**Chapter 1:**

**Forty years of Community Concern, Cover-Up, and Failed Litigation.**

***‘So Fair and Foul a Day I Have not Seen’.***

**Introduction**

Why do I begin with this line from Shakespeare’s tragedy? I tell of another massive tragedy, hidden for over 40 years. Over the decades, it all seemed fair to many people; the foul tragedy was out of public view. As the cover-up became less effective, bit by bit, we have had to face the foul reality. Connivance always has two faces.

I cover here people and organizations whose determination brought the tragedy into the open; a brief history of mental hospitals internationally and in New Zealand; the timeline of investigations, cover-ups, and attempted litigation; how, in 2017, long after memory had faded, demand for a Royal Commission became unstoppable; how I became involved; and last, the conclusions I draw from evidence so far. The chapter describes the worst abuse described to the Commission by victims in the 1970s. My own focus - tracking down the locus of ultimate responsibility - is the same as that driving me to invest so much time in the inquest described in my introductory chapter. All this is informed by a lifetime’s work on the theory of brain and associated philosophy - on personhood, personal ‘responsibility’, how one can understand historical processes, and indeed the questionable roots of western concepts of ‘justice’.

When tragedies occur, our first reaction is often to find a *person* to blame, usually the one most closely linked to events in question. However complex events have complex causes. In so far as one can ever get a full account, structural or systemic factors may play a larger part in shaping events than personal actions. To prevent recurrence of horrific events, it is more important to change structures than to assign personal responsibility and punish culprits. In later chapters I provide evidence of what appears to have driven named public servants. It is immaterial to me whether they are held personally culpable. At high-level bureaucracy ‘person’ and ‘system’ are inseparable. Persons are who they are because of their role in the system.

Numerous hospitals and other institutions were involved. I focus on two, for which there is abundant evidence to serve my purposes. One of these, Lake Alice hospital in the countryside between Palmerston North and Whanganui, especially its Child & Adolescent Unit (LACAU), has long been in the news and has acquired much notoriety. The other, Cherry Farm hospital north of Dunedin, was hardly mentioned in the Commission’s hearings, and only once in the two volumes of its Interim Report. What went on there – treatment called ‘Deep Sleep Therapy’ (DST) - came to my attention long before I learned about LACAU. It was by no means as serious as events at LACAU. It is significant because it opens a window on my real question: Where did final responsibility lie? Details of this are covered in the next chapter.

In 1976, two pioneering bodies started to shine a piercing light on abuse in LACAU. One of these, the Citizens’ Commission on Human Rights (henceforth CCHR) also investigated Cherry Farm. The other, which played a vital role in exposing what went on at LACAU was unique to New Zealand, with its complex history of colonialism and racism - the Auckland Committee on Racism and Discrimination (ACORD).

CCHR is an international body formed in 1969 by the Church of Scientology and Professor Thomas Szasz. At origin, a major concern of Scientology and CCHR was misuse of psychiatry. Specifically, CCHR aims to identify and expose human rights violations in psychiatry. The Church of Scientology, a ‘new-age’ religion, originated in the USA in 1954[[1]](#footnote-1). Since then, it has had its share of controversy, with claims that it exerts excessive control (‘brain washing’) over members. In many countries, it is banned as a ‘cult’. A branch was formed in Auckland in 1955. Later in New Zealand, its style changed. While small in numbers, it now has charitable status and is accepted as a religious organization. It has its own ways to assist members, which may be seen as therapy or spiritual guidance. (Over history, these two have often been closely linked.) The New Zealand branch of CCHR was founded in 1975 and incorporated in 1976.

I never met anyone from Scientology but exchanged emails and phone calls with a member of CCHR, who appeared at one of the Commission’s hearings. Before it was established, a journalist with whom I shared evidence asked me what I thought of CCHR as a source of evidence. I told him that I evaluated evidence on its own merits regardless of source, and by possible corroboration with other evidence. I have come to appreciate the rigour of CCHR’S investigation and their tenacity in ensuring that their evidence saw the light of day and was accepted. Their concern on human rights is utterly convincing.

