THE HON IAN CALLINAN AC

FURTHER REPORT

DAVID CULLEN BAIN – CLAIM FOR COMPENSATION FOR WRONGFUL CONVICTION AND IMPRISONMENT

Preliminary Matters

1A. The circumstances in which, and the bases upon which I make this Further Report appear from the correspondence which has passed between the Applicant, the parties, others and me. Schedule 1 is a list of the relevant correspondence so far as I am aware of it. Included in that list is a response by Crown Law of the 30th of November (the "Response") to the letter of Mr Karam of the 16th of October 2015 (with attachments) to the Minister (the "Letter"). The Further Report should be read with the Final Report dated the 24th of December 2015, which is a finalised version of my Draft Report submitted to the parties on the 26th of September 2015.

1B. In making this Further Report, in accordance with my instructions, I do not deal with the report of Mr Binnie, and the review of it by Dr Fisher. I do not deal with some others matters because it is unnecessary for me to do so, or because I do not think it appropriate to do so. As is apparent from what I identify as the Letter, in the Schedule, the Applicant makes a number of complaints going beyond alleged errors of fact or law in my Draft Report. The Minister has nonetheless asked me to deal with such of those matters as I can.

1C. In order to comply with my original instructions, I have sought to identify separately alleged errors of fact or law complained of by the Applicant in the Letter, and to deal with these in accordance with my original instructions by making such corrections as I think warranted to my Draft Report. Other complaints, which it seems to me relate to my analysis and conclusion, to the extent that they can be separately identified, and I think I may or can do so, I deal with in this, my Further Report.

ABN 14 553 015 788
LEVEL 11 INNS OF COURT 107 NORTH QUAY
BRISBANE Q 4000
TEL (07) 3211 5258 FAX (07) 3236 2240
idfcallinan@qldbar.asn.au

1D. One matter needs to be corrected at the outset. In writing the letter that I did to the Crown on the 4th of November 2015, I was not, as the Applicant put it to the Minister on the 8th of November 2015, seeking the Crown's "assistance". I was inviting the Crown to state its position in relation to the Minister's request to me to give consideration to Mr Karam's Letter (in a similar way to that in which a judge seeks submissions from parties as to the judge's jurisdiction).

1E. In considering the Letter and the submissions of the Crown, and in finalising my Draft Report, I have made some changes on my own initiative.

1F. As I did in my Draft and Final Reports, I refer collectively and individually to the Applicant, Mr Karam and his legal advisors. I adopt hereafter the numbering used by the Applicant in the Letter.

Non-Specific Complaints

1. I offer no comment on this paragraph.

2. I offer no comment on this paragraph.

3. I offer no comment on this paragraph.

4. Unlike on other occassions, the Applicant did not ask for an extension of time with which to make submissions on my Draft Report.

5. I offer no comment on this paragraph.

6. I offer no comment on this paragraph.

7. I draw attention to paragraphs 33 and 405 of my Report and add only this. I have not been asked to comment on the appropriateness of the Cabinet Guidelines which, in their operation, may deny compensation to the Applicant.[1]

[1] Historically, in the United Kingdom and other Commonwealth countries, and also in the United States, commutations of the death penalty, reductions of terms of imprisonment, pardons and compensation for wrongful conviction have been matters within the discretion of the executive government, and therefore generally not susceptible to legal challenge, although in some jurisdictions aspects of them have been legislatively codified, or may be open to judicial [administrative] review. A recent example in Australia is the Western Australian case of *Mallard v R* (2005) 224 CLR 125. There, the High Court quashed the conviction for murder of the appellant on the ground principally of fresh evidence after he had served a term of imprisonment of almost 12 years. The DPP of Western Australia decided not to retry the

Background and Concerns

8. I have been asked to have no regard to, and therefore do not make any comment upon the matters referred to in paragraph 8 of the Letter.

9. I have been asked to have no regard to and therefore do not make any comment upon the matters reffered to in paragraph 9 of the letter.

10. I offer no comment on this paragraph.

11. I offer no comment on this paragraph.

12. So far as I can, I deal with the matters enumerated by Mr Karam, either in my Final Report or this Further Report.

13. I offer no comment on this paragraph, except to point out that it is neither practical, desirable, necessary, nor indeed possible, to refer to every piece of evidence in the case.

