, Mr Whybrow, is her voice not on that recording?

MR WHYBROW: Yes, it is. I can play the half a minute before when the - - -

35 HER HONOUR: Do you accept that that took place in your presence?---I was absolutely there but David's view - - -

40 Don't say anything more. Just wait for a question?---Okay.

But are you putting to her the statement of someone else as evidence of her choosing the timeline?

45 MR WHYBROW: No, no. I'm saying in your presence that was said, wasn't it?

MR DRUMGOLD: Well, that's the same - - -

HER HONOUR: It's a very different thing. It's a question of whether we're in section 43 or section 44, Mr Whybrow, and section 44 constrains you.

5 MR WHYBROW: Yes, I'm just asking first of all was she present for when that was said?---Yes, I was present when that was said.

And that was as part of this six hour discussion between the four of you?---  
10 Yes, I'd like to reiterate that David's point of view isn't necessarily my point of view in all political matters. So, you know, he obviously feels a lot stronger about it than I do in terms of the way that the party treated me. I still have a level of love for them and, you know, I stand by, as a media adviser, as anyone who is a professional in their field, you'd obviously – if you are going to run a story that's political in nature, you would always drop it at the  
15 start of a double sitting week so I stand by that as a choice that, you know, as a professional in a field, you would naturally drop a story at the start of a sitting week.

20 Okay, so - - -?---And that's – that's fair. So I - - -

What – sorry, are you finished?---That's it, really.

So you didn't say that. Had you discussed those things with him?

25 HER HONOUR: With whom?

MR WHYBROW: With Mr Sharaz.

30 HER HONOUR: Who is your partner?---Yes, yes, he is.

MR WHYBROW: Okay?---To be honest, those discussions were  
predominantly led by Samantha Maiden and News Corp and, you know, Channel 10, they both had sort of exclusive rights and they were fighting  
35 over when it would be released and who did what and who got the exclusive drop so that come Walkley's time, who could claim what and so it became not even about me or my story. It became about them so realistically it was – it was about – it was their choice and their call. I didn't really have remit or control over it at that point.

40 So this is 27 January?---Sure, yes.

It's not until 2 February you go back and sit down for the longer interview?---  
Yes.

45 Are you saying at that stage you'd signed some document that said you could not say, 'Hang on, I don't want to go ahead with this'?---No, I didn't – like I couldn't – I didn't sign a document saying – like I – I don't want to go ahead

with this but once I'd done the interview and once I'd given sort of an on the record comment, it was realistically within the remit and out of my control. It was entirely up to both News Corp and Channel 10 at that point when and there was a lengthy discussion between all of them that I was never party to about exactly what went on when because it actually aired on the Monday and Lisa's doesn't – isn't on The Project on a Monday and she was quite angry about it. So like it was completely out of my control but yes, it didn't make any – that's just it.

10 So are you saying you did not get any notice that this was going to – to use the media phrase – 'drop' on 15 February?---I probably had about a week and they didn't know specifically what day but I had sort of a week sort of knowing that it was coming because I left and I went back to the Gold Coast and just kind of bunkered.

15 Do you recall in those conversations discussion about whether it might be a good idea to go and recommence or renew the complaint to the police?--- Naturally, like if I was like speaking about the cultural issues in Parliament House, I was no longer working for, you know, the government, of course I was going to restart the police process. Like, it was just a natural thing.

20 So how much notice did you get that this was going to drop on 15 January?---I don't - - -

25 Sorry, February. I'm sorry, 15 February?---I don't know. There were ongoing discussions that were way above my pay – like, I wasn't sort of privy to it. I would say I didn't know sort of right up until that weekend whether it was going to be on the Sunday or the Monday. Like, I really didn't know until quite late in the piece exactly which day.

30 But in preparation of that story coming out you prepared a lengthy timeline or dossier or information pack, didn't you?---That was actually for - - -

35 Sorry, did you?---I did, yes, and it was for police originally. It was never meant for media distribution, but it ultimately was circulated in the media. But it was for the police.

40 How did that happen?---My partner and I were inundated with media enquiries and, you know, we're two people dealing with the entire press gallery of – you know, of – it was huge and immense and we just didn't have the means or the capability to really deal with the level of the volume of stuff coming at us. And I was pretty out of it because I was taking a lot of Valium at that point in time because I wasn't coping, and my partner made a decision that he will very freely say that he regrets. He sent it to a couple of journos and then suddenly that trust was breached and it went to – like, the entire press gallery had it. But it was originally just mine for my own sort of sanity of like trying to track all the little bits and pieces because it – like, it – like,

45

**ADJOURNED**

**[3.17 pm]**

5      **RESUMED**

**[3.24 pm]**

HER HONOUR: Ready for the jury, thank you. Are we ready for the jury?

10      MR DRUMGOLD: Thank you, your Honour.

HER HONOUR: I will just ask you to pause there while the jury comes in, thanks.

15      **JURY RETURNED**

**[3.24 pm]**

20      HER HONOUR: Thank you, members of the jury. Yes, Ms Higgins, come forward, please.

<BRITTANY MAE HIGGINS, Recalled:

**[3.25 pm]**

25      <CROSS-EXAMINATION BY MR WHYBROW CONTINUED

30      HER HONOUR: Thank you. As you are now well aware you remain bound by your former oath. Yes, Mr Whybrow.

35      MR WHYBROW: Thank you, your Honour. Ms Higgins, before that short break do you recall I was asking you about a timeline that you prepared?---Yes.

I was going to ask you to make sure that we were talking about the same document?---Yes.

40      Apologise it has got some writing on it but I want to give you a colour copy?---Thank you.

45      The writing on the top says 'BH self-prepared timeline'. That is not your writing, is it?---No, it's not my handwriting but it is – that is accurate. It is my stuff.

Okay, and this is a document, leaving aside the attachments, it is about seven pages of detail and then some attachments?---Yes, yes.

5 You recall the circumstances in which you prepared that?---Yes. It was - before I went back to the police it was kind of like trying to pull together all this stuff because over time things just get lost so originally it was for the police.

10 Okay, and you – before you managed to sit down with the police it ended up being distributed to the media?---They got a copy on a USB as well so they definitely got one but, yes, it did end up in the hands of the media.

15 I want to suggest to you that this document was not prepared for the police. It was prepared for the media. Do you agree or disagree with that?---I mean, in part sure. Originally it was just meant for the police and then I think there were addendums made later on like the attachments that were particularly for media once we kind of got overwhelmed but – so, yes, in spirit.

Well, when it went to the media, was it in this form with various attachments?---I didn't send it but I believe so.

20 Okay, because, for example, the first attachment is the email that was tendered not that long ago on 2 April to Constable Thelning responding to you saying, 'Okay, we'll get back to you', correct?---Yes.

25 Okay, and you have redacted – sorry, you or somebody else – did you prepare this?---I didn't redact anything but I made like the whole thing so I think maybe it's in redacted – retroactively in the justice process but I don't think I redacted anything myself.

30 Sure, so nothing was redacted from the document that ended up in the hands of the press?---No.

35 Okay, so thank you. We can assume that the document that you have, can we - we can ignore the redactions, they were not on the original that found its way into the hands of the press?---That's correct.

But it is you had prepared it - - ?---Yes, the first half.

- - - with the intention of giving it to the police?---Yes, that's right.

40 Did you do that by yourself or with assistance?---The first – no, I did this by myself. I didn't circulate it myself but I made this myself.

45 Okay, and can you recall now – it no doubt was an extraordinarily manic time?---Yes.

When or how this first got into the hands of journalists?---So it was right after the story went live and the PM did a sort of a doorstep about it and the



5 volume of media inquiries that came in to myself, because obviously I used to be a media adviser so everyone in the press gallery had my number and everyone had my partner's number, and so we just didn't have scope to reply to everyone and when I was passed out on Valium David made a call to just send a couple people this document as like, 'Here you go, here's the background' and then from that point people breached that trust and it ended up everywhere in the gallery, so everyone essentially had it.

10 I just want to go back to the chronology again?---Yes, go for it.

So there's – don't feel like you're being tricked or it's a memory test?---No, that's okay.

15 The first sit down with Lisa Angus and David is 27 January?---M'mm.

On 28 January, you go back to work?---Yes.

And you have a conversation with Daniel?---Yes.

20 And you record that conversation on your phone, don't you?---Yes, I do.

And you don't tell Daniel you are recording that conversation?---I don't do – I didn't tell him, but technically apparently it's legal in the ACT, but I was stressed about it.

25 Sorry. At the time, you recorded it?---Yes.

You didn't tell him about it?---No, I didn't.

30 And it was thereafter, if not that same day the next day, sent by you to Samantha Maiden, wasn't it?---Yes.

35 For backgrounding?---Not for background, for corroboration. I didn't think anyone would believe me, so I needed to have him say it himself, that he (a) knew about the assault, (b) that they knew about it in 2019 and (c) that Michaelia Cash knew, and all of that is in that audio.

Well, I suggest - - -?---So it was for my legal protection.

40 Okay, well, you used the word in the email, you sent it to – or the message, you sent it to Samantha Maiden, I suggest, for backgrounding?---Yes, just to corroborate my – I didn't know if she believed me 100 per cent, yes, and so I just needed her to hear it from the words – from the mouth of someone else, because it sounds – all of it sounds ridiculous, but I needed a chief of staff to  
45 corroborate it.

MR DRUMGOLD: So your Honour if we could just clarify, 'backgrounding' seems to be a verb and I'm hearing 'background' as a noun here, whether could be some clarity over what - - -

5 MR WHYBROW: Before that, there is probably something else. Who is Daniel?---Sorry. Daniel Try was my former chief of staff in Michaelia Cash's office.

10 Okay. So the day after, you went and sat down and had a six hour conversation about your experience?---Yes.

You had taken the day off?--- Yes, I took that day off.

15 And you then went and had a conversation with Daniel Try?---I did.

And you told him that you had taken a day off to go and see a psychologist or a psychiatrist?---I told him I took a day off. I don't remember what reason I gave.

20 If you had said it was to see a psychiatrist or a psychologist, do you accept that would have been a false statement?---That would be false, absolutely.

25 And it's your recollection that in that conversation, he acknowledged that he knew that you'd been sexually assaulted?---Yes.

30 And what else?---He made reference to another incident where a girl had been sexually assaulted within the Liberal Party and didn't want to go to the police. He made reference to the fact that there was a journalist enquiry in 2019 about the sexual assault. He made reference to the fact that we thought it was going to come out in Senate Estimates in 2019. He made reference to the fact that - I was really trying to find out who the Canberra Times journalist was that got the story, because I was always so perplexed about who told them and how it got out. So that was kind of the premise of what I was coming to him for. I wanted to know more details about it, because I was done.

35 As in you were - he didn't know it yet, but you were about to resign?---Yes. I was - I was emotionally done.

40 And you were asking the particular questions about these subjects?---Yes.

In order to try and get him to tell you things that you could record and have for your legal protection?---That's correct.

45 And you then immediately sent them on to Samantha Maiden at news.com?--  
-As background, not for quoting, but as background.

And by 'as background' means she's not allowed to use it?---That's correct.

Okay, and you're aware that part of that conversation ended up being played on Four Corners?---Yes – oh, no, that was a different conversation.