It is important that the roots of CCHR are identified correctly. CCHR grew not solely from Scientology, but also from Hungarian-born, US-trained psychiatrist, Thomas Szasz. Therefore, I digress with a little on Szasz. He was born in Budapest in 1920. His family, like Erwin Stengel mentioned in my introductory chapter, emigrated at the time of Hitler’s Anschluss in March 1938. Doubtless his views were shaped by harsh experiences at that time. In his years as a psychiatrist, he wrote many provocative books, the best known of which, from 1959, is probably *‘The Myth of Mental Illness’*. As a student I found this difficult. Today I know why. The book was based on the philosophy of human rights concepts - unfamiliar to me at the time - with all its polemics. He had scant knowledge of what for me was and still is a core discipline, brain science. Today, I agree strongly with some of his views: that the logical foundation of the discipline of psychiatry (whatever form it takes) is shaky at best; that the analogy between physical illness and ‘mental illness’ is largely a mistake; and that, while diagnoses in other branches of medicine to designate disease entities are given without passing judgment on patients as persons, in psychiatry this is often not the case. Szasz, like Scientologists (but unlike me) seemed to be ‘anti-psychiatry’. Szasz denied this but was certainly opposed to *coercive* psychiatry. Regardless of this, he must be seen as a respected critic of psychiatry.

Like Szasz, I believe many diagnoses in psychiatry lack validity in terms of clinical science or neuroscience. Others are valid in one sense but wrongly seen as diagnoses. They are better seen as outliers, in the wide range of *normal* human nature. In this sense, impairment or disability is usually linked with strengths, even outstanding, rare talents. Some diagnoses are better seen as ‘administrative fixes’ to assist the profession in the social role many societies assign to it. I do not reject psychiatric diagnosis in principle, nor do I entirely reject coercive treatment. As an example, a diagnosis of ‘mania’ - a condition I have experienced and seen at close quarters in another person - can be made precisely. It is not the same as ‘schizophrenia’. It is a serious – even life threatening – emergency, requiring immediate admission to hospital, as it did with me. As far as I know, there is no objective test for mania, or for the pre-disposition to it; yet it is easy for me to infer what is its physical basis[[2]](#footnote-2).

Given this digression, I invite readers to consider a parallel between CCHR, with its link to a fringe religious group, and another religious group, which, at origin was also too unorthodox to be taken seriously. This is the Society of Friends, otherwise known as Quakers, born in the strife of the English civil war of the seventeenth century. Apart from origin in time of war, both had practices outside mainstream denominations, and both were proscribed by laws of the time. The Quakers built their reputation as pioneers opposed to the slave trade, before other groups took up this cause. Is there something similar in CCHR, in relation to ethical breaches in psychiatry, at least in New Zealand? I make no comment on its equivalent in other countries.

The other organization to alert the public about what went on at LACAU – ACORD - was formed in 1973 to conduct research on and expose institutional racism in education, health, and social welfare systems, and in police and law courts. **Discrimination against Maori and Pacific people was its main focus.** It also promoted biculturalism and provided anti-racism workshops in churches, community groups and state agencies**. A leader in ACORD is Dr Oliver Sutherland of Nelson. Forty-five years later, he was one to bear witness in crucial ways to the Royal Commission. He was recently honoured with a national award. I have exchanged a few emails and few phone conversations with Oliver.**

**Between 1970 and 1986, Dr Sutherland and colleagues in** the Nelson Race Relations Action Group, **the** Nelson Māori Committee and ACORD conducted investigations and collected statistics on treatment of children, especially Maori, by police and the justice, social welfare and health systems. He interviewed scores of children, drawing attention of cabinet ministers to their stories. Brutal racial discrimination was well documented, on issues such as police decision to prosecute; arrest and bail; lack of legal representation; remand and sentencing; abuse in institutions (police cells; social welfare homes etc) including cruel punishment; and long periods in solitary confinement. Statistics[[3]](#footnote-3) for 1967-76 showed that about 11,000 children each year came before the courts, the youngest less than 8 years, most older than ten years. Maori children made up 41%. In March 1976, ACORD published ‘*Children in Prison: Where is the Justice?’.* This was sent to the Chief Ombudsman, Sir Guy Powles, and to Ministers of Justice and Social Welfare. The manner of referring young persons to LACAU was important for me, and so these reports are directly relevant to my aim.

A few individual investigators have publicised findings, whether or not to the Royal Commission. Perhaps I come in that category, by making public these chapters here. A major independent investigator – Aaron Smale, journalist and photographer - whom I have also met, played a vital role alerting the public to the need for a Royal Commission. Like myself, he works independent of main news agencies, or other official bodies, and for the same reason, to avoid being constrained by confidentiality clauses, ‘gagging orders’ and the like; but he is far more experienced than I am. Recent reports from him are, to my knowledge, those most openly critical of the state agencies and sometimes the Royal Commission.