14. I offer no comment on this paragraph.

15. I deal with the matters as best I can, as ennumerated in the letter.

16. I have made such corrections of fact as I think should be made. Some I did not make because to do so would not have been to preserve quoted matter verbatim.

17. I offer no comment on this paragraph.

18. I offer no comment on this paragraph.

Blood Spatter, Spots or Stains and Alleged Alibi[s]

18.1(a) To the extent that there may have been error, inconsistency, or ambiguity in relation to the staining or spots on Mr Robin Bain's shoe, I have made such changes as I think appropriate to my Draft Report. Whether they are related to the events of 20th of June or not, they do not, in my opinion, advance the Applicant's case.

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appellant. The executive government of Western Australia ultimately paid a substantial sum by way of compensation to the appellant. Before doing so, it engaged in a process for the examination of his case, but I have not sought the details of that process because of the answer that I have given to the question that I have been asked.

18.1(b) The Crown's last submissions (paragraphs 8 to 18) well summarises the state of the evidence on the staining or spots.

18.1(c) The error of fact identified here has been corrected in my Final Report. As with other issues in this case the relevant evidence has to be weighed with all of the other evidence including Ms Laney's evidence. When she saw a person whom she identified as the Applicant, he was either squeezing through or past, or beside or near, the gate of the residence in Every Street (see paragraph 103 of the Report).

18.2(a) I was aware that the witness referred to here says that the Applicant was walking towards his home. As to whether, after he was observed by the witness, he continued to walk or not, I made no affirmative finding. The onus which the Applicant has to satisfy is an onus to be discharged on the basis of all of the evidence including, but certainly not confined to the Applicant's own evidence, which contains various inconsistencies which I will not repeat here, but a number of which are dealt with in my Final Report.

Mr Slemko's Evidence

18.2(b) I had regard to all of Mr Slemko's evidence in answering the question that I was asked.

Incest Revelation Theory

18.3(a) I have attempted to deal with the Applicant's case as it was presented to me. In addition, I have read Mr Karam's book *David and Goliath* and substantial parts of his other two books, all of which argue the Applicant's case in various ways. Again, it would not be useful, practical, or necessary to repeat every aspect of it in my Report.

No reliable evidence has been identified to me of an awareness on the part of Mr Robin Bain that Laniet had been, to quote Mr Reed's opening at the retrial that Laniet was "telling everyone" and of "Robin getting to hear of that". I accept the submissions and the statements of fact made by the Crown in paragraphs 28 to 36 on the 30th of November 2015.

I did not misconstrue the Applicant's case. The absence of any reliable evidence upon which to base the "alternative submission," and my opinion, that it was an even more implausible motive for Mr Robin Bain to kill all of his family and spare the Applicant, made it unnecessary for me to refer expressly to it.

Counsel's submissions and addresses are not evidence. Sometimes judges allow defence counsel in criminal cases some latitude in addresses, opening and closing, to juries. Here, the Applicant bears the onus. More is required than that Applicant simply suggest an hypothesis unsupported by any reliable evidence.

Familicide

18.3(a) On the question of familicide, I add nothing to what I state in paragraphs 186 et seq of my Report.

Injuries to Mr Robin Bain's Hands

18.3(b) The Crown's submission in paragraphs 38 to 42 is correct. I do, however, accept that the word "could" is more appropriate than the word "would" in paragraph 143 of my Draft Report, which I have changed to reflect that. I have had regard to all of the evidence in the case, including that of the experts.

Dr Dempster's Affidavit and Evidence

18.4(a) I have nothing to add to what I have said in paragraph 202 and 203 of my Report.

The Applicant's Attitude to and Relationship with his Father

18.4(b) What I have said in paragraph 327(42) of my Report is based upon all of the evidence, including a deal of it demonstrating or expressing the antipathy that the Applicant bore towards his father and friction between them. The fact that he may in terms have told only one person in terms that he "hated" his father does not mean that on other occasions when he spoke of or about his father the substance of what he said did not amount to hatred. I was and am well aware of the context in which, on each occasion, the Applicant spoke critically of his father. For example, Mrs Boyd's evidence at pages 2666 and 2667 of the Retrial Notes of Evidence was to this effect:

"Q. When you went into the lounge and you talked to him, did you talk to him at all about Robin and about family matters and things like that?

A. Yes. He talked about the family situation and so on, he talked about his father, he talked about that he hated his father. He said that he was sneaky, he used to listen into conversations that he – that had nothing to do with him."