5 Yes, I was going to jump forward for a second?---Yes, yes.

On 5 February – sorry, on 29 January we have your resignation letter?---Yes.

10 And a few days after that, Michaelia Cash calls you?---Yes.

And asks you if there is anything she can do. I'm not giving you the exact words, but you can agree or disagree, what can she do, can we move you to the Gold Coast, you don't have to come through Canberra anymore. She was offering you alternatives to resigning, wasn't she?---Yes, she was trying to –

15 yes.

No, no, she was offering you alternatives to resigning?---Yes.

20 And you recorded – what ministry did she have that?---At that point in time, it was Employment, Skills, Small and Family Business and she was deputy leader of the Senate.

And you recorded her on that call without her knowledge?---That's correct.

25 And then within, I suggest, 15 or 20 minutes of that call being finished you sent that recording to a lady called Emma Webster?---That sounds about accurate, yes.

30 And am I right in thinking that she is a PR consultant, or something of that nature?---She is now. At the time she used to work for the First Peoples' Assembly in Victoria.

And did you send a covertly recorded conversation that you had with a Cabinet minister to her as backgrounding?---No, it was for safekeeping. I was – I don't know why I had this unfounded belief that I would, like, lose recordings. But I was trying to give them to as many people as possible to have them just so that they existed, because it's my word against a Cabinet minister's and it's – the disparity between those two powers is ridiculous and

35 so I was trying to give it to as many friends just to be like, 'Please can you hold onto this for me?'

40 And is it your – when we get to ask questions specifically about Michaelia Cash, is it your evidence that she as of the time of this recording knew, as far as you were concerned, that you had been sexually assaulted?---We'd had many conversations about it. It was so strange because the entire call she was pretending like she didn't know and that she thought a security guard

45

assaulted me. Like, it was ridiculous. It was the weirdest phone call I've ever had in my life.

5 And would it be correct to say that at about that time you regarded her as – that is Minister Cash and Daniel Try as quite supportive and had treated you well?---Relatively. Compared to the rest of the party they really had.

10 Now, coming back to the timeline, you have the video recording with Lisa Wilkinson on 2 February?---Yes.

You have already tendered your resignation?---Yes.

15 There has been some discussion that it might be a good idea to go and re-engage with the police?---Yes, I – there was always the intention, but – yes, absolutely.

Sure. It hadn't happened but – and then it did on the 4th?---Yes.

20 And then on the 8th you spoke to – I apologise, on the 6th. On Saturday, 6 February, at 8.31 am you and David Sharaz attended Belconnen police station?---Yes.

And you spoke with Emma Frizzell and a Sergeant Saunders?---Yes.

25 And I want to suggest what you said in this conversation and you can tell us whether you agree or disagree. Just because I say that this is what somebody has written down doesn't mean you have to agree with it?---That's okay.

30 'Ms Higgins advised that she had it on good authority that a media article will be published in one-and-a-half weeks'?---I said imminently. I didn't specify, like, that it would 100 per cent be out in one-and-a-half weeks because I didn't know that to be true.

35 One-and-a-half weeks would be about 15 or 16 February?---Okay. Well then they were very – quite accurate.

40 Or potentially you said one-and-a-half weeks perhaps?---I don't believe I did because I didn't know specifically if it was going to come out on the Monday or the Saturday. Like, I didn't know. But, you know, those times are pretty close, so I'm comfortable.

That you said to Detective Frizzell - - -?---Yes.

45 - - - that you know this as you had engaged with Samantha Maiden, a reporter for News.Com since 2019?---We'd known each other professionally, absolutely, and had been – we'd slowly become friends throughout a period of time.

5 Sorry, in the context of this you knew a story was going to – a media article would be published because you had been speaking to Samantha Maiden about your experience since 2019?---No, that's not right. I hadn't even come close to broaching the subject until like December 2020 we started maybe having like real discussions about how the Liberal Party treats women, so that – that part is not right.

10 Did you tell her, 'Samantha Maiden has been writing a piece on the subject and the subsequent internal handling of the alleged sexual assault at Australian Parliament House'?---I definitely let them know that it was coming. I wanted them to be privy to it.

15 Did you tell her you had tried to resign a number of times in the last month and wasn't able to do so?---Yes. They kept trying to call me back. Daniel rejected my resignation at one point in time and then Cash tried to call me and get me to sit down and I never eventually did that, so yes that's an accurate statement.

20 And certainly in the recording that you recorded of your conversation with them both?---Yes?

25 You would agree that they, at least in what they're saying, seem to be wanting you to stay on and giving you any opportunity to work around any issues you have about feeling distressed coming to Parliament House. Do you agree that that's what's said on it?---I'm sorry, I just don't agree with you. They were - I knew for a fact they knew intricate details of the assaults, and then on that phone call they pretended like they had no idea and they made me retell them the whole story. So I was sobbing hysterically throughout that whole phone call, even though I knew that they knew because we'd talked about it at length multiple times. So them offering me to take me to a different job, or get me a cushy position in Brisbane, like it didn't ring true. It felt like it just wasn't right, which is why I recorded it because it was so absurd to me, the whole thing.

35 Okay. You told Constable Frizzell that you were aware Australian Parliament House would not provide a copy of the closed circuit television, and she took issue with that - as in, I apologise that was terrible question?---No, go for it.

40 I'll read you out a sentence, tell me if its right?---Okay.

45 'Ms Higgins advised she is aware Australian Parliament House would not provide a copy of the closed circuit television to police and takes issue with this.'?---Yes, at the time I believed that to be true. I'd been informed, when I first went to police in April whatever date it was, that they were having difficult getting CCTV from Parliament House. And that is - - -



HER HONOUR: That's 2019 was it?---2019, sorry. And so that is where that statement stems from, I believed that to be true at the time when I told her.

5

MR WHYBROW: Yes, I'm just asking whether these conversations occurred on 6 February?---Yes, absolutely. Yes. Sorry.

10 I understand that you've made these statements on a number of occasions, I'm asking about on this date did you say this to Emma Frizzell?---Yes.

HER HONOUR: In February 2021.

15 MR WHYBROW: In 6 February 2021, yes?---Yes.

And just for the timeframe it's four days after you've sat down for the television interview, and two days after you first emailed the two police officers you originally saw?---Yes.

20 Okay. I'll read you another sentence tell me if this is in accordance with your recollection?---Okay.

25 'Ms Higgins reported that on the evening of the incident she attended The Dock and 88 Miles Per Hour'?---Yes.

'She advised that two weeks after the incident, and a number of occasions thereafter, she attended the Ochre Medical Centre in Kingston'?---Yes, that wasn't accurate because I went much later in the piece.

30 Sorry, my first question is do you agree that you said that?---I don't recall exactly what I said to them, but I did go to the Ochre Medical Centre, it just didn't happen two weeks after it happened, much later in the piece.

35 It was about October?---Which is when senate estimates and that journalist inquiry came in.

And just so there's no confusion?---Yes?

40 Is it the case that you did not go and see a doctor in relation to - well, anything - between March and October, is that accurate?---Yes, no, I didn't. I continued to make bookings but I just couldn't go through with it.

Okay, were they bookings in Canberra?---Yes.

45 And you just freaked out at the last minute or what?---No, outside of work, and outside of like the very few limited social functions I would go to, I was pretty bed bound. Like all my energy was getting to the day, and then I was

pretty traumatised by the whole experience. So I had all these intention of doing these things and it would get to the day and I just couldn't get out of bed and I just couldn't go.

5 And as is sometimes the want, did you get charged cancellation fees or non-appearance fees by these doctors?---I defiantly feel like if I went through my Gmail account there would likely be some sort of like trace or email of something. Like I feel like if I really looked I could find something, but I'm not entirely sure.

10 Okay, this has been a matter - you going to the doctor or not going to the doctor - that was raised with police on a couple of occasions?---Yes, I definitely had intention of and I definitely made appointments.

15 And you know it's something that's been potentially a relevant issue since 25 May when, in that second interview, police said 'We can't find a record of you going to a doctor'?---Yes, I made appointments and I just, outside of work, I wasn't functioning as a human being.

20 You then said - sorry, I'm asking you whether or not you did, I was not there of course?---That's fair.

25 'Ms Higgins advised she has compiled a timeline of events, a witness list, email correspondence and recordings of conversation in the workplace that she would make available to police'?---Yes.

You did not make it available to police then, did you?---I did, I did, within - before I left Canberra I gave them this, the USB with all the recordings, and I gave them the dress.

30 Sorry, when I say 'then', I mean on Saturday, 6 February 2021?---I didn't come with all of the - at that first meeting but I told them all about everything, yes.

35 Do you remember approximately when you provided your timeline to the police?---I remember Senior Constable Emma Frizzell came to my Kingston apartment, it was before I left Canberra. I think it was even before I left Parliament but I'm not entirely sure.

40 Okay, but it sounds like if she is accurate that your timeline already had the email correspondence attached to it?---I'm so sorry, I don't follow.

Okay, and again - - ?---But I'm trying.

45 No, no, no, and I am trying not to try and confuse you?---Thank you.

'Ms Higgins advised she has compiled a timeline of events, a witness list, email correspondence and recordings of conversations in the workplace that she would make available to police'?---Yes.

5        You did not – sorry, did you tell the police what the recordings in the workplace were of?---Broadly. They didn't seem that interested. They wanted more of like the actual facts of the assault but I gave them all of it.

10       I am talking about on 6 February not overall?---I did by the time – I would say even by like March they had all of it. I'm not exactly sure when in between here and March but they definitely got a USB stick with everything, of all the recordings, they got the dress, they got the timeline.

15       Excuse me one second. I do not want to be disrespectful while somebody is talking to me?---Go for it.

Now did you also say that you – you were having this conversation with the police with David?---Yes, he was present for some of them.

20       Did you indicate to the police that you, as in you and David, anticipated the AFP will receive media inquiries?---I don't remember saying that myself, no.

25       Do you remember whether it was something that was said to Frizzell or not?---I'm sure it – I really don't remember.

If you can't – okay, you can't remember?---I don't remember, I'm sorry.

30       Did you say you wanted to ensure the sexual assault investigation would be active when those inquiries came to the AFP?---I don't remember I'm sorry.

35       It was, I suggest, important for you that when this story dropped, if anyone contacted the police that the police would be able to say, 'Yes, we do have an official investigation going on'?---I mean, the difference of time between it becoming active or the story airing was like a week so in my mind it didn't matter anyway but if like – sure. Or however long. I'm not quite sure how long between active and the story airing but it was all like within two weeks of each other. They were all pretty in step.

40       Did you tell Constable Frizzell that you wanted to take part in what has been called an EICI?---Yes, I believe - - -

Evidence-in-chief interview?---I believe so, yes.

45       However you wished for the media releases to play out first?---I don't specifically recall saying that and I don't know why I would specifically feel like that so I don't agree with that statement.

Well can I suggest the reason you wanted that to happen is you – you said yesterday that you are nearly finished - - -

5 HER HONOUR: Well sorry to interrupt, Mr Whybrow, she has not accepted that she did want that to happen.

MR WHYBROW: I apologise, sorry. You indicating you did not necessarily want the media to happen before the police?---In my mind I'd quit my job so there was no impetus for either of those things not to happen, so they were just in lock step in my head. They were both the same thing, targeting different issues but – yes.

