



SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE
NUMBER: S8003 of 2003

Plaintiff:

REDACTED

AND

Defendant:

**THE BOARD OF TRUSTEES OF THE
BRISBANE GRAMMAR SCHOOL**

AFFIDAVIT

MAXWELL ARTHUR HOWELL of REDACTED Brisbane in the State of Queensland, Retired Headmaster, states on oath:

Background

1 I was Headmaster at Brisbane Grammar School from 1965 until my retirement in 1989. For all but my final year at BGS I lived in a residence in the School grounds with my family. That residence is in the close vicinity of the Boarding House.

Mr Kevin Lynch

2 Mr Kevin Lynch was appointed an Assistant Master in 1973, teaching English and History. In about the mid 1970's the University of Queensland introduced a Diploma course in School Counselling. In about 1976, Mr Lynch enrolled in that course and carried out some counselling at the School


Signed: **MAXWELL ARTHUR HOWELL**


Taken by: Solicitor/Barrister/Justice of the Peace

Affidavit
Filed on behalf of the defendant
Form 46 - R.431

CORRS CHAMBERS WESTGARTH
Lawyers
Waterfront Place
1 Eagle Street
BRISBANE Q 4000
Tel: 3228 9333
Ref: DJA



part-time, whilst still doing classroom teaching. As he was due to complete the diploma course in June 1977, in my report to the Board of Trustees in July 1976, I recommended that he be appointed Student Counsellor full-time from January 1977. On the basis of my recommendation, Mr Lynch was appointed to that role from 1 January 1977 and thereafter did not have a classroom teaching role.

3 In March 1977 I approved a request by Mr Lynch to become a member of the Joint Committee of Guidance and Careers Counsellors.

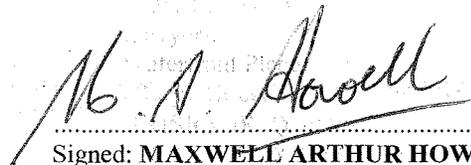
4 At the end of the 1977 academic year, Mr Lynch submitted a report to me outlining the counselling work he had been conducting, the number of students counselled and other such matters. I do not now recall the specific content of that report, but a letter I forwarded to Mr Lynch at that time indicates I was impressed by the report. Now produced and marked "MAH-1" is a copy of letter to me dated 7 December 1977 from Mr Lynch and a copy of my reply dated 16 February 1978. I am informed by Mr David Abernethy, Solicitor for the School, and verily believe, that the report by Mr Lynch cannot now be located amongst the School's records.

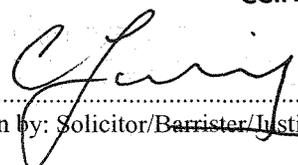
5 In 1984, in recognition of his success in the role of Student Counsellor and because of the amount of extra time he was putting into the job, I recommended that Mr Lynch's appointment as Counsellor be upgraded to the status of Subject Master. Now produced and marked "MAH-2" is a copy of my letter to Mr Lynch dated 3 October 1984.

6 Towards the end of 1988, amendments to the legislation regulating the



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Signed: MAXWELL ARTHUR HOWELL


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School Superannuation Scheme were announced which meant, to the best of my recollection, either increased benefits or earlier access to benefits for some teachers. It was reported to the Board of Trustees at a meeting on 6 December 1988 that the Education Department had advised that the amendments to the Superannuation Scheme had been approved by Cabinet and would be approved by the Governor in Council the following week.

- 7 Within a few days, Mr Lynch approached me and said that he wanted to take advantage of early retirement, effective as at the end of the 1988 year. I was aware that some time prior to that Mr Lynch had separated from his wife. When he approached me to advise of his retirement, I recall him informing me that he was paying maintenance for his three children and not living in very good circumstances. I enquired what he was going to do and he said that the superannuation would allow him to buy a house and live more comfortably. I do not recall him mentioning he was to take a job at St Pauls' School. However, in retrospect, it seems to me unlikely he would have taken early retirement at that stage if he had not intended taking up further employment.

Complaints

- 8 At no time did I ever receive any complaint from students, staff, parents or any other person, in relation to Mr Lynch's behaviour or counselling techniques. Had I done so, I would have investigated those complaints and, if the type of behaviour now alleged was established or suspected, then his contract of employment would have been terminated immediately and the



Maxwell Arthur Howell

Signed: MAXWELL ARTHUR HOWELL

[Signature]

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matter reported to the appropriate authorities.

9 There was an occasion in 1969 when I received a report from a parent of alleged sexual misconduct by a teacher. It was not alleged the misconduct directly involved students. I immediately put the allegation to the teacher, who admitted the allegation and resigned immediately. Had the teacher not resigned his employment would have been immediately terminated.

10 My view at the time Mr Lynch was the School Counsellor was that it was an essential feature of the counselling process that issues discussed during counselling be kept confidential. Students could seek counselling on sensitive issues such as family problems or other personal matters. Counselling was also intended to provide assistance to students who felt that they had issues with a particular teacher, with me, or with other students. Students would not have felt able to discuss such matters with the School Counsellor if there had been a perception that the Counsellor would then discuss these issues with staff.

11 For that reason, Mr Lynch did not discuss the specific issues of individual students' problems with me, and I did not consider that level of confidentiality to be inappropriate or suspicious in any way. In fact, I would have been concerned if Mr Lynch had not preserved the confidentiality of his discussions with students he counselled.