(There was no cross-examination by or on behalf of the Applicant of Mrs Boyd at the retrial.)

Computer Clone

18.5(a) It is correct as the Crown submits in paragraph 51 of its most recent submissions that the reference to the clone was in terms of it as a "possible variable". The deletion of it as a possible variable would have no effect upon my conclusion, which is based upon all of the evidence.

Gloves

18.5(b) This is an error which I acknowledge and have corrected.

Reasoning

18.6 I make no comment on the opening two subparagraphs of paragraph 18.6.

18.6(a) I took into account statistical evidence. See, for example, paragraph 83 of my Report.

I have not been asked to, and have not had, regard to either Mr Binnie's report of Dr Fisher's report. I do not understand New Zealand law to require me to use or apply Bayesian Theory or approaches, and I have not done so here.

Marks on Mr Robin Bain's Hands

18.6(b) I have nothing to add to what I have previously said in relation to Mr Robin Bain's hands and thumb.

Observations of the Applicant of Witnesses

18.6(c) I have nothing further to say here on the topic of observations of the Applicant outside his residence on the morning of the killings.

Manner of Expression (Old or New Shoes)

18.6(d) It may well be that part of what I said in paragraph 365 is infelicitously expressed. But the meaning does, I think, emerge on a careful reading.

Case Summaries

18.7 It is important to keep in mind that in outlining a case theory or counterfactual for both sides if I have not made it clear before I do now that other case theories or counterfactuals might be possible.

18.7(a) I have nothing further to say about familicide or motive.

Suicide: Capacity

18.8(a) I accepted and continue to accept that it was within Mr Robin Bain's physical capacity to shoot himself in the left temple if he were determined to do so.

Extra-Curial Discussions

18.8(b) What a judge says extra-curially is not legally binding.

Errors

18.9(a) I made the correction which the Applicant's 18.9(a) rightly calls for.

18.9(b) I made the correction which the Applicant's 18.9(b) rightly calls for.

18.9(c) I was not misled by the mistaken footnote referred to there and have corrected it.

18.9(d) I apologise for the mistaken reference to *David and Goliath*. It should have been to *Trial by Ambush*. I have made the necessary correction.

18.10 The corrections that I have made pursuant to the Crown's last submissions on my Draft Report are identified in the table which I have prepared in relation to it, and appear in my Final Report.

19. I offer no comment on this paragraph.

The Applicable Law

20.1 I had regard to all of the evidence. Otherwise, I cannot comment on the matter quoted from Dr Fisher's review.

20.2 I made it clear in paragraph 193 of my Report that I was not treating *De Gruchy* as any kind of precedent. I referred to it in passsing as an instance of familicide by a young male apparently without motive, and to explain my understanding of the nature and relevance of motive in the criminal law. I thought then, and continue to think that the explication of these by Kirby J in *De Gruchy* is helpful and relevant.

I believe I did proceed in accordance with New Zealand law. Indeed, I did so with a consciousness of the divergence between the approach of the New Zealand courts from that of the Australian courts. There is no doubt that the approach of the High Court of Australia in *Chamberlain & Anor v R (No. 2)*[2] did occasion difficulties for other courts subsequently, which were sought to be, but have not, in my respectful opinion, been entirely satisfactorily resolved in the subsequent case in the High Court of Australia of *Shepherd v R.*[3] Further, I think the New Zealand approach is not only clearer, but also superior to the Australian approach reflected in the two Australian cases to which I have referred.

I have proceeded generally in accordance with the laws as submitted, correctly in my view, by the Crown.

20.3 I offer no comment on this paragraph.

Mr Binnie and Dr Fisher

20.4 I have nothing to say about anything Dr Fisher may or may not have "declared".

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2 (1984) 153 CLR 521.

3 (1990) 170 CLR 573. See also *R v Hillier* (2007) 228 CLR 618.

Footprints

20.5 In answering the question that I was asked, I considered the evidence about the footprints, luminol and related matters in the light of all of the evidence in the case.