**Points from the History of Mental Hospitals in New Zealand.**

World-wide, the first dedicated mental hospitals were in the Islamic world, starting in Baghdad in the eighth century. Usually located near city centres, they were remarkable for their openness, humanity, and benevolence. In Europe, care for those with mental disorders was rarely so benign. The idea that mental institutions should be seen as hospitals grew in nineteenth century Europe and Britain, but rarely matched the ethical traditions in other areas of medicine. The history of psychiatry and mental hospitals has hardly been the best example of the advance of civilization.

In New Zealand, mental asylums date back to earliest days of settlement, again with little to be proud of. Until 1948, they were administered alongside prisons, often located far from cities. Their world was separate, isolated from social life elsewhere. In their isolation, they developed their own culture. Staff often worked their whole lives in an institution, sometimes from one generation to the next. In 1942, at Seacliff - the hospital north of Dunedin - a fire broke out in a locked ward and killed all but two of its inmates. Four years later, the newly appointed chaplain was so shocked by conditions he saw that he brought the matter before the Presbytery in Dunedin, and later organized collections on Dunedin streets for essentials of clothing and food. In 1952, Cherry Farm hospital opened not far from Seacliff (which it gradually replaced) but designed as a series of small separated ‘villas’, rather than as a massive fortress-like edifice.

Lake Alice hospital in the Manawatu, was opened in 1950. In 1966, a maximum secure unit was added. In its isolation and remoteness from public scrutiny, Lake Alice was unique in New Zealand. A history of Lake Alice includes a mention, dated November 1969, that ‘*Staff will refuse to work if community nurses are employed’.* On 22 March 1972, when other mental hospitals came under hospital board control, Lake Alice Hospital stayed under state control. Even so, the Child & Adolescent Unit was an anomaly: It was still supposed to be under the hospital board in Palmerston North.

**History of Complaints on Lake Alice Child & Adolescent Unit.**

This section is a ‘time line’ of concern over the Child & Adolescent Unit at Lake Alice. Much detail comes from witness statements to the Royal Commission by members of CCHR and Oliver Sutherland. In a later chapter, I compare this evidence, with my experiences in the inquest 40 years later, as described in my introductory chapter, and what I will present later.

The head of LACAU (1972-1978) was Dr Selwyn Robert Leeks. After qualifying in medicine from Otago University, he trained in Britain as a child psychiatrist, returning in December 1970. He was appointed to run the Child & Adolescent Unit early in 1971.

In spring of 1974 educational psychologist Craig Jackson informed his superior, Don Brown, that he had heard of ECT being used as punishment at LACAU. As a result, acting on instructions from the Department of Education, he met Lake Alice Medical Superintendent, Dr Sidney Pugmire, After investigating the unit's therapeutic methods, Dr Pugmire said that he found the allegations to be completely unfounded.

Concern about practices at LACAU was first raised *in public* on 21 January 1976. Five members of CCHR, including a journalist from Wanganui Chronicle visited Lake Alice. Two days later their report appeared in Wanganui Chronicle[[4]](#footnote-4), with the headline ‘*Dumping ground for unwanted children’*. The allegation of electric shocks used as punishment was repeated, adding that a boy had been locked in seclusion for four days, and that children said injections were used too freely, sometimes as punishment. Dr Pugmire claimed to be critical of ECT as a method (although, according to Listener article of 6 May 1978, he was enthusiastic about its use, including for behavioural disorders). He stated that injections would not have been used as punishment, and that electric shocks as treatment would be used only in most exceptional circumstances. He did not know if the claim of long periods in seclusion was correct. He thought the headline oversimplified the issue: ‘*It was correct to say that when the Child Welfare Department was closed[[5]](#footnote-5), the large residential schools previously used were not transferred with the department to the total welfare services, and officers did not have access to the same numbers of beds they had previously’*. He criticised ‘muddled thinking’ by state authorities.

On 5 July 1976, parents of a 15-year-old Niuean boy, Halo Hake complained to the Ombudsman of misconduct and maladministration by Departments of Health and Social Welfare during their son’s time at Lake Alice. He and his grandmother who cared for him, communicated only through an interpreter. He had been in the Owairaki boys home, far away in Mount Albert – suburb of Auckland - (officially under care of Department of Social Welfare) before transfer to Lake Alice (under care of Ministry of Health). Chief Ombudsman, Sir Guy Powles ordered an investigation which took place before Christmas. Although Sir Guy signed the eventual report, the inquiry was conducted by senior investigator, Mr RJC Lee, expert in complaints about health services.