15 You had done some – as part of your studies in communications, some studies in media law, hadn't you?---Yes.

And you were somebody who was providing media advice to a Cabinet minister?---That's correct.

20 And you were familiar with a not uncommon way that you could stop a minister or somebody having to answer questions by saying, 'This matter is before the courts, I can't say anything'. You are familiar with that concept aren't you?---I am now, absolutely.

25 Are you saying you weren't aware of that in February 2021?---I think I was broadly aware of it, but it became a very active part of my life once the story aired. I became really quite across a lot of areas of media law that weren't really quite relevant to my job prior to, but I'm now I'm there.

30 So I know we are going back to February 2021?---Yes.

As best as you can recall, is it your recollection that you didn't realise that there might be some issues or impediment to an investigation if a media story dropped before a police investigation had been able to be initiated?

35 HER HONOUR: I am sorry, what was the question? Could you repeat it please?

40 MR WHYBROW: Are you saying that you did not – sorry, I will withdraw the question and I will ask it this way. You accept as it played out this story dropped before you spoke to the police?---Yes.

Do you accept that the police wanted you to take part in an interview before any media happened?

45 HER HONOUR: Mr Whybrow, you previously asked me to reject questions by the Crown that asked her to look into the minds of others. I reject the question.

MR WHYBROW: I know.

I may have missed your answer here?---That's okay.

5 Did the police indicate they wanted you to take part in an interview then?---Not – they definitely indicated that they wanted me to take part in an evidence-in-chief. It was never really specified that they wanted it to happen that day, or whether they had the means to do it that day. I don't know if that  
10 was conveyed because I don't recall that. But they definitely – we were planning on scheduling it and we were maintaining contact. That was the end of our discussion, that we'd like continue to have a dialogue.

15 And did you tell her that you were intending to travel interstate - - -?---Yes.  
- - - the next day?---Yes, I was.

And you could provide a statement in about three weeks' time?---Yes, because I was travelling interstate.

20 And in that context you wanted the media releases to play out first before you gave a statement to police?---It wasn't really the intention. The fact was like - - -

25 I am sorry, I am not asking about the intention, I am asking is that what you said?---No, that wasn't what I said.

Do you accept that Constable Frizzell advised you that the investigation would not commence until you had provided a statement to police?---I do  
30 recall her saying that, yes.

And she further advised you that any media coverage may jeopardise any subsequent evidence sought?---Yes.

35 And you acknowledge this, however declined to participate in an EICI at that time?---No. She didn't offer to do an EICI at that time, to my awareness. I don't think that was something that she really was pushing for that day. I said I was absolutely willing to give one. We were planning one, we were maintaining contact, but that – like, I was packing up to move to Queensland  
40 for tomorrow so, like, there wasn't really time or scope for it.

And I apologise, I - - -?---No, that's okay.

I may have - - -?---You do - - -

45 Later that day – so you had spoken to her at 8.30 in the morning?---M'mm.



I want to suggest that they offered you the opportunity then and there to sit down and do an interview but you didn't want to do that until the media came out?---No. So, initially there was like another – there were two other police people who were there initially when we first walked in. Like, obviously the whole SACAT team aren't just readily available all the time. So I went in, waited around, told them kind of what it was pertaining to and then we sat around waiting for police for a significant period and spoke about it with some just random officers and then eventually like Emma and her member came across and we went into more detail. So, yes, we may have arrived in the police station at that time, but there was like a lot of conversations with different police officers during that period. So by the time we left it definitely would have been like well after lunch-ish maybe. I'm not really sure. But we were there for a significant period.

I don't want you to guess, so - - -?---Well, I don't know. We left – we were there for a significant period of time and I spoke to multiple officers, waiting for Trent – not Trent, for Emma and whoever else it was to be in that room.

So I want to suggest to you at 8.31 am on Saturday, 6 February, in the company of Detective Sergeant Saunders, Detective Emma Frizzell met you and David Sharaz. Do you disagree with that?---Well, maybe there was a time before that because I definitely met with two other officers and they weren't Emma Frizzell, it was someone else. But I trust your documentation. But I definitely met with two other people at the station next to Winchester station to discuss this and canvass this first.

Please don't – I am not asking you to trust anything that I have. I am giving you the opportunity to answer questions?---Yes. I'm trying.

And you will be pleased to know that we are nearly finished for the day?---Thank God.

But just so we are clear, it is your recollection of that day - - -?---Yes.

- - - first going back to in person reagitatie or have this allegation investigated that you spent a long time, perhaps up until lunchtime, at the Belconnen/Winchester Police Centre?---I spent a significant period of time there I believe, yes.

Well, let's not dance around with 'significant'. Are we talking minutes, hours - - -?---You've just said that of course I'm not going to remember all the times and dates. I'm admitting I don't remember all times and dates. You guys would have a better grasp on that than I do. Like, the police would know. I recall going there, I recall speaking with them. The specificities and how long I couldn't hand on heart tell you exactly.

5 A moment ago you suggested – or you had a recollection you couldn't do a  
 record of interview because it took so long to get to this point and you had to  
 pack and leave?---Yes, but a record of interview, as I've now evidence, takes  
 hours. I'd – we genuinely didn't have scope; I was packing up and leaving.  
 10 Okay. So just in case I hadn't asked it, it is your evidence that you were not  
 asked on that day to take part in an interview?---I'm sure they asked, but there  
 wasn't scope; I was leaving.  
 15 Okay.  
 Excuse me a second, your Honour.  
 And we come to 15 February and The Project drops?---Okay, yes.  
 20 Is that the right date?---I think so.  
 Somebody will tell me if I've got these dates wrong, trust me. But the sort of  
 arrangement between Lisa Wilkinson and Samantha Maiden, it was a bit  
 awkward wasn't it?---Yes.  
 25 Because you had two journalists fighting over – well, wanting to break a  
 story?---Yes.  
 And had you signed any exclusivity deals with any of them?---I think I had –  
 I had to sign stat decs with both of them, but I wasn't involved in who had  
 seniority over the other, I don't think.  
 30 And was it your recollection that the print article went live earlier on  
 15 February?---That's what Samantha Maiden's preference was, yes, that it  
 went first.  
 Do you recall if that is what happened?---I believe so, yes.  
 35 And then the world goes mad and the Prime Minister is asked to respond,  
 et cetera, et cetera. I think you referred to that?---Yes.  
 And then The Project goes to air?---Yes.  
 40 And I want to suggest that you were in contact with Rosie Lewis that day and  
 arranged for her to get your timeline. Do you agree with that?---I don't think  
 I reached out to Rosie, to be fair. I definitely think Rosie reached out to us. I  
 wasn't proactively pushing the story once – well, I – in my mind I only ever  
 45 thought I would do one print, one TV and I would never talk about it again. I  
 thought I would go back to uni and disappear. And from that point  
 journalists were reacting to what was happening in Parliament coming to us.

So, yes, we were definitely in contact with Rosie Lewis, but that was after the fact.

Okay. I will - - ?---Yes, okay. Continue.

5

I note the time and it might take a few minutes to just go through that contact.

Is that an appropriate time, your Honour?

10

HER HONOUR: Yes.

15

Members of the jury, I want to emphasise what I have said to you each day, but there is an additional point now which is that plainly you have seen – you have heard the complainant's evidence-in-chief, you have also heard some of her cross-examination. It is all the more important please not to discuss the case with people at home, not to make any enquiries about any of the matters that have been raised in evidence today. There have been a lot of references to events in Parliament, elections, broadcasts and so on. Please don't undertake any enquiries about those matters yourselves. It would be quite wrong of you to do that, for the reasons I have explained. And please – what did I say? Don't discuss the matter with anyone at home. I think that is everything. Have a restful evening and we will see you tomorrow morning.

20

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**JURY RETIRED**

**[3.59 pm]**

MR WHYBROW: Your Honour - - -

30

HER HONOUR: Just a minute, please.

MR WHYBROW: Yes, your Honour.

35

HER HONOUR: Ms Higgins, I anticipate you will have been told this, now that you are under cross-examination it is not appropriate for the prosecutors to talk to you?---That's fine.

40

Please feel free to leave the witness box now and go with Ms Yates. Do not discuss your evidence with anyone. Just have a restful evening and we will see you back tomorrow?---See you tomorrow.

MR WHYBROW: Could I just mark that document. I forgot, the timeline so that - - -

45

HER HONOUR: Yes, certainly.

MR WHYBROW: Thank you.

# TRANSCRIPT OF PROCEEDINGS



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## **SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY**

### **THE HONOURABLE CHIEF JUSTICE MCCALLUM AND A JURY OF SIXTEEN**

**SCC 264 of 2021**

**DAY 4**

**DIRECTOR OF PUBLIC PROSECUTIONS  
and  
BRUCE LEHRMANN**

**CANBERRA**

**10.01 AM, FRIDAY, 7 OCTOBER 2022**

MR S. DRUMGOLD SC with MS S. JEROME appeared on behalf of the Office of the Director of Public Prosecutions.

MR S. WHYBROW with MS K. MUSGROVE and MR B. JULLIENNE appeared on behalf of the Accused.

You had a meeting with Linda Reynolds and Fiona Brown on 1 April?---Yes.

You remember that meeting very well?---Yes.

5 I want to suggest to you it was after that meeting the first time you had any contact with anybody from the Federal Police?---That's correct, I believe. Sorry, the – obviously the timeline of the two-week period before I flew away to Perth, I was dealing with the trauma post rape, so I was – it is, I'm doing my best and I'm trying to be as honest and forthright as I can.

10 No, no?---But I am struggling a little and I admit that freely, but I believe that is accurate.

15 No, no, it's just the chronology is important?---Yes I get that.

Yes. So I want to suggest to you that the first time you spoke to any police about this matter at all was on 1 April after you had a meeting with your chief of staff and the minister?---I trust those records to be true.

20 Okay. And I want to suggest, you have asserted on a number of occasions elsewhere, including your timeline, and to, you know, some journalists, that you also spoke to police before 1 April?---Okay.

25 Now, there's two parts of that. One, do you accept that you have asserted that you saw police on about 27 March?---Let's have a look. I've obviously put it in my document, but like I said, this was all just based off emails and things that I made retroactively in 2021 when I was trying to recount the exact timeline of events.

30 Okay?---So I'm not trying to say that this is a concrete absolute thing. It happened within days of each other.

35 Sure?---But sure, I – they – they all happened pretty simultaneously to my recollection.

I want to suggest that the two women from the Federal Police you spoke to on 1 April?---Yes.

40 Federal Agent Thenlning and Federal Agent Cleaves - - - ?---Yes.

- - - were not in fact attached to the Sexual Assault Child Abuse Team?---No.

45 And you were then referred the following week to Sarah Harman from - - -?---SACAT. Yes.

Yes, okay?---That's correct.



On 1 April, after you had a meeting with Minister Reynolds and Fiona Brown, I want to suggest at about 12 o'clock you had a meeting in, I think you have described it as downstairs in Parliament House?---I believe the basement.

5

Yes, and there was a police post in Parliament House?---That's correct.

And you walked past the door to that post nearly every day?---No, that post is in, like, the actual bowels of Parliament. It's, like, under underground, so I would never usually walk around down there. That's kind of predominantly where, like, the cleaners and stuff hang out, but yes, I'm aware where it is.

10

Sorry. We saw yesterday some footage of you coming - - ?---Oh, the security guards?