Approach to Probabilistic Reasoning

20.6.1 I do not comment, for the reasons which I have given, on the respective approaches of Dr Binnie and Mr Fisher.

20.6.2 I have nothing to add to what I say here and in my Report about Bayesian theory and statistics.

20.6.3 I have nothing to add to what I say here and in my Report about Bayesian theory and statistics.

Process

21.1 Paragraphs 73 to 75 of the last set of submissions of the Crown are correct.

21.2 In the event, aided by written submissions of both parties and the video recordings which the Applicant provided and which I watched, I regarded myself as sufficiently able to deal with the submissions and contentions of the Applicant in relation to marks or the like on Mr Robin Bain's fingers and hands.

In the absence of any particulars of the misrepresentation alleged in 21.2 of the Letter, I cannot say anymore on this topic.

22.1 The Applicant was free to make all such submissions and draw my attention to all such matters as the Applicant chose.

Experiments and the Green Sweater

22.2 The descriptions "[initiation of] tangential inquiries of [my own]" and "experiments ... with the weapon used in the killings" are misdescriptions of what I did.

The identity of the wearer of the green sweater was always an issue in the case. Whether the Applicant could, did, or was likely the wearer of it on the morning of

the murders was the subject of evidence and cross-examination at the first trial. That evidence became evidence at the retrial.

The first issue that I "flagged" for the parties, as appears from item 1 of Mr Orr's notes of our meeting in Auckland on the 4th of May last, was the "size of the green jersey and whom it would fit".

The identity and/or owner of the green jersey were obvious issues having regard to the green shreds under Stephen's fingernails.

On the 9th of June last, Mr Orr, at my request, told the parties that I had decided to obtain professional measurements of the green jersey and the red anorak.

The Applicant on the 10th of June last advised that "any competent independent person approved by [me] should be able to carry out the measuring." He requested that photographs be taken of the measuring which then in fact occurred. The Applicant was provided with the measurements and the photographs. The Applicant never demurred to the course of action taken.

Nor were any experiments undertaken by me with the weapon used in the killings. The weapon was an exhibit in the case. As with any other evidence in a case, the jury, or a judge, or both of them, in a criminal trial, will be expected to look at, and consider carefully all of the evidence, including the exhibits.

After telling the jury that experiments and demonstrations must be done in court, the learned trial judge at the retrial, Panckhurst J said this:

> "... So by all means inspect it, get a feel for it, understand it, because that is relevant to one of the crucial issues in this case, whether Robin committed suicide in the manner which has been suggested."

Albeit that my instructions may not necessarily have confined me to the strict rules of evidence, what I did in the courthouse in Christchurch in relation to the weapon was somewhat less than what Panckhurst J invited the jury to do at the retrial.

Shortly after I looked at a number of the exhibits in Christchurch (on the 5th of May 2015), Mr Orr provided the parties with a list of those that I had inspected.

Subject to what I have said, the Crown's submissions in paragraphs 76 to 86 are generally correct.

Reviews and Consideration of Evidence

23.1 I do not know how Mr Binnie chose to do the work that he was asked to do. Nor do I know what his terms of reference were. All I knew of Mr Binnie's report was what very briefly flashed on the screen in one of the television programs which Mr Karam asked me to watch.

Any judgment by a court or a fact finder will inevitably involve scrutiny of the evidence given by the witnesses, including expert witnesses, who enjoy no more immunity from criticism, or departure from their conclusions than other witnesses. Experts do not decide cases. Their opinions and conclusions do not bind decision makers.

Interviews

23.2(a) With respect to any alleged expectations that I would interview the Applicant personally, I refer to the facts which are correctly set out in paragraphs 87 to 91 of the Crown's last set of submissions.

I add only this. When the question arose, whether I should or should not interview ss 9(2)(a) and 9(2)(ba) Mr Karam (on the 6th of September 2015) wrote, among other things:

> "Any other path would be an unsatisfactory departure from a process that was proposed by Your Honour, and agreed by the parties at the outset of the inquiry, and adhered to by both sides through to its conclusion."

Had any expectation on the part of the Applicant that he would be personally interviewed been communicated to me, I would have needed to have considered whether that would be appropriate and helpful, having regard to several matters, some of which are:

(a) whether I should interview him in an inquisitorial way;

(b) whether I should ask for Counsel to assist me and have Counsel examine and/or cross-examine the Applicant;

(c) whether it would be appropriate to interview the Applicant personally without also interviewing other witnesses;

(d) which other, if any, witnesses I should interview, and how they too should be interviewed;

(e) whether, if the Applicant were personally to be interviewed or questioned, the Crown should be given an opportunity to cross-examine him;

(f) the need for confidentiality or otherwise of any such interviews, or questioning of either the Applicant personally or any other persons;

(g) the possible liability to defamation arising out of any such interviews;

(h) the desirability, appropriateness and utility of what could easily turn into a proceeding in the nature of a further de facto "retrial";

(i) the utility of questioning people, including the Applicant, personally after the passage of time, and in light of the fact that most of the relevant witnesses have previously given evidence on oath and have been cross-examined;

(j) how the results of such interview or interviews could be assimilated in, or would stand with the other mass of evidence in the case.