Mr **REDACTED**

12 I have read a copy of the Affidavit of **REDACTED** sworn on 15 August 2003. Attached hereto and marked "MAH-3" is a copy of the School's



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Maxwell Arthur Howell
 Signed: MAXWELL ARTHUR HOWELL

[Signature]
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personal record sheet in relation to [REDACTED]. Having read the note of my interviews with Mrs [REDACTED] and [REDACTED] I have some recollection of [REDACTED]. I cannot recall why the interview on 28 January 1988 was organised. It could have been organised by the School as a result of [REDACTED]'s deteriorating marks or, alternatively, it could have been requested by Mrs [REDACTED]. My note suggests that I spoke to Mrs [REDACTED] before I discussed the matter with [REDACTED]. My note further indicates Mrs [REDACTED] informed me that there was a difficult home situation and that [REDACTED] had been subjected to "serious emotional abuse" by his father.

- 13 Referring to paragraph 17 of [REDACTED]'s affidavit I deny that any incident occurred whereby I grabbed two students by their heads and smashed them together. I have no recollection of any incident in the School grounds involving [REDACTED] but I accept I may have spoke to [REDACTED] and another student in strong terms if it was the case that they were playing in an area of the School where they had been told not to play.

BQP

- 14 I have read a copy of the Amended Statement of Claim and refer to paragraph 3C in respect of the alleged complaint to me by [BQP]. Attached and marked "MAH-4" is a copy of an email from [BQP] to the current headmaster of Brisbane Grammar School, Dr Peter Lennox dated 6 June 2000.

- 15 I recall [BQP] partly because he had significant family problems and partly because he was involved in the School theatre in which my wife,



M. A. Howell
Signed: MAXWELL ARTHUR HOWELL

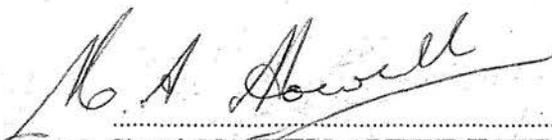
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Betty, had a role for a number of years. Betty and [BQP] always got on very well. I recall an occasion after [BQP] left School when he contacted Betty and suggested that we might like to attend a stage production of The Tempest in which he was involved and which was being staged in the amphitheatre in Albert Park. Betty and I attended to watch The Tempest. We spoke to [BQP] after the show, congratulating him on the production. [BQP] seemed pleased to see us and also pleased with the compliment. That was the last occasion on which I saw [BQP]

16 I was aware [BQP] had significant family problems. I recall his father was a Brigadier in the army and [BQP] had a brother at Duntroon. I was aware [BQP] father was separated from his wife. The break-up of his parents' marriage had greatly upset [BQP] I have a recollection of a meeting with [BQP] and that the significant events discussed at that meeting were his family problems. I have no recollection of why that meeting took place, whether I requested the meeting for some reason such as to discuss his academic performance or whether it was at the request of one of his teachers. As a result of that meeting I could well have suggested to him that he should arrange a meeting with Mr Lynch to discuss his problems.

17 I have no knowledge that [BQP] was being bullied at School. If I did I would have investigated the complaint because I would want to know who was involved.

18 I had no discussion with [BQP] in which he made any complaint regarding inappropriate behaviour by Mr Lynch. Had he done so I would

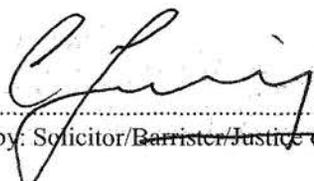


Signed: MAXWELL ARTHUR HOWELL

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have put the complaint to Mr Lynch. If I concluded the allegation was true, or even that it may have been true, I would have dismissed Mr Lynch. If [BQP] did tell me anything about Mr Lynch then it did not concern me because I did not investigate it. Until the publication of the Lynch related issues in mid-2000 I had no knowledge that Mr Lynch was using hypnotism on students. I would not have regarded hypnotism as appropriate and would have made it clear to Mr Lynch that it was inappropriate. I cannot recall any occasion when I had to speak to Mr Lynch about the manner in which he performed his counselling role. Had [BQP] ever told me of Mr Lynch's behaviour towards him then, in addition to investigating the matter, I would have mentioned it to my wife in view of the fact she knew [BQP] well.

19 I have no recollection of Mr Brian Cannon ever arranging for me to meet with a student.

20 I do not recall having any discussion with [BQP] in the quadrangle. I could have done so following the meeting when we discussed the family problems.

Administration

21 During my time as Headmaster at BGS I had only two secretaries. In 1979/80 my secretary was Mrs Groom. Mrs Groom looked after my appointments book which was a foolscap page diary with one or two pages for each day. She would put it on my desk first thing each morning so as to inform me of the appointments for the day. When students or staff



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requested a meeting with me it was not her practice to ask about the reason for the meeting. She would simply make the appointment. Mrs Groom passed away some years ago. The appointments books were not kept by me for more than a year or two after each year. When I retired in 1989 any appointments books retained in the office were destroyed.

22 All the facts and circumstances herein deposed to are within my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my Affidavit.

Sworn by **MAXWELL ARTHUR HOWELL** on
... *21 October* 2003
at ... *New Farm*
in the presence of:

B. A. Howell
.....
MAXWELL ARTHUR HOWELL

[Signature]
.....
Solicitor / Barrister / Justice of the Peace



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