15

We saw some footage of you walking through Parliament House?---M'mm.

In that area on the left is a door which says AFP. That's where the AFP Parliament House Station is. I'm just asking you, is that where you went?---No, there's like a secondary spot in, like, the actual bowels of Parliament House and they took me downstairs, and it's like where all, like, the – they keep the paintings and all the cleaning supplies, and it's, like, down down in the basement.

20

I just wanted to clarify that?---No, that's alleged.

25

In any event, you spoke to these two ladies on that day?---Yes.

And I want to suggest that that was at about 12 o'clock. About lunchtime or middle of the day?---I accept that to be true on your – if that's their account.

30

Not saying that the time is important. It is just trying to help you recall if you can?---Yes.

And you discussed with them events of the previous Friday night. Correct?---Yes.

35

Now, do you recall telling those police that you had gone to a medical centre and had tests done but no results had come back yet?---No, I had intention, as I've said many, many times, of going through and going to medical centres. I continued to make appointments but the moment I left work I was collapsing. I wasn't – like, I just wasn't capable. I'd been raped days before. I was somehow making it into work in the same office that I'd been raped in. I wasn't capable – I was trying, I was trying, but I was by myself.

40

45

I appreciate that, Ms Higgins?---Yes.

What my question is, is whether you might have told those police – I accept your evidence is you did not?---Yes.

And you have given reasons why you did not?---Yes.

5

What I'm asking you is, did you tell the police that you went to a medical centre after the event to get some tests done and there were no results yet?---I don't accept that to be true because I hadn't gone to the – I was intending on doing that, but I hadn't gone anywhere.

10

Do you – sorry, I won't say 'Do you accept'?---That's okay.

15

Did you tell those police that you had vomit stains all down your dress?---I don't recall – I did vomit that morning into the Minister's bathroom as I have made reference to. I was sick. I don't recall the specificity of what I told those first two police officers about that, but they – I'm sure I alluded to the fact I was sick.

20

As I recall your evidence yesterday, and I may be wrong?---Go for it.

25

You had indicated that you had vomited on your dress and it was in a bag under your bed for some time?---I hadn't vomited on my dress. I had vomited in the Minister's bathroom. I was on my hands and knees on the Minister's floor and I vomited into her toilet. I'm not sure if it got on my dress or not. I wasn't, like, completely down, but I vomited into the Minister's bathroom, into the – into her toilet.

30

I am just going off some notes that the police took and I'm just asking you to comment?---No, I appreciate that. Go for it.

'Woke up very confused'?---Accurate.

'Became aware of smell of sex'?---Broadly accurate, sure.

35

It's not – I'm not asking you whether this is what happened. I'm asking you whether you told these things to the police?---I don't remember the specific conversation. It was traumatising. I don't remember if I specifically said those words, but I believe those words are in line with what my experience was, so, sure.

40

'Vomit stain - - -'

45

HER HONOUR: Sorry. So just to be clear, so you are saying you don't remember whether you said the words?---No, I don't.

You are answering by reference to whether the words being put to you are consistent with the experience you had?---Yes.

MR WHYBROW: Thank you, your Honour.

5 HER HONOUR: Do with that what you will, Mr Whybrow?

MR WHYBROW: Yes, your Honour. It's a long – vomit stains all down  
dress.

10 HER HONOUR: You are being asked did you say the words.

MR WHYBROW: Did you say the words - - -

HER HONOUR: Please make it clear, Mr Whybrow.

15 MR WHYBROW: Might you have said to these police, the two ladies we are  
talking about in the bowels of Parliament House, that you had vomit stains all  
down your dress?

20 MR DRUMGOLD: Sorry, your Honour, the question is incorrect. The  
proposition - - -

HER HONOUR: I don't think I have the document, Mr Prosecutor. Could I  
see it?

25 MR DRUMGOLD: Yes, it's - - -

HER HONOUR: Do you have a – I don't want to deprive you of your copy.

30 MR WHYBROW: It's in the diary notes of Cleaves. your Honour.

HER HONOUR: Sorry?

MR WHYBROW: For my friend's benefit, it's from the diary notes of  
Federal Agent Cleaves.

35 MR DRUMGOLD: We have got it. We will hand it up to your Honour. It  
has got writing on it.

40 HER HONOUR: That's all right.

MR DRUMGOLD: I think my friend is overlooking there's the word  
'vomited'.

45 HER HONOUR: Yes.

MR DRUMGOLD: And then there's a full stop.

HER HONOUR: Yes. Let me just look at that please.

MR WHYBROW: It's the second line on the right-hand side. It's the second  
line of 296, your Honour.

5 HER HONOUR: It's not clear to me, Mr Whybrow. It could be - - -

MR WHYBROW: It could be a dash, it could be a full stop.

10 HER HONOUR: There are two possible interpretations.

MR WHYBROW: Correct.

HER HONOUR: Well, - - -

15 MR WHYBROW: I will put – that's why I'm asking the witness, because  
I - - -

HER HONOUR: I think you need to put both alternatives.

20 MR WHYBROW: Yes.

HER HONOUR: One alternative is that, is 'Stains all down dress' is not  
connected with vomit.

25 MR DRUMGOLD: Just making doubly sure. There was some proofing on  
that point and I'm just making doubly sure it was in the proofing notes  
provided.

30 HER HONOUR: I'm sorry, I didn't understand the point that you were  
making.

MR DRUMGOLD: There was proofing clarifying the interpretation that I'm  
advancing that there was a full stop after the first – after 'vomited', but  
35 'stains'.

HER HONOUR: Perhaps don't say anything more in the presence of the  
jury.

40 MR DRUMGOLD: No.

HER HONOUR: Do I need to send the jury out?

MR WHYBROW: Not as far as I'm aware, your Honour. The fact that that  
45 my have occurred.

HER HONOUR: All right.

MR WHYBROW: I'm not sure that I have to be bound by that.

5 HER HONOUR: I would say possibly a dash or a full stop, Mr Prosecutor, but in any event, there's a mark on the page between two words she will be able to see, and which might be quite significant.

MR WHYBROW: Sure. Well, if I can ask it this way. The police have noted 'vomit' and the words 'stains all down dress'.

10 HER HONOUR: No.

MR WHYBROW: They may or may not - - -

15 HER HONOUR: No, Mr Whybrow, I think you have missed something out.

MR WHYBROW: That's right.

20 HER HONOUR: There is something between 'vomit' and 'stains' which I think you need to put to her.

MR WHYBROW: The note says 'vomit', dash or full stop, 'stains all down dress'?---I had fallen over at the previous venue which is where I assume the grass stains everyone refers to, that's the stains on the dress, and I vomited in the Minister's bathroom. So both of those things are true. They are just separate things.

25 Who are all these people who refer to grass stains?---It's been broadly reported that apparently it's – grass stains were on my dress.

30 And so this is information you have heard elsewhere?---Absolutely.

Okay. But is it fair to say from your perspective you told the police you had stains on your dress?---There were apparently stains on my dress and I had vomited.

35 Thank you. And did you also tell the police that you haven't washed the dress as of 1 April 2019?---Yes, to my knowledge that's correct.

40 Okay. And did you tell those police you did not want to progress with a formal complaint?---I was still tossing it up on the basis of the conversation I had had, you know, hours earlier in the Minister's office.

45 Sure. I appreciate that there may have been thoughts in your head about this. What I'm - - -?---I didn't want them to action anything yet. I was pending. I'd just had a very intense conversation with Minister Reynolds and my chief



of staff. I wasn't ready for them to activate anything because I was terrified. So that sounds maybe broadly accurate.

5 I will ask the question this way and you can - - -?---Go for it.

Might you have said to the police that you did not want to progress a formal complaint?---In that exact moment in time, not yet.

10 No, no. I'm sorry. I'm not sure if you understand my question?---Okay.

I'm sorry, I'm not trying to be confusing?---That's fine.

15 A federal agent has recorded in her notebook, 'Does not want to progress with a formal complaint.' What I'm asking you is did you or might you have said words to that effect to Federal Agent Cleaves?---In that moment, potentially, but obviously I met with them within, you know, another week, and continued to progress the complaint.

20 I'm not asking about - I'm just asking about whether you might've said - - -?--  
-I'm just providing colour.

Well, could you answer my question which is - - -?---Absolutely.

25 Thank you. Now, in any event, you then went and spoke on 8 April with the officers from the dedicated sexual assault detectives?---Yes.

And you spoke with a Detective Harman?---Yes.

30 And you told her that you had gone to The Dock, another venue, and then back to Parliament House?---That's correct.

And you were not able to identify to her what the second venue was?---At that point in time, I wasn't sure.

35 Did you have any inklings as to what it might've been?---I knew that there was a light-up 80s dancefloor and it took some asking around and some googling to, kind of, ascertain that the only light-up 80s dancefloor in Canberra was 88mph and then I reconfirmed it with people who were there.

40 Okay. And when did you do that? How soon after 8 April 2019 did you make those enquiries?---I couldn't tell you off the top of my head.

You were aware from Detective Harman - - -?---Yes.

45 - - - she was anxious to find out where the second venue was?---Sure. It makes sense to me that it would've happened after that conversation. I'm not exactly sure when.

MR DRUMGOLD: We have, your Honour.

HER HONOUR: You say it doesn't satisfy the test in 103.

5 MR DRUMGOLD: Incorrect – correct, yes, your Honour.

HER HONOUR: All right. Could we please have the – if the witness is outside, she can come in at the same time.

10

**JURY RETURNED**

**[10.45 am]**

15

HER HONOUR: Sorry, just trying to do one thing at a time. Thank you, Ms Higgins.

**<BRITTANY MAE HIGGINS, Recalled:**

**[10.45 AM]**

20

**<CROSS-EXAMINATION BY MR WHYBROW CONTINUED**

25

HER HONOUR: You remain bound by your former oath?---Yes.

Yes, Mr Whybrow.

MR WHYBROW: Yes, thank you.

30

I was asking you some questions about your meeting with Sarah Harman on 8 April?---Yes.

35

At that stage, can you recall what your position was in relation to – you've given evidence about your position on 1 April which was, as I understand it, quite confused?---Yes, sure.

About making a formal complaint?---Yes, no, I was still definitely in the air on that.

40

On the 8th?---Not on the 8th. At that point, I was speaking and progressing and I went to SACAT, the sexual assault crimes unit in the Winchester Centre in Belconnen.

45

Yes, that was on 8 April?---Yes.

And on 13 April you sent the email that we read out saying you don't want to proceed?---That's correct.

Can you indicate when you came to that decision? Was it the 8th or the 12th, or when you sent it?---I don't want to play a memory game with you. I don't remember specifically the exact moment. I just knew we were having ongoing discussions about where I would be for the election. I was getting internal pressure about what that meant and how my career would go, if I chose to go – stay in Canberra or try to go to the Gold Coast. I was trying to get my friend to help me sort of leverage to see if I could try and campaign on the Gold Coast and proceed with the complaint and then ultimately there would have been – I communicated to Fiona that, 'Okay,' and 'I'll go to WA,' and that was the moment I let it go.

Okay. Excuse me one moment. I just want to confirm something. I want to show you a document, ma'am. Sorry, I will in a moment. I want to suggest to you that you sent a message to Ben Dillaway who you were in some constant contact with?---Yes, of course.