Just how I would have proceeded was unnecessary for me to decide, as no request was ever made that I interview the Applicant personally, and no "expectation" that I do so was ever suggested to me.

What the Crown says in paragraphs 87 to 91 of the Crown's recent submissions is factually correct.

Expert Evidence

23.2(b) The evidence of expert witnesses, particularly with respect to the consistency and honesty of anyone are not conclusive. Honesty, like innocence or guilt, is an issue for the court or the fact finder to determine. In some jurisdictions, and historically, expert witnesses were not allowed to swear to issues. Expert evidence is opinion evidence. I am well aware of Dr Brinded's opinions in this case and have

considered them in answering the question that I was asked. Similarly, I have considered the opinions of Mr Wells.

23.2(c) The Applicant's characterisation of the way in which I discussed the evidence of experts relied upon by him is not, I believe, an accurate characterisation of my discussion of their evidence.

Process

23.3 I have nothing to add to what I have said above regarding the procedures except to refer to paragraphs 92 to 95 of the Crown's latest submissions which state the factual position accurately.

23.4 I offer no comment on this paragraph.

23.5 I have no idea of Dr Fisher's preferred process. No submission was made to me that I should proceed as Mr Karam claimed Dr Fisher chose to proceed in the case of Rex Haig.

23.6 In accordance with my instructions, I disregard what either Dr Fisher or Mr Binnie may or may not have done when those gentlemen undertook their work.

23.7 It is not appropriate for me to comment upon the contents of this paragraph.

24. It is not appropriate for me to comment upon the contents of this paragraph.

Consideration of Evidence

25. I read the advices of the Privy Council and additionally all such evidence in the proceedings before the Privy Council as the parties sought to rely upon or to which they drew my attention. Additionally, after completing my Draft Report, and for the purposes of making this Further Report, I read evidence of a number of the witnesses whose evidence was presented to the Privy Council.

The Privy Council did not express any view upon the question whether the Applicant should or should not be retried, or upon the ultimate question of his guilt or innocence. The Privy Council did not have, as I have, the benefit of all of the evidence which was given at the retrial, further evidence compiled or relied upon by

the Applicant since then, and various other materials including Mr Karam's three books. Furthermore, the question that the Privy Council had to answer was quite different from the question that I have had to consider and answer.

It would be neither productive nor possible to set out, or indeed refer to all of the evidence which has been given in the various stages of the case.

Factually, what the Crown says in its last set of submissions at paragraphs 98 to 101 is correct.