On 1 December 1976, a Department of Education psychologist told Oliver Sutherland of ACORD about the Child & Adolescent Unit, her concern over the Niuean boy, circumstances of his detention, and how he was treated. The social worker breached the Official Secrets Act to divulge her story[[6]](#footnote-6). Oliver Sutherland made contact with the medical reporter for New Zealand Herald, Peter Trickett, who interviewed members of CCHR, staff at Lake Alice, and several boys in LACAU. On 15 December his first article appeared in New Zealand Herald (‘*Boy’s Shock Treatment Raises Protest’*). Another soon followed (*‘The abuse of the 12 children at Lake Alice through Shock Treatment used as punishment.’*).

On 27 January 1977, Governor General, Sir Dennis Blundell, responded to these concerns by commissioning Magistrate William Mitchell to inquire into Hake Halo's case and report on: ‘(a) *The authority upon which treatment was administered to the boy by the medical authorities at Lake Alice Hospital,* and(b) *Any associated matters that may be thought by you to be relevant to the general objects of the inquiry.’* By 9 February Terms of Reference for the enquiry included that it be held in camera. The New Zealand Psychology Association, who had been alerted by ACORD, objected strongly, as did Oliver Sutherland, who stated: ‘*It will be intolerable if the Minister of Social Welfare, whose department is to be investigated, is to have the discretion as to whether the findings are to be made public*’.

Between 15 and 25 February the Mitchell enquiry heard evidence. Oliver Sutherland and members of CCHR were witnesses. On 18 March, Judge Mitchell released his report: It led to strong criticism from Oliver Sutherland including that:

* The judge claimed to have interviewed Halo, his parents and his grandmother, but there was no evidence for this, nor of any interpreter being called.
* There were no notes on who he spoke to at Lake Alice during his enquiry
* He exonerated official and medical staff on inadequate grounds.
* He ruled that it was ‘out of scope’ for him to comment on use of ECT; but, despite this, stated that *‘he had no doubt that ECT was necessary when XXX was admitted’.*
* He also stated ‘*I consider that authority for his treatment can be implied from the conduct of the people concerned, both the family and the Department of Social Welfare. This rested in the trust imposed on all sides in Dr Becroft who made the placement. At the same time it must be acknowledged that there was no express authority for the ECT either from the family or from the officers of the Department of Social Welfare.’*
* Overall, he equivocated on issues requiring clear decisions
* He criticised the fact that independent bodies such as CCHR visited mental hospital wards to assess what was going. *‘Protests from people with no direct interest in the case about the administration of ECT without express authority from the family will no doubt make doctors hesitant in future and people who would rather entrust these decisions to their doctors but find the doctors unwilling to take that responsibility.’*
* An additional issue raised by ACORD was that Halo was initially under care of Department of Social Welfare. Transfer to care under Ministry of Health occurred ‘*without ensuring the child's best interests would be the paramount consideration in any treatment and without ensuring that his special needs as a Polynesian child would be fully understood and met*.’

Next day Peter Trickett in the Herald, queried Mitchell’s findings, who replied that he *‘was not persuaded that the treatment was administered in such a way as to cause unnecessary suffering, physical or mental*’. On 5 April, The Minister for Social Welfare, Herbert Walker claimed that the report ‘vindicates’ the Department of Social Welfare.

On 6 April 1977, Chief Ombudsman, Sir Guy Powles released his report on LACAU, criticizing both Departments of Health and Social Welfare, regarding practices there. He ruled that detention at Lake Alice of the boy was unlawful. ECT should not be given to a protesting patient. Informed Consent to treatment was a fundamental right; otherwise ECT amounted to assault. He recommended legislative change. On the same day he ended his term of office, to be replaced by Sir George Laking (of whom, more in later chapters).

On 16 April, after early receipt of the Ombudsman’s report, CCHR staged a protest in Wanganui, reported in Wanganui chronicle[[7]](#footnote-7), calling for a Royal Commission of Enquiry.

On 24 May, after release of another section of the report, the *Dominion* carried a front-page headline about detention and treatment of another boy, quoting the report *‘Boy's shock treatment “grave injustice”’* Sir Guy’s report and recommendations were greeted with immediate criticism by the Minister Walker who claimed that Ombudsman had *‘Gone off half-cocked’* (Evening Post). The superintendent of Lake Alice, Dr Pugmire, stated ‘*Such decisions* [about ECT] *were clinical decisions and should be made by the clinician in charge in each case.*’[[8]](#footnote-8) Next day, an editorial in the Post supported the Ombudsman, stating that the credibility of his office must be safeguarded, and that the Minister was the one who had ‘gone off half-cocked’. On the same day, the Herald ran an article by Peter Trickett contrasting LACAU with five psychiatric hospitals in Auckland. He quoted their heads saying they never used ECT on children or adolescents. There was no response from the Minister of Health, but on 28 May, in parliament, when opposition health spokesperson JLHunt called for a judicial enquiry, acting Minister of Health replied to say that this was not needed.