And said to him on 9 April, on that evening, 'I'm not interested in pursuing it, but it's all beyond strange.'

HER HONOUR: Sorry, that's all beyond?

MR WHYBROW: 'It's all beyond strange,' I can give you - - -?---No. I remember sending it. As much as I trusted and really adored Ben, he was still was – you know, a senior media adviser to a Liberal cabinet minister. So I didn't entirely trust him, that it wouldn't get back to one of his best friends which is Julian Leembruggen who was in the prime minister's office. So I was still cagey with my language with him about how I was feeling. So absolutely I disclosed some things to him, but I didn't 100 per cent trust that, you know, all of my thoughts and feelings weren't exactly going to get exactly straight back to, like, Liberal CHQ right before the election.

Okay. So you recall sending a text message to Ben on 9 April saying, 'I'm not interested in pursuing it, but it's all beyond strange'?---I recall messaging him, yes.

Excuse me a second. Do you remember deleting that message off your phone before you gave it to the police?---Potentially. I mean, to be honest, I – any photo of when I was like 16 and had alcohol in my hand or things like that, I just cleared off my phone. I cleared off, just as like a point of – I don't know. I never wanted to see Linda Reynolds' face again so I cleared off, you know, any photo I'd ever had working for her. Yes, I wanted to scrub all the horrible parts of my life out of my, you know, day to day existence.

When did you do that?---I don't – I don't know, I'm sorry.

Well, you sent a number of photographs to Samantha Maiden in January of 2021 - - -?---Okay.

- - - of you with Linda Reynolds, didn't you?---I did send, yes.

5

Yes, indeed, the photo I showed you yesterday of you sitting at that gathering of the – her election team in the Pan Pacific Hotel in Perth, you sent that photograph to Samantha Maiden in late January 2021, didn't you?---Yes.

10 And a couple of others of you with campaign events with Minister Reynolds in Perth whilst you were there?---Yes, it was to provide imagery for the story.

15 But a moment ago you said you didn't want anything to do – you didn't want to see her face again, so you had scrubbed images - - -?---On my personal device, absolutely. I live on my phone. My phone is my life. I didn't want to have to scroll through my camera roll every day and see her face. Like, I wanted her out. But in the public domain, I regard that as a completely separate sphere. Like, it's not – like, my phone is my home and I just didn't want her in my home. I wanted her out. I wanted to purge her out of my life.

20

That photograph that we tendered yesterday, I want to suggest is not a photo that was in the public domain, at the dinner party of the group of staffers and you in the white dress?---Yes.

25 Was not a photograph in the public domain, was it?---No, I definitely put it on Instagram, I think, at one point. Like, it was on an Insta story. Like, it was broadly – not in like the public public domain in terms of the media sphere. It got into there because I provided it to Samantha Maiden, but I wasn't – can you clarify? I don't understand what you're trying to say.

30

Were you telling the truth to the jury when you say, 'I scrubbed all images of Linda Reynolds off my phone'?---Yes.

That was a truthful statement?---Yes. I scrubbed the images off my phone.

35

Yes. You've provided an image of Linda Reynolds that I suggest was not an image available by Googling the internet or anything?---I don't know. I don't know if it was Googleable, but it was on my Instagram for a period of time. It was on an Insta story. I don't really know what you mean.

40

MR DRUMGOLD: Sorry, your Honour. We are getting the timeline – I thought that my friend was going to clarify it. Where we are getting confused is the timeline between when the photos were erased and when that photo was sent. My friend seems to think that they have occurred at the same time.

45

HER HONOUR: Yes. I think I have to – it's cross-examination, Mr Prosecutor. I think I have to allow it to unfold as Mr Whybrow sees fit, unless you think the witness is getting confused by any individual question which you can object to when it comes. Wait for the next question.

5 MR DRUMGOLD: Yes, I will. Thank you, your Honour.

MR WHYBROW: Do you accept that in late January, you sent – I'm not sure, I should get the exhibit.

10 HER HONOUR: 2021?

MR WHYBROW: 2021.

15 THE WITNESS: I know the photo, it's okay.

MR WHYBROW: You know the photo?---Of course I do.

You sent that to Linda – sorry, to Samantha Maiden when you were in communications with her - - - ?---Yes.

20 - - - advance of this story breaking?---Yes.

You sent a number of photographs of you with various politicians to provide - - - ?---Colour, yes.

25 And image, or?---Absolutely.

Yes. And a number of those were you with Linda Reynolds?---Yes.

30 One was you with Scott Morrison wearing the same dress?---Yes, I did. I wore that dress frequently.

And you said that you had scrubbed, at least in relation to Linda Reynolds?---Yes, I did scrub her off my phone. I don't know when it happened, but I absolutely did it and I don't know if it was, like, after the story went public or before, obviously. I don't know when it happened, but I deleted her off my phone because I just hated seeing her face any more.

35 Sorry, you - - - ?---Sorry. She's not a bad person, but she's – it is what it is.

Okay. And you said that you'd deleted a number of other things off your phone. Did you delete anything off your phone ahead of providing it to the police?---It wasn't with the intent of keeping things from police, but it was kind of purging things from my life, once the story went public, because everything had just turned into chaos. I didn't want to look at politicians in my camera roll anymore. I just wanted them gone.

45



What about, and this where this question started?---Yes.

5 What about the text message that you had sent to Ben Dillaway on 9 April 2019, the day after you saw Sarah Harman?---Correct.

'I'm not interested in pursuing it, but it's all beyond strange'?---I don't recall.

10 Okay. I'll show you a document. Are you aware, Ms Higgins, that the police went and spoke to Mr Dillaway?---Of course, absolutely. He was one of the first people they talked to.

15 And you're aware that they got from his phone, before you'd even handed yours in?---Yes.

Copies of messages between you and him?---Yes.

20 Okay. And just to confirm, that's the context, you don't have to read it out. If you turn over the back, the second page of that document are the messages on your phone and on the front is the messages on his phone?---Yes. Everyone had everyone's phones. I'm not -- like I wasn't -- it's all there for everyone to see. I'm not concerned.

25 No, no, my point is you deleted that one message in that thread, I suggest to you, before you gave it to the police?---I had no intent. I don't understand.

30 You deleted a message that said, on 9 April 2019, a long time before we get to The Project, that you were, 'Not interested in pursuing it, but it's all beyond strange'?---Okay.

Do you agree that you did that?---Evidently.

That might be returned, that document?---Okay.

35 HER HONOUR: Could that document be marked please, Mr Whybrow?

MR WHYBROW: Yes, if it could be marked for identification.

40 HER HONOUR: MFI 7.

**##MFI 7 - DOCUMENT CONTAINING TEXT MESSAGES  
BETWEEN BRITTANY HIGGINS AND BEN DILLAWAY**

45 MR WHYBROW: And if you can just - I would like to clarify a timeline with you?---Okay.

5 From the police; on 19 February, do you recall being asked to make an appointment and that is when the appointment was made for the first record of interview, 19 February 2021?---It sounds correct, but I don't really recall the specific date.

And you were informed that your phones would be required?---Yes.

10 HER HONOUR: Mr Prosecutor, have you seen MFI 7?

MR DRUMGOLD: I have not, your Honour. I was just – I didn't want to interrupt.

15 MR WHYBROW: It comes from the police brief.

HER HONOUR: I know that, Mr Whybrow, but you know other things about who has which parts of those documents. Please. Mr Crown is entitled to see it.

20 MR WHYBROW: Of course. There was a suggestion that he hadn't had it, that's all.

HER HONOUR: Well.

25 MR WHYBROW: I will continue.

HER HONOUR: Yes, Mr Whybrow.

30 MR WHYBROW: On 24 February, you attended for the record of interview?---That's correct.

And advised police you required – sorry, they advised you they required to download your phone?---Yes, they told me that.

35 On 25 February, this is all in 2021?---Yes.

You declined to provide the phone to them?---I did.

40 On 26 February, they re-contacted you and informed you of the need for the phone and the potential adverse effect if it's not undertaken?---Can I tell you why I declined?

I'm just asking you if this is an accurate chronology and you will no doubt get an opportunity to explain?---I appreciate that, thank you.

45 But is that correct, did they ask you again?---Yes, they did.

HER HONOUR: - - - as going to credit only, it needs to have a particular probative quality, and at the moment I'm not seeing it, but - - -

MR WHYBROW: Okay. Well, I won't - I'll move forward.

HER HONOUR: I won't say more. Just continue.

MR WHYBROW: Yes. Yes. You've already indicated you didn't say anything to your father or Mr Dillaway on the weekend?---No.

Okay. And there's a number of messages between you and Mr Dillaway on the Monday?---M'mm.

And again, is it fair to say you don't make any indication or any suggestion that there is something untoward or non-consensual that happened to you over that weekend?---I made reference to the fact that I needed to pull it back and all that sort of thing, which I think was a sly implication of the fact that things had gotten out of hand in terms of the 11 drinks that I had consumed at the first venue, but no, I wasn't ready to disclose my assault within two days.

Okay. Well, can I suggest that if we looked at earlier messages, you'd been out late with Austin Wanke and a person called Guy until after midnight on an occasion before?---Yes, but that happened - - -

HER HONOUR: Sorry, what was that - - -

THE WITNESS: - - - like, before.

HER HONOUR: What was the question, sorry?

MR WHYBROW: This was not – sorry, the question was you – sorry, the witness indicated that the reference to she needs to pull this back was a sly reference to sort of a – a sly reference to what had happened to her on Friday, what she says happened to her, and I was - - -

HER HONOUR: I just missed the next question, that's all.

MR WHYBROW: And I said, 'Do you agree that in the weeks and days before this night you had been out several occasions drinking alcohol'.

THE WITNESS: I had - - -

MR DRUMGOLD: I object to that.

THE WITNESS: - - - two occasions. It's fine. I had two occasions I went out: one the day my minister was stood down and I lost my job, where I went

out with Guy and Austin Wanke as you said, and then this occasion where I was raped by a colleague. I went out twice.

5 MR WHYBROW: And we go through all of Monday. I won't take you through all of the messages, but again you don't make any references, sly or otherwise, to what had happened on the weekend, do you?---I haven't read it yet.

10 Yes, take your time.

HER HONOUR: Mr Whybrow, this can be put in a single question: 'Do you agree that you made no complaint about the alleged sexual assault between the time you said it happened and X'.

15 MR WHYBROW: I am giving her the opportunity to confirm that because it is so long ago.

20 Well, do you agree with that proposition? On the Monday you made no allusions to what had happened to you to your father or Mr Dillaway?---No, it took me three – more than three days to process my rape.

Thank you, it is a yes or no question?---I didn't realise. Yes, it took me three days.

25 Do you agree also from going through that there doesn't appear to be any text messages between you and other people other than your father and Mr Dillaway on what the police extracted from your phone?---Yes, to my knowledge those are the only people that I corresponded with at that time.

30 Okay. And then we go to the 26th, which is the Tuesday?---Yes.

And on the morning there's a number of emails between you and Mr Dillaway and do you agree on page 23858 there is no reference between - - -?---23858?

35 Yes.

MR DRUMGOLD: That is the number at the bottom?

40 THE WITNESS: Yes, 2 - - -

MR WHYBROW: 23858. They are messages between you and Mr Dillaway from 9.53 am through to 10.00 am?---Yes.