Arguments of the Applicant

26. I offer no comment upon this paragraph.

27. I offer no comment upon this paragraph.

28. I offer no comment upon this paragraph.

29. I offer no comment upon this paragraph.

29.1 I offer no comment upon this paragraph.

29.2 I offer no comment upon this paragraph

29.3 I have made my position in relation to the evidence of blood spatter clear in paragraph 64 of the Report.

29.4 I have nothing further to say on the matters raised here.

29.5 I have nothing further to say on the matters raised here.

29.6 I offer no comment upon this paragraph.

29.7 I have nothing further to say on this paragraph.

29.8 I have nothing further to say on this paragraph.

29.9 I have nothing further to say on this paragraph.

29.10 I have nothing further to say on this paragraph.

29.11 I have nothing further to say on this paragraph.

30. It is not appropriate for me to comment here on the matters raised by the Applicant.

31. It is not appropriate for me to comment here on the matters raised by the Applicant.

32. It is not appropriate for me to comment here on the matters raised by the Applicant.

33. It is not appropriate for me to comment here on the matters raised by the Applicant.

34. It is not appropriate for me to comment here on the matters raised by the Applicant.

35. It is not appropriate for me to comment here on the matters raised by the Applicant.

36. It is not appropriate for me to comment here on the matters raised by the Applicant.

37. It is not appropriate for me to comment here on the matters raised by the Applicant.

38. It is not appropriate for me to comment here on the matters raised by the Applicant.

39. It is not appropriate for me to comment here on the matters raised by the Applicant.

Conclusion

I have given consideration to the corrections that I have seen fit to make to my Draft Report and to other matters raised by the Applicant directly with the Minister to the extent that I earlier in this Further Report indicated I would do so. I have also reviewed again much of the evidence in the case, including that to which the parties have drawn attention, respectively in the Letter and in the Crown's most recent submission to me. I have reflected upon the Draft Report and have considered whether, in all of the circumstances, I should answer the question that I was asked differently from the way in which I answered it in my Draft Report.

The Applicant has not proved on the balance of probabilities that he did not kill his siblings and parents on the morning of the 20th of June 1994.

I D F CALLINAN
Chambers
24 December 2015

SCHEDULE 1

Relevant Correspondence

1. Letter from the Hon. Ian Callinan AC to Mr Heron QC and Mr Karam Esq dated the 23rd of March 2015.

2. Letter from Ms Markham to the Hon. Ian Callinan AC dated the 31st of March 2015.

3. Letter from Mr Karam to the Hon. Ian Callinan AC dated the 2nd of April 2015.

4. Letter from Mr Reed QC to the Hon. Ian Callinan AC dated the 14th of April 2015.

5. Letter from Mr Pike QC and Ms Markham to the Hon. Ian Callinan AC dated the 15th of April 2015.

6. Letter from Mr Karam to the Hon. Ian Callinan AC dated the 17th of April 2015.

7. Letter (email) from Mr Orr to the parties dated the 22nd of April 2015.

8. Letter from Mr Karam to Crown Law dated the 23rd April 2015.

9. Letter from the Hon. Ian Callinan AC to Mr Karam dated the 11th of May 2015 with attachment setting out details of what was proposed and agreed at the meeting of the parties and the Hon. Ian Callinan AC in Auckland on the 4th of May 2015.

10. Letter from Mr Karam to the Hon. Ian Callinan AC dated the 15th of May 2015.

11. Letter (email) from Mr Orr to the parties dated the 9th of June 2015.

12. Letter (email) from Mr Karam to Ms Markham and others dated the 10th of June 2015.

13. Letter (email) from Mr Karam to Mr Orr of the 10th of June 2015.

14. Letter (email) from Mr Orr to Mr Karam dated the 11th of June 2015.

15. Letter (email) with attached report from Mr Orr to the parties dated the 23rd of June 2015.

16. Letter from the Minister to Mr Karam dated the 7th of October 2015.

17. Letter with attached comments on the Draft Report from Ms Markham to the Hon. Ian Callinan AC dated the 8th of October 2015.

18. Applicant's Response to the Draft Report dated the 16th of October 2015.

19. Letter from the Minister to the Hon. Ian Callinan AC dated the 20th of October 2015 attaching copy of letter from the Minister to Mr Karam of the 20th of October 2015.

20. Letter from the Minister to Mr Karam of the 21st of October 2015.

21. Letter from Mr Karam to the Minister dated the 29th of October 2015.

22. Letter from Private Secretary to the Minister to Mr Karam dated the 29th of October 2015.

23. Letter from Mr Karam to the Minister dated the 30th of October 2015.

24. Letter from the Minister to the Hon. Ian Callinan AC dated the 3rd of November 2015.

25. Letter from the Minister to Mr Karam dated the 3rd of November 2015.

26. Letter from the Hon. Ian Callinan AC to Messrs Heron QC and others dated the 4th of November 2015.

27. Letter from the Hon. Ian Callinan AC to the Minister dated the 6th of November 2015.

28. Letter from Mr Karam to the Hon. Amy Adams dated the 8th of November 2015.

29. Letter from Mr Karam to the Hon. Amy Adams (the "Letter") dated the 16th of November 2015.

30. Letter from Mr Heron QC to the Hon. Ian Callinan AC dated the 23rd of November 2015.

31. Letter from the Hon. Ian Callinan AC to Messrs Heron QC and Pike QC and Ms Markham dated the 26th of November 2015.

32. Letter from the Hon. Ian Callinan AC to the Hon. Amy Adams dated the 26th of November 2015.

33. Letter with attachment from Ms Markham to the Hon. Ian Callinan AC dated the 30th of November 2015.