CCHR contacted leaders of the psychiatric profession. At the time, the bi-national college of psychiatry[[9]](#footnote-9) had a branch in New Zealand and in every Australian state. On 24 April, CCHR met Dr Dobson, chair of the New Zealand branch, who knew of the Ombudsman’s report and CCHR’s call for a Royal Commission. He did nothing, nor did he refer it to higher levels of the college. However he wrote to Dr Janet Moore of the Values party, who had recently conducted a survey which collected 6000 signatures calling for an enquiry into ECT. He warned her to avoid CCHR because of its links to Scientology. Dr Dobson in Christchurch was the most vigorous user of ECT of all hospital psychiatrists. On 13 August, Oliver Sutherland met Dr Dobson, who admitted that in 1973-1974 at Lake Alice, shocks were given to children's bodies as ‘aversion therapy’.

On 9 August, CCHR met Director of Mental Health, Dr Stanley Mirams. He was not willing to order a full inquiry but said there would be a conference of psychiatrists and the Lake Alice affair would be discussed. Sometime in 1977, another Lake Alice victim complained to Dr Mirams. The complaint was referred to the Medical Association, and to the Medical Council, who is said to have held a hearing, reports of which were not seen. No-one was told the results.

Following meeting with Dr Dobson, Oliver Sutherland wrote to the Police Superintendent investigating the allegations, telling him that during 1973/74 children at Lake Alice received electric shocks as ‘aversion therapy’. The reply was merely ‘*your letter is acknowledged*.’ A police enquiry of sorts was held, but led nowhere.

Substantial outcomes from this were minimal; but there was *some* change. Dr Dobson stated that unmodified ECT would end, and the ECT machine was removed from LACAU. ECT use across the country, in all ages fell from 7027 to 5169 instances. On 23 December 1977, The Children & Young Persons Act 1974 was amended: *Medical treatment now required consent.*

**What Happened at LACAU?**

By the time the Royal Commission released its Interim Report in December 2020, many thousands of victims of abuse had been interviewed (over 2200 as early as 4 October 2019), although only a few told their story in public. For those registered with the Commission, age at time of abuse was mainly 5-17 y. Their age at time of testifying ranged from 27-88 y (median 50 y). 66% were Maori, 34% were Pakeha/European; 14% Pacific people. Over 400 children and young persons (some say over 450) experienced the rigors and abuses of Lake Alice Child & Adolescent Unit. The earliest case appears to date from mid-1972, the latest early in 1978.

***Nature of Abuse at Lake Alice:*** This was horrific, and barbaric. Details are not my main concern, nor need I comment on the terrible life-long impact such brutality had on the young people so abused. Readers with human sympathy and imagination can fill in the gaps which are described in many places. I go into detail only to aid my wider objective.

At LACAU, electrical stimuli were extensively used in abusive ways. This originated from treatment called Electroconvulsive Therapy (ECT), a form of treatment for some mental disorder, developed in Rome just before the start of the Second World War. The aim was to stimulate the brain electrically with electrodes on the head, with sufficient intensity to cause an epileptic seizure (and brief loss of consciousness). Originally, ECT was conducted without anaesthesia (‘unmodified ECT’), but by early 1950s, it was routine to precede ECT with short-lived injected barbiturate anaesthetics, as I experienced it in 1966. This was ‘modified ECT’.

In the first two decades of use of ECT, there was much unregulated and ethically contentious experimentation, with intense regimes of ECT, including increase in frequency and intensity of its use, and the length of the period for treatment for each patient. Some of this took place in New Zealand. The practice I am most aware of in this regard is that of Dr Rina Moore in Ngawhatu hospital, in the city of Nelson I give more detail on this in a later chapter.

ECT was always controversial. In my view, it *is* sometimes effective, even dramatically so. Its mechanism is not understood (a significant scientific issue which I think is soluble) and it is impossible to predict who will benefit. However, once clinics have equipment to deliver powerful electrical stimuli, it is easily misused, for instance to give painful stimuli to persons who are fully conscious. This is what makes it controversial. The strictness of its legal control is related to history of misuse in each jurisdiction, not to its inherent dangers if properly used.