45 And then on the next page there's a number of other messages between you and Mr Dillaway between 10.00 am and 10.52 am?---Yes.

And the next message after that is at 1.57 pm, if you go through?---Yes.

And you say, 'So I think I may not be' – 'may not continue to be employed with Linda'?---Yes.

5 And at that stage you had just, or very shortly before, had your meeting with Fiona Brown?---That's correct.

10 And it is your evidence, I understand, that you effectively told her everything that happened to you on the Friday night?---Yes.

Can I suggest to you you made no reference on that – in that meeting with Ms Brown to having any sort of non-consensual or any sort of interaction with Mr Lehrmann?---That's incorrect.

15 You understand what I am saying? That Ms Brown had a meeting with you that morning?---Yes.

You had seen Bruce effectively to your mind be sacked?---Yes.

20 You related it, I suggest, to the fact that you two were in Parliament House that night very late?---Yes.

25 And you were called in to what you anticipated would be a meeting where you might also be terminated?---Yes.

And Ms Brown, I suggest, asked you for an explanation as to why she had just received a report that you had been in Parliament House and didn't leave until 10.00 in the morning?---Also she was informed by security guards that I was found drunk by myself - - -

30 Excuse me - - -?--- - - - naked.

- - - Ms Higgins, you understand that that was what she was told, don't you?---No, I know it.

35 Did she tell you that you were found - - -?---Yes.

- - - naked by a security guard?---She told – no, that was Chris Payne. She told me that I couldn't sign my own name when I went in.

40 Is this on - - -?---She said that verbatim.

Okay. Well, she also said to you, as I understand your evidence - - -?---M'mm.

45



As I understand your evidence, that she told you she had seen the CCTV four times?---I don't remember specifying the number four, but she made reference to the fact of CCTV in some way.

5 Sorry, let's be not cute here. Is it your - - -?---I'm not trying to be cute.

Is it your position that Ms Brown told you at some stage this week, not necessarily on the Tuesday - - -?---So just at any point during the week?

10 Yes?---Okay.

That she had seen the CCTV of you coming into Parliament House?---Yes, she made reference to the fact there was CCTV.

15 That is a different answer to my question?---Well, I'm not exactly sure. She referenced the CCTV. I don't know whether or not she watched it, but she referenced the CCTV.

20 Excuse me a second, your Honour. Just excuse me a second one minute.

Now, you recall yesterday you identified a statutory declaration which had a transcript of what you had said to Lisa Wilkinson on the 20 – sorry, on 2 February?---Yes.

25 And in that transcript I suggest that you asked her a dozen times to see the CCTV and she always said no?---Yes, over that period of time prior to the election. That's accurate.

30 You indicated to her that you had become weirdly fixated on seeing the CCTV?---Accurate.

And Lisa Wilkinson said to you, 'Because at this point you knew that quite a few people had seen the CCTV'?---To my knowledge, yes.

35 And you said, 'Yeah, yeah, I knew that Fiona had seen it'?---She made reference to CCTV and so from that statement I have then taken it to mean that she saw it. But I cannot definitively say whether or not Fiona Brown saw it. I just took her statement and made an inference.

40 And I will just read out what you said to Ms Wilkinson?---Yes, go on.

'Yeah, yeah, I knew that Fiona had seen it. I knew that sort of one of my other colleagues had seen it from Defence'?---Yes.

45 You are referring to Chris Payne, aren't you?---Yes.

5

<CROSS-EXAMINATION BY MR WHYBROW CONTINUED

10 HER HONOUR: Yes, Mr Whybrow?

MR WHYBROW: You recall the learned prosecutor asked you about asking for the day off on the Friday?---Yes.

15 And that evening, you asked, 'I wanted to see if it would be okay if I took tomorrow off'?---M'mm.

And the prosecutor said 'to go to a doctor's appointment'?---M'mm.

20 And you read out the message which says, 'I'm on top of the campaign', et cetera, et cetera?---Yes.

25 Yes and do you recall saying, 'I was in such a weird depressive state where I would have all this intention to go out and do all of these active things to look after myself like go to the doctor's and it would get to it and I'd just physically couldn't get out of bed'?---Yes, so like psychologists said and things like that, I just wasn't ready to confront and deal with the problem all head on. It was too confronting still.

30 And this is the Thursday and you've made on your evidence the disclosures on Tuesday?---Correct.

Okay and you've asked your boss if you can have the Friday off to go to the doctor?---Yes.

35 And you did that, I suggest, at about 10 to 8 that evening after work?

HER HONOUR: The Thursday evening?

40 MR WHYBROW: The Thursday night?---Yes.

And then I suggest to you - - -

HER HONOUR: Put the proposition.

45 MR WHYBROW: Yes, suggest to you at the time that you sent that message, you were also planning to go and catch up that evening with Ben

Dillaway?---Yes, he was consoling me but also yes, we've started dating again. I'm not ashamed of that.

5 No and you then – you got confirmation from Ms Brown that it was okay to work from home and she was being very facilitative and sensitive to things at that point?---Initially at that point in time absolutely.

10 Yes and at the same time that you were telling her that you were going to go to a doctor tomorrow, you were organising to catch up and hang out with Mr Dillaway, correct?---That evening, yes.

Yes and the next morning, you went and had breakfast together?---I believe so, yes.

15 And you told the jury – well, the implication I understood was that you effectively were bed bound because you were so depressed and ill that you couldn't go to a doctor at that point in time.

20 MR DRUMGOLD: That puts it a bit high?---He was consoling me and he was trying to cheer me up as much as humanly possible but yes, essentially bed bound.

25 MR WHYBROW: Okay, well, I'm suggesting that that was a deception you played on Ms Brown saying you wanted to go to a doctor tomorrow and have the day off?---No, I had intention of going to a doctor. Like I've said many times, I just couldn't follow through with it because having those conversations with professionals was so confronting and so difficult. Whether it was the Canberra Rape Crisis Centre, I pulled out of so many of those appointments as well. Whether it was doctor's appointments, actually  
30 confronting the actual rape itself was really, really hard and Ben was the only person who I'd told so he was consoling me.

We're talking about the Thursday?---Yes.

35 Not future appointments or anything - - -?---No, I'm talking about the Thursday as well.

40 Okay so by the Thursday, you had told Mr Dillaway – sorry, you had inferred initially and then more specifically to Mr Dillaway that you had had non-consensual sexual intercourse with Mr Lehrmann?---I said I'd been raped, yes, to him in person. He knew that.

Well, you've used the word 'rape' to Mr Dillaway?---Yes.

45 Okay?---In person absolutely. Obviously not in text because we've read my entire text chain.

And you told him and you've explained why that you'd already gone to a doctor?---Yes and like I continue to say, I couldn't get to a professional.

5 No, no, I'm just asking you if you accept that you had told him that. I'm not asking for the explanation?---We've covered – I know this. I'm telling you I didn't.

10 Yes and the reason you didn't go to a doctor is because you hadn't had sex with anybody on the Friday night?---That's not true.

Consensual or otherwise?---That's not true.

15 You told Fiona Brown you needed to go to the doctor on Friday, I suggest, to bolster your false suggestion that something non-consensual had happened with Mr Lehrmann?---Nothing that you are saying right now is true whatsoever and it's deeply insulting.

20 Thank you and I suggest that you told Mr Dillaway that you'd already gone to a doctor again to bolster him believing that you had had some non-consensual activity. Do you agree or disagree with that?---I completely disagree with everything you're saying.

25 And the reason you didn't go to see a doctor, either the one that you told Mr Dillaway you had already seen, the ones you told the police you'd already – sorry, on 1 April that you'd seen and the one you told Fiona Brown you were going to see - The reason you didn't follow through with any of those, I suggest, is because you hadn't had sexual intercourse with Mr Lehrmann on that weekend, consensual or otherwise?---You are so incorrect. I don't know if you've ever gone through a trauma before but confronting it head on with professionals is a really difficult thing to do. I'd slowly started telling my inner circle of friends. It was very, very hard. I was bed bound. He was consoling me. I was doing my best in extremely trying circumstances. I completely reject everything you're saying.

35 Thank you?---It was - - -

Just so there's no - - -?---It's very clear.

40 HER HONOUR: I don't think there's any ambiguity about - - -

MR WHYBROW: Ambiguity about – you said you were bed bound. Are you talking about the Thursday or Friday or are you talking about as a general proposition about when you were thinking about going to the doctor?

45 HER HONOUR: Mr Whybrow, I'm going to reject the question because I don't know what you mean by 'or as a general proposition'.

MR WHYBROW: Okay.

HER HONOUR: I think you need to be more precise.

5 MR WHYBROW: Were you as you indicated yesterday following the  
indication to Ms Brown that you needed the day off to go and see the doctor  
but didn't follow through because you were bed bound that next day, is that a  
true statement?---I went to a friend to be consoled. I didn't do anything. I  
10 had intention of going to a doctor that next day. It didn't happen because I  
had to be bed bound because I wasn't coping with the fact I had been raped in  
my workplace. I don't know what you want from me.

Thank you, Ms Higgins. Your Honour, I would seek to tender MFI 7 I think  
it is which is the - - -

15 HER HONOUR: I think we need to have that debate in the absence of the  
jury, Mr Whybrow.

MR WHYBROW: Yes, your Honour.

20 HER HONOUR: Can you move on to something else?

MR WHYBROW: Okay.

25 HER HONOUR: I don't mean now. We'll do it – it doesn't have to be dealt  
with now, does it?

MR WHYBROW: No, I wasn't clear. Could the witness please have MFI 7  
30 back in her – it's the larger one – 8, I apologise, 8. If I take you to that  
document specifically?---Okay.

Who is Alexander Woods?---He was a security guard at Parliament House  
and he tried to take me out a couple of times.

35 Okay. I want to suggest to you that you were in text communications with  
him on Saturday 23 March?---Okay, I don't really recall but sure.

2019 to be clear. The morning of the alleged sexual assault?---Okay.

40 Can I suggest to you at about 12.51 – and I apologise because this document  
has got different time – at about 2 pm on the afternoon of the Saturday?---  
Okay.

45 I want to suggest to you that on the afternoon of the Saturday, 23 March  
2019, you were in a text – about 2 pm that afternoon, 23rd, you had some text  
messages from Mr Alexander Woods?---I can't see them but maybe.



I beg your pardon?---I can't see them in front of me. Like they're not in the document in front of me.

5 I apologise, yes I did. At 1 pm and 8 minutes – so at about lunch time on the Saturday, they're not in that document MFI 8?---Okay.

Yes. But I want to suggest to you although they are not in that document - - -?---Right.

10 At about 1.00 pm on the Saturday of the morning you have come out of Parliament House, about three hours after that - - -?---Sure.

- - - you sent a text message to Alexander Woods. Do you remember doing that?---No.

15 He was, you have just indicated, somebody you knew as a security guard at Parliament House?---That's correct.

20 Can you remember why at 1 o'clock on the Saturday afternoon you text a security guard at Parliament House?---We were like friendly and he had tried to ask me out a couple of times and it just timing wise never quite worked out. I was either dating someone or he was and so we just kind of had like a flirtationship.

25 Sure, and I am just – suggest it is an unusual time for you to text him at 1.00 pm three hours after you have got out of Parliament House. Can you recall what you said or what the nature of that communication was?---No idea.

30 Do you know if he was on duty at some stage earlier that day?---No, I had no idea which security guards were there at 1.00.

And then he, I suggest, responded to you within the hour by text?---Okay.

35 He sent you about four texts between just before 2.00 pm and just before 3.00 pm. Do you recall that?---No, I don't recall these messages.

40 And then the following morning at 8.00 am, this is the Sunday morning, you sent him another text?---Okay.

45 Could these communications have been about what people were saying about you at Parliament House?---I don't think so. I mean, I think we were kind of like flirting, if anything. He had a dog he used to send me photos of, like, a German Shepherd thing, or a Collie – it was a Border Collie. We wouldn't talk really about work. I don't know. I don't know, I don't have the messages in front of me. I have no idea what they're about.

No, I'm suggesting we don't have the messages in front of us because you deleted them from your phone. Is that something that happened?---I've clearly deleted them from my phone, but like nothing – we were like flirty, it wasn't about any of this awful stuff.

5           You were flirty with him – you sent him a flirty text at 1.00 pm three hours after you had left Parliament House on Saturday morning?---We were talking.

10       HER HONOUR: I don't that is a fair summary of her evidence, Mr Whybrow.

          MR WHYBROW: Okay, I will withdraw that question.

15       You don't recall - - -

          HER HONOUR: I - - -

20       MR WHYBROW: - - - why you sent that message?---I have no idea what those messages are. I don't remember.

          Okay. And you - - -

25       HER HONOUR: Sorry, I was going to say I reject the question.

          MR WHYBROW: Yes. I withdraw the question, your Honour.

          And you sent the next one at about 8.00 am the next morning. You don't recall it?---(No audible reply)

30       Is that correct?---I don't recall it, no.

          And there are further communications between you and Mr Woods over the course of the Sunday by text message?---M'mm.

35       Do you accept that that could have been the case?---It could have been the case.

40       Okay?---I really – we never actually went on a date, but we did message occasionally like for like a couple of months, I think, and then I stood him up a couple of times and he gave up and so he stopped messaging me.

          Well - - -

45       HER HONOUR: Mr Whybrow, it is quarter to 1.00, which is too early for lunch. There is an issue that I want to raise with you.

# TRANSCRIPT OF PROCEEDINGS



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## **SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY**

### **THE HONOURABLE CHIEF JUSTICE MCCALLUM AND A JURY OF SIXTEEN**

**SCC 264 of 2021**

**DAY 9**

**DIRECTOR OF PUBLIC PROSECUTIONS  
and  
BRUCE LEHRMANN**

**CANBERRA**

**9.59 AM, FRIDAY, 14 OCTOBER 2022**

MR S. DRUMGOLD SC with MS S. JEROME appeared on behalf of the Office of the Director of Public Prosecutions.

MR S. WHYBROW with MS K. MUSGROVE and MR B. JULLIENNE appeared on behalf of the Accused.

Suppression Order - Protected identity information is in this transcript. Any enquiry concerning those details must be directed to the court.

Could we have the witness back, please.

5 <BRITTANY MAE HIGGINS, Recalled:

[10.44 am]

<CROSS-EXAMINATION BY MR WHYBROW CONTINUED

10

HER HONOUR: Thank you, Ms Higgins.

Members of the jury, as I said before you left the courtroom, it is very common in trials of this nature for the witness to have regular breaks.

15

Ms Higgins, I propose to give you a break each half hour unless you want one earlier or don't want the break when I call it?---Wonderful. Thank you.

Yes, Mr Whybrow.

20

MR WHYBROW: Thank you, your Honour.

HER HONOUR: Sorry, and you remain bound by your oath?---Yes. Yes, of course.

25

MR WHYBROW: Ms Higgins, I was asking you about a conversation you had with Mr Dillaway when he came down to Canberra to see you?---Yes.

30

And I was suggesting to you that Mr Dillaway asked for your consent about whether he could go and talk to Julian Leembruggen at the PMO's office about what you had told him?---Yes.

To try and get you some more support?---Yes.

35

And do you agree that you did give him that consent to do that?---Of course I did.

40

Now, last week I asked you about a text message with Mr Dillaway where you had – and, indeed, in your record of interview where you had sent a communication to Mr Dillaway saying, 'I went to a doctor last night'?---M'mm.

You recall that conversation?---Yes, I recall.

45

Sorry, that text or - - -?---Yes.

I suggest you had a conversation with Mr Dillaway about that on the phone, or you may have?---I don't recall.

5 And in that conversation you said to Mr Dillaway you had gone to a doctor to get an SDI check?---I don't recall.

You have given evidence about a photograph of a bruise?---Yes.

10 You remember giving that evidence?---Yes.

Do you agree that you never mentioned that bruise or the photograph – two different things: the actual bruise, and the second thing is that you had taken a photograph of it. You didn't mention either of those things to the police officers on 1 or 8 April? 2019. Sorry, I withdraw that; that's terrible. You  
15 took a photograph. I think from your statutory declaration you said that that photograph was taken on 3 April 2019?---Yes, that rings true.

In your evidence last week you said you took that photograph five days later. Do you accept that if you took it on 3 April, it would have been about 12 or  
20 13 days after what you say happened on the night of the 22nd?---Yes. I just remember it being Budget week and the actual date itself I don't really recall specifically.

On – and I will break them down. When you spoke to Officers Thelning and  
25 Cleaves on 1 April, the first two ladies you spoke to - - -?---Yes.

- - - of 2019 - - -?---Yes.

- - - you didn't say anything about having a big bruise on your leg, did  
30 you?---Not that I recall to the police. Not at that point, no.

And on 8 April when you spoke to Detective Harman – you remember, from SACAT?---Yes.

35 Again, I suggest you didn't make any reference then to you having had a big bruise on your leg?---I don't think that's true necessarily. They referenced keeping photos and the photos I think they were referring to were both the bruise and I took a stupid photo of a cocktail that I was drinking that night  
40 that I took a photo of that was like a Long Island Iced Tea joke because there was a teabag in a cocktail.

I suggest you didn't make any reference to having either had sustained a bruise on your leg to Detective Harman on 8 April - - -?---No. I just  
45 answered that. I don't - - -

Did you make a reference to having sustained a bruise? Different to the photograph?---I believe so, yes.



5 And I want to suggest to you you made no reference to having taken a photograph of a bruise, and you have already given an answer to that?---I've already made reference – they asked me to give photos of those things, the drink and the bruise.

10 Is it your evidence that Detective Harman specifically said, 'Please keep the photograph of the bruise'?---No, they said, 'Please keep any photos that are relevant', and I did.

15 I want to suggest that there is no reference – sorry, you didn't make any reference to anybody else before January '21 to having suffered a bruise on your leg?---I don't believe that's true. I don't know who I would have particularly disclosed it to, but I think when I was relaying the events of the assault I think it would have come up.

20 I want to suggest to you the first reference that you make to having sustained a bruise is when you are speaking to Lisa Wilkinson and The Project in late January of 2020.

HER HONOUR: Just don't answer that question for a minute.

25 MR WHYBROW: Sorry. I might withdraw that question and put it in a different way.

HER HONOUR: Yes. I don't think you can put that.

MR WHYBROW: No, no, I will put it in a different way.

30 I'll put a less broad proposition if I could?---Go for it.

35 You understand that on 25 May 2021, the police, with your consent, done an extraction of things off your phone?---Yes. They took three of my phones and I had another three work phones I confirmed to them that existed, but they took stuff off all of them and they still have two of them.

40 And I want to suggest to you that on those extractions there is no reference to this bruise in messages or emails before January 2021?---I don't think I sent it to anyone. I sent it Samantha Maiden at one point, I sent it to Lisa Wilkinson, but up until the point in which I was making a police complaint why would I send that around?

45 I suggest that the photograph of the bruise and your assertion that it was an injury that occurred during this assault is a fabrication?---Okay, sure. I reject you completely.

Thank you, and that - - -



MR DRUMGOLD: I'm sorry, your Honour, but the question is unfair, I think. I think the proposition advanced by this witness was she assumed. I think that was the word that was used. My friend is putting it definitively. I think she used the word 'assumed'. I can find the reference.

HER HONOUR: Well, there are two things. There's a different basis on which I can think the question might have been objected to but it wasn't and the answer has come, and if that's the submission that's going to be put, if there's a proper basis for putting it, then the question should be allowed. I think I'll leave it where it lies, Mr Prosecutor.

MR DRUMGOLD: Thank you, your Honour.

MR WHYBROW: Excuse me one second, if I may, your Honour.

HER HONOUR: My concern, Mr Whybrow, so I'm not being too Delphic, is the basis for putting as opposed to asking, if I could put it that way, given that you can't know the whole universe of information about that topic.

MR WHYBROW: No. That's why - - -

HER HONOUR: But if you're going to make the submission - - -

MR WHYBROW: That's why I confined it to something else and there's other - - -

HER HONOUR: But you are going to make the submission that it's a fabrication based on inference.

MR WHYBROW: Yes.

HER HONOUR: I think I have to allow it, Mr Prosecutor.

MR DRUMGOLD: Yes, your Honour.

We'll just move on, Ms Higgins. Now coming to October of 2019, that was a very stressful period for you?---That's correct.

I've already suggested to you and you disagreed that there was no sexual assault. Do you understand that?---I understand that's your proposition.

Yes, and I'm suggesting to you that you raised an allegation that you had been sexually assaulted because you were concerned that you might lose your job?---I understand that's what you put to me, sure.

I take it you reject that suggestion?---Naturally.

5 And that you became aware when Fiona Brown spoke to you that you had been seen naked in the minister's suite on the Friday night, Saturday morning?---Fiona Brown didn't tell me that. She said that there had been a security breach and that I had been there overnight, but I found out that I was seen naked by a security guard from Chris Payne, the DLO. I think that happened on the Thursday afternoon when we had our conversation. Fiona Brown didn't disclose that to me.

10 Well, I want to suggest to you that incident - I apologise - that the proposition that no sexual assault had occurred but you had been found naked by a guard in Parliament House was an embarrassing situation for you to have found yourself in?---Naturally I was embarrassed to be found in that state.

15 And you - - -

20 HER HONOUR: Sorry, I think the answer reveals a problem with the dual nature of the question. The question contained two propositions rolled up, Ms Higgins, that you weren't sexually assaulted and you were found naked and I think you should have an opportunity to respond to that rolled-up proposition.

25 MR WHYBROW: Yes?---I was found naked because I was raped. I don't know what more to say.

Okay. The propositions I'm putting to you are based on a proposition that I know you reject, that there was no sexual assault. Do you understand that?---M'mm.

30 I suggest that when you became aware that a security guard had seen you and an incident had been elevated you became very stressed and concerned about your job?---It was three days later after talking to Fiona Brown though.

35 And at that point is when you first raised any suggestion with Mr Dillaway that maybe something unwanted had occurred with Mr Lehrmann?---No, because I raised that with him on the Tuesday, the moment I spoke with Fiona Brown. Like that timeline you just put to me, none of that makes sense.

40 And that you did what you felt was necessary to have people believe that you had suffered a sexual assault?---I'm not a monster. I would never do something like that.

45 And just so you understand the bases of what I'm putting - - -?---You're asserting to me that I have completely fabricated this just to keep a job - - -

Yes, ma'am?--- - - - and I cared about my job but I would never do that.