I need to clarify a technical issue: When excitable body tissues – muscles, or nerves – are activated electrically, the response is subject to a ‘threshold’: Stimulation below threshold intensity has no effect; above threshold, the effect is maximal. This is the ‘all-or-none’ principle: It applies on a small scale - for instance to single nerve fibres - and on the large scale, to seizures generated in the brain as a whole. In addition, the effect of electrical stimulation is determined by *current* flow, not voltage. The effect of a given voltage varies greatly, according to momentary electrical resistance. For ECT, many factors affect resistance, including sweating around the scalp. The original ECT machines had controls determining voltage, not current. At Lake Alice, equipment was more advanced, allowing control of current flow.

Critical publications on ECT often focus on use of abnormally *high voltages* in some of the more extreme versions of ECT. I think they have missed the point on two technical issues. It is current, not voltage which determines whether a stimulus is above threshold for seizures; and, once the strength is above threshold it makes little difference to the intensity of the seizure[[10]](#footnote-10).

Many witnesses who had been in LACAU spoke of receiving unmodified ECT, a long-outdated practice. They spoke of ECT - modified or unmodified - used as punishment, to enforce children to ‘toe the line’, whatever that meant[[11]](#footnote-11). This topic gets darker: Electrical stimuli to the head were sometimes applied at intensity insufficient to cause a seizure and loss of consciousness but causing intense pain. At least one witness spoke of the intensity and site of stimulation being adjusted, as if to bring about maximum pain. Use of a constant current stimulator meant that threshold for seizures, and intensity to cause maximum pain could be determined accurately. Several witnesses spoke of electrical stimuli applied to most sensitive parts of body including the genitals. There were reports of one patient being somehow coerced to apply painful stimuli to another.

Medications included the usual range of sedatives. However, deceptive tactics might be used to get young people to take them. One boy, immediately on admission, was asked ‘do you want a drink?’ to which he answered ‘yes’; but the water was laced with the sedative largactil. An extraordinary departure from normal practice was use of the medication called paraldehyde. It had been used as a hypnotic (to aid sleep) especially in emergencies, given by injection[[12]](#footnote-12). It was also used as a sedative, given by mouth. By the 1970s it was becoming outdated. There were two odd features about its use in LACAU. Given by injection into thigh muscles, it did not cause loss of consciousness but rather intense, prolonged, disabling pain, such that for a few days, even walking was hard. There was an explanation: Paraldehyde for injection was normally given in a formulation with saline - an artificial fluid similar in composition to natural body fluids. At Lake Alice, it was given *without* saline. This is why injections were so painful.

Today formulation of prescribed medicines is the province of hospital pharmacists, who often know more about medicines than either doctors or nurses who prescribe them. Hospital pharmacists are alert to prescribing which is out of ordinary. Paraldehyde by injection without saline was most unorthodox. My search through medical databases revealed no precedent for such use. In the 1970s, hospitals in New Zealand were unlikely to have specialist pharmacists[[13]](#footnote-13). *Why, how, and with what motive. did Dr Leeks come up with the idea of injecting paraldehyde without saline?*

Apart from abuses based on medical technology, less sophisticated abuse was widespread: It included long periods in seclusion, and threats of various types, including threat of removal to ‘Max’ - maximum security unit at Lake Alice. ‘Max’ was visible from part of the Child & Adolescent Unit. A caged exercise yard was visible outside the main villa, no bigger than a large room. Sometimes boys from LACAU were put there, with no escape, and inmates of ‘Max’ - likely to be violent - were also there with the boys.

Sexual assault and rape were reported by many witnesses, sometimes apparently by Leeks himself. Sexual offenses included multiple and gang rape. One witness, a teenage girl at the time, said that she was given the contraceptive pill every morning as ‘treatment’; and there was a suggestion that one teenage girl left LACAU pregnant.

One witness, having seen her own clinical files, stated *‘In one file Dr Leeks is recorded as saying he only wanted me at Lake Alice for two weeks for abreaction treatment*.’ The term ‘abreaction’ is important, its significance explained in later chapters.

Beyond such abuse, stringent measures were in place to prevent communication by young persons in the unit reaching families or whanau outside. Outgoing mail was opened and read and sometimes ‘adjusted’ to make everything seem rosy. Occasionally young people in the unit found ways to circumvent this, for instance by writing messages in Nuiean language, cartoon drawings, or with surreptitious phone contact.

***Method of Referral to LACAU.*** Some young people in LACAU were referred there by health authorities, for instance by a GP, followed by out-patient appointments with Dr Leeks, and then admission. Many were referred from residential facilities under Department of Social Welfare, mainly one of the five ‘national residences’ under DSW, where they were already ‘wards of state’. A social worker recommended referral, and, after further assessment, a final decision was authorized by head office for the residences. A witness at a commission hearing, Michael Doolan, who headed Holdsworth school, a residence in a suburb of Whanganui, said he was clear they were intended to deal with problem behaviour. He could not accept that psychiatric treatment was appropriate in this situation (although Dr Pugmire referred to this in the newspaper report). Before he took charge of Holdsworth school, another witness, Mr Watson (who worked there at the time) said he never saw referral forms. ‘*Referral’ was done by Jack Drake’* (acting Principal). Tony Sutherland, a newly qualified police constable at the time, in the position of Youth Aid Officer learned that Drake had a ‘points system’ for good behaviour. To go home, or be released, required success on this system. Those who failed were sent to Lake Alice, apparently with no further checks. Other evidence claimed that Drake was a sexual predator, using his position to offend against children in care. Later, when Doolan took over, admission to hospital would have been for medical problems as recommended by a specialist separate from Lake Alice, not for behavioural problems. The Children, Young Persons & Their Families Act 1974 did not give social workers authority to admit young persons to psychiatric hospitals. In 1973, before Doolan was in charge, 13 boys were admitted to Lake Alice from Holdsworth school. In 1974 there were no admissions, and from 1975 its link to Lake Alice ceased. Nonetheless, the number of young persons in LACAU increased in these years. There were 12 beds when the unit opened in 1972, increasing to 46 by 1977. *How did they get there?* This is mysterious.

Nobody was formally committed under the Mental Health Act. Lawyer Grant Cameron stated that empty dormitories at Lake Alice were sometimes used by DSW to overcome housing difficulties for state wards, a view supported by what Dr Pugmire stated in a newspaper report. One witness, a teenage girl at the time, said ‘*I clearly remember the day that I was sent there I had just run away from home and had come back again. . . . .I just didn't want to be home with mum and dad. A Police car arrived at our home and my mother started packing my bag. She told me I was going to Lake Alice’* She was not under the Social Welfare agency; the Special Education service was probably involved. Some young people arrived at Lake Alice by a process little short of abduction. A boy reported that, in 1977, he was told he was going to the dentist, but actually went to Lake Alice. Another witness, Rosemary Thomson, who later was to become an expert criminal barrister, told the following astonishing story:

*I was in my first year at secondary school. I was in the top streamed class; I was the joint junior swimming champion; and I was fifth in the junior cross country. I had never been in any trouble at school, or with the police and I had never had any physical or mental health issues. On September 30, 1976 . . .I was home from school with my mother and in bed with a sore throat. A police constable came into my room and asked me a number of personal questions, which at the time I thought very inappropriate. After about half an hour, he left. About 2 pm, a different police constable together with a man I know now to be the Youth Liaison Officer[[14]](#footnote-14) came to the house. The constable grabbed me, twisted my arm up my back and pushed me into the back seat. He sat next to me while my father, accompanied by mother drove. There had been no discussion about where we were going, or why. There certainly had been no medical assessment*

Such appalling events *might* claim validity from a clause in the Children & Young Persons Act 1974, such that police needed no warrant to remove children from their home; but this is hardly a justification.

 ***Accountability*:** To whom was Dr Leeks accountable? The unit had an anomalous status. Lake Alice as a whole was not under the local Health Board, but under the Department of Health. However, Leeks was employed by the local hospital Board, and therefore outside Dr Pugmire’s control. Rosemary Thomson, stated: *‘Leeks was in a unique position. . . Dr Pugmire advised that he had a written direction not to involve himself in clinical matter in the Adolescent Unit. It was therefore not under the effective control of the Hospital Board, which was Leek’s employer, and also did not come under Dr Pugmire’s jurisdiction in the normal way. Leeks was effectively unaccountable.’* Moreover, when I studied the official list of public servants for years 1972-74, I found Drs Pugmire and Mirams, the present and past superintendents of Cherry Farm (Drs JB Hannah and Charles Moore) as well as the Lake Alice nurse JR Corkran (against whom feeble attempts at prosecution were made); but I found no mention of Selwyn Leeks, nor of Drs Basil James or George Martinus. The anomalous status of LACAU and Dr Leeks (and possibly the other two) seems not to have been haphazard, but the product of a political or bureaucratic decision; but by whom? Lake Alice hospital itself was an anomaly, remaining under State control, when all other mental hospitals came under Hospital Board control. The Child & Adolescent Unit there, and possibly also Drs Leeks, James and Martinus seemed to be ‘officially outside the law’ as it applied to public hospitals and servants, answerable to *no-one* - *at least under New Zealand civil law*.

***Consent*:** Consent to treatment is a hallowed tradition in medical practice, but, given the authority conferred on medical people, few patients challenge what a doctor recommends. The Nuremberg Trial of Doctors stressed the importance of informed consent in research. Later the principle was extended to treatment. In New Zealand and elsewhere, formal processes to obtain consent were not yet developed[[15]](#footnote-15). Consent processes in different hospitals varied widely, sometimes no more than lip service. Witness Watson, as a trainee in the 1970s, had learned about the principle. ‘*The standard ethical procedure was if a treatment - if it was a child - informed consent of the parents was required before they could receive medical treatment. However, the boys were state wards under the care of DSW and I believe that Jack Drake and Selwyn Leeks got around this requirement because the children had been removed from their parents - and there was something going on there that I just thought was not right’*. He added ‘*I don't know whether there were written consent forms. …One would normally have assumed you would have to get the parents' permission, although the children were state wards, so they were the responsibility of Social Welfare.* Witness Doolan was asked: ‘*Was it possible for children to be admitted to the unit from a residence for treatment without parental knowledge or consent*? Answer: ‘*It's entirely probable*.’ Another witness said ‘*My dad told me later that they never signed anything for me to get shock treatment. They didn't know anything about it.*’

***Record keeping*[[16]](#footnote-16):** Here I describe shortcomings in initial stages of record keeping not in the subsequent archiving (which was also problematic - see later). However, subsequent analysis of records made at LACAU depended on archiving over the years since then. Today, record keeping is governed by the Public Records Act 2005. Before this, the public sector was not required to create and maintain full and accurate records. Moreover (I am told) with major change of social services in the 1980s, any pretense of completeness, continuity or even production of records, was minimal. Some records, including death certificates, disappeared completely (although no-one suggested that this was to avoid, or mitigate effects of subsequent claims). Obtaining records from the 1970s should have been better in the health sector, but often was not, albeit better than in DSW. It is disturbing that legal authorities sometimes take more notice of written records, with all their shortcomings, compared to current words of the same patient. One witness said ‘*No-one should rely on our medical notes to find out what truly happened at Lake Alice. What we say is what happened and we want people to believe us.*’

Witnesses from LACAU in the early-to-mid-1970s who obtained their clinical records, complain of inaccuracies, even of personal identity (name misspelt, or date of birth recorded incorrectly). Errors of ethnicity were common, not only giving Maori boys pakeha identity, but also mistakenly identifying Pacific Islanders as Maori. This is serious, given the close relation between personal and cultural identity in Pacific peoples in all their diversity. Mistakes in recording identity makes it hard to reconnect with a person’s cultural roots, and to achieve any redress. Medical notes sometimes included hurtful or derogatory words, racial slurs, or cultural misunderstanding (for instance interpreting a boy reciting karakia to himself, as a symptom). Medical or social welfare reports often omitted or minimized abuse by staff or by other patients, partly because staff records might be separated from records on each patient.

Psychiatric diagnoses were often given to young people in LACAU. Given the vagaries of such diagnoses, this would hardly have withstood scrutiny. Other technical details, important for later investigators, were seldom recorded in nursing notes: dose of medication; intensity of electrical stimulation, and whether calibrated in volts or milliamperes.

Privacy legislation now entitles patients to access medical records and other personal information, but not ‘unwarranted disclosure‘ about other individuals. Because of that clause, medical or social welfare notes often include redactions, even whole pages or successive pages blanked out. Many survivors expressed concerns about how much material was redacted, going far beyond the proper rationale. Those who obtained records from the MSD reported that this ministry ‘*took a narrow view of what was relevant and removed material which was rightfully accessible by a claimant’*. This also goes beyond the intent of the Privacy Act.

***Comment*:** Well might the reader ask *‘What was going on in the minds of the doctors and other staff who administered, implemented or turned a blind eye to such appalling abuse?*’ Was there anything which could be called a ‘rationale’? I mention here darker aspects of New Zealand society. Many social commentators point to a punitive culture in parts of New Zealand society. Conversations with person of my age about their school days reveal disturbing hints of brutality in many New Zealand schools in the 1950s and 1960s. Borstals and detention centres for young offenders were run on military lines. Moreover - without over-generalising - serious racism has prevailed since earliest days of settlement (despite pretence that it does not). Closely related to this, dismissive, pejorative and punitive attitudes to ‘mental patients’ is normal, as if common humanity or explicit human rights concerns need not apply to inmates of mental hospitals. The ethical imperative in medical practice