Okay, and by 8 April you had spoken to Detective Harman?---M'mm.

5 You had been - and you may disagree with this - you had been urged by Minister Reynolds to speak to the police and you did so?---'Urged' is not the word I would use, and I've described that interaction in my words. So you can use whatever word you want but that's not the word I would use.

10 And on 9 April you sent a message to Mr Dillaway saying you weren't going to pursue a police complaint?

HER HONOUR: Mr Whybrow, I reject that question.

15 MR WHYBROW: You reject that question?

HER HONOUR: Because that's the question you need to put in the context of that whole exchange.

20 MR WHYBROW: I'll come back to that maybe, your Honour.

And by the time you went to Perth, you had got through this situation where your job seemed to be in peril?---Sorry, can you rephrase the question?

25 You didn't pursue a complaint with the police in April or thereafter because what had you intended to achieve had been achieved, that is to save your job?---No, I didn't pursue a police complaint because I felt pressured not to come forward on the basis of the information given to me by Fiona Brown and Linda Reynolds.

30 I understand that?---Mostly Fiona Brown.

35 But in October 2019 you were advised that there was a journalist making inquiries about an incident that had occurred in Linda Reynolds' office?---Yes, that's correct.

40 And you became concerned again that this embarrassing and humiliating incident might come out?---Yes. I was in a different head space at that point in time. I had kind of given up hope that any sort of justice process would play out and so, yes, I was concerned just about my job at that point.

And you spoke to a couple of your colleagues and gave them some perfunctory details of something had happened with Mr Lehrmann like Regina Camara?---Would you like me to explain the series of events?

45 No, I'm just asking you did you do that?---I did.

And you went to see a doctor on 25 October in relation to the stress that you were feeling at that time?---Yes. I needed medication, I wasn't coping.

5 And it was as a result of the stress of a journalist making inquiries, was - sorry, was it?

HER HONOUR: Well, Mr Whybrow, if you're putting that - - -

10 MR WHYBROW: I'll withdraw that question.

Was that, from your perspective, something you did because of the stress you were feeling from this inquiry or communication about a journalist?---No. It was on the basis that Linda Reynolds called my chief of staff, Daniel Try, disclosed my rape without my consent, then sent over one of her staffers to then pretty much interrogate me about the details of whether or not I had leaked it at that point. Daniel Try was also present for that meeting, so there was the three of us in that room. Then he went and told Michaelia Cash after that incident and when we did a weird photo op at a stupid - like a tradie site on the day of senate estimates when they thought it was going to come out. So there was a lot going on at the time and I was broadly stressed and I definitely needed anxiety medication because it's quite a lot on my plate and my rape was suddenly becoming new information to my new office which I had kept siloed.

25 Okay, thank you?---Thanks.

In January 2021 you had that first sit down meeting with Lisa Wilkinson?---M'mm.

30 The longer one where there was no camera but the producer was recording it?---Yes, we just had a chat.

And during that conversation you described to Ms Wilkinson the events that happened that night with Mr Lehrmann as you were alleging?---M'mm.

35 And also the pressure and other things that happened after that?---Yes.

In relation to the events with Mr Lehrmann do you recall and agree that you described to her how you had woken up?---Yes, I relayed information about how I'd woken up.

40 And that your dress was around your waist?---Yes. I had made that statement, yes.

45 And you indicated to her that Mr Lehrmann had removed your underwear?---No, I never - I've never asserted that. I didn't wear underwear that night. I know that's salacious and clickbaitey, or whatever, but I didn't

wear underwear with that dress on the basis that it had lines. On a 20-year-old girl, we care about stuff like that.

Okay?---It was stupid.

5

Excuse me a second, your Honour.

Can I show you – you are aware – or are you aware - - -?---M'mm.

10

You know there's two sit-downs with Ms Wilkinson?---M'mm.

The first one which is audio recorded and the second one was video recorded?---(No audible reply)

15

You accept that?---Yes.

And the second one there was a transcript that was produced and you went through that and signed a stat dec saying it was true and correct?---The video one, yes.

20

Were you aware that there was a transcript prepared of the first audio one?---No.

25

Have you ever – well, you weren't aware. Can I show you what – I will show you this document and I will just give you an opportunity to read that page. I suggest it is a transcript from that conversation with Ms Wilkinson?---M'mm.

And I don't know, I'm sorry, the producer's surname, Angus?---Of – do I know it?

30

No, no, just - - -?---Yes.

35

There's some comments attributed to him. I am concerned about what you said in relation to something, but I want you to have a look at this?---Yes. I mean, when you put it out in like a - - -

HER HONOUR: Sorry, just wait for a question, Ms Higgins?---Sure.

40

MR WHYBROW: Can you just have a read of that transcript?---Indeed.

That page please, ma'am?---M'mm.

Have you had a chance to read that through?---Indeed.

45

I am asking about what is put as timeframe 1:27:54. You see that?---M'mm.

And a question and an answer between you and Ms Wilkinson?---M'mm.



5 Do you recall giving that answer to that question?---I was more so answering  
-- yes. Yes, I do. I -- but it was wrong. I didn't wear underwear. I was  
clearly embarrassed, but that wasn't the actual interview itself and I didn't  
sign a stat dec on this. This is just us talking. By that point we were still  
trying to, you know, feel each other out. But, you know, all airs and graces  
are gone. I'm only trying to save -- my dignity has left the building a long  
time ago and I wasn't wearing underwear and that is the truth.

10 Sorry, I am not asking you about that. I am asking you do you agree that  
Ms Wilkinson - - -

HER HONOUR: She has agreed that she said it so you can read it out,  
Mr Whybrow.

15 MR WHYBROW: You agree that Ms Wilkinson asked you, 'So he had  
removed your panties?' and you said, 'Yeah'?---It was a conversation. I didn't  
sign a stat dec on it. It was just -- we were still yet to do the actual interview.  
And I've corrected the record since. I've gone and I said it when I actually  
20 spoke with her on camera, I've said it to police I was embarrassed by it. I  
continue to be embarrassed by it and I'm now embarrassed by it in front of  
the court, but it's the truth.

25 What I am suggesting to you is at that point in time when you said that you  
were informing Ms Wilkinson that Mr Lehrmann had taken your underwear  
off you?---He'd taken my dress off my body. He had not taken my  
underwear because he could not take my underwear. I was only wearing a  
bra.

30 But you were prepared to - - -

HER HONOUR: Mr Whybrow - - -

MR WHYBROW: I will move on, your Honour.

35 HER HONOUR: There comes a limit.

MR WHYBROW: Yes. Excuse me a second.

40 Now, you just referred to some what you have put as knowledge of things  
that were said by Mr Try to Minister Cash?---Yes.

And things that were said by Minister Reynolds to Mr Try?---Yes.

45 And is it your evidence that in relation to Minister Cash -- sorry, I have asked  
you this. But you recorded a conversation with her on 5 February  
2021?---Yes, I did.



You have – you said to the police you do not remember whether you went to the couch yourself willingly or whether you were guided there, is that fair?---Correct.

5 As I understand your evidence, you do not actually have a recollection of walking up the corridor with the security guard and being let in?---No, I don't.

10 Do you remember saying to the police:

I don't remember Bruce being around. I felt like I was by myself for a while, like he was doing something or getting something.

15 ?---Correct.

I take it from the answer about you are not sure if you went to the couch or not that you would accept that you may - - -

20 MR DRUMGOLD: How you got to the couch?

MR WHYBROW: Sorry, how you got to the couch, that you may have yourself - - -

25 HER HONOUR: Start the question again, Mr Whybrow.

MR WHYBROW: Yes, I will. I will go back:

30 I don't remember whether I went to the couch myself willingly or whether I was guided there.

?---Correct.

35 Is it the case that you do not have any recollection at all of how you have ended up in Minister Reynolds' office?---That is correct.

Okay, so you accept you may have gone in there yourself?---Yes.

40 I appreciate I am asking you questions now about things you may not remember, please say so?---It's okay.

I have a duty to put things?---I can do it.

45 What I want to suggest is that when the door opened – you have seen the map?---Yes.

That Mr Lehrmann went left towards the staff area, if I can put it that way?---Sure.

That you turned right towards the area where Ms Brown's office was and where the minister's office was?---No.

5 Do you know that that did not happen, or?---No, I know that I sat on that ledge that I've described previously. I know that for a fact.

10 You accept from the photographs that those ledges run all the way down that office?---Yes, but the ones that I was referring to are specifically right in front of that big staff open space bit.

I want to suggest you were not sitting on those ledges but you may have been sitting on other ledges?---No.

15 Okay, and just so I – I may have forgotten your answer before, you accept that you may have gone into Minister Reynolds' office of your own accord?---Yes. I – like I said, I don't remember whether he took me there or if I went there by myself. I just remember the next part.

20 Sure. Is it normal for staffers to go into the minister's private office uninvited?---No, I'd never done it before. We'd had like staff Christmas parties and things in the minister's office until late, so like stuff like that has happened but I had never been back to Parliament at – like in that way before.

25 Okay, and suggest that whilst you were in Minister Reynolds' office you removed your dress and lay down on the couch?---No.

30 I suggest you removed your dress at some stage?---It may have been removed off my body but I'm not entirely sure. I – once again, I've always thought that it was scrunched up around my waist but other people's accounts is that I didn't have it but I've based my recollection on the basis that I – when I threw up I don't remember having to pick up my dress and re-dress myself the next morning, so that's just what it is.

35 Is it – is this a fair statement, you do not recall the guard, Nikola Anderson, coming, opening the door and making a check on you?---No, I don't remember that interaction at all. I was told about it.

40 Do you accept that you have given evidence as to which end your head was laying on on that couch?---Yes.

45 Do you accept you may have got that mistaken and you actually had your head at the other end of the couch?---I may have moved, but I know that when I was being assaulted I could see out the window.

I suggest to you you went into the minister's office of your own accord?---I can accept that maybe.

5 You removed your dress yourself and either fell asleep or passed out on the lounge?---No, I don't accept that.

And you did not see Bruce again from the time you entered the suite until you woke up the next morning?---I obviously don't accept any of this.

10 And that Mr Lehrmann did not sexually assault you?---No.

You don't agree?---I obviously don't agree. He raped me.

15 And he didn't come into the minister's suite at all that evening when you were in there?---He was in there. He was physically violating me. He was in my body I know.

Your Honour, they are my questions in cross-examination.

20 MR DRUMGOLD: Very brief, your Honour.

HER HONOUR: Re-examination, Mr Prosecutor?

25 MR DRUMGOLD: This will only take a few - - -

HER HONOUR: I will just ask Ms Higgins if - - -

30 Would you like to have a break before the re-examination? I have been told there's only a few questions.

MR WHYBROW: Sorry, your Honour, there was one question I have been reminded I forgot.

35 HER HONOUR: Ms Higgins, would you like to have the break before the one further question?---Can I just have the one further question?

MR WHYBROW: Thank you. When you did leave that morning, ma'am, did you go down in the lift or did you go down the fire stairs?---I don't recall.

40 Thank you. Nothing further.

HER HONOUR: She is going to have a break, Mr Prosecutor.

45 MR DRUMGOLD: Thank you, yes.

**<WITNESS STOOD DOWN**

**[11.41 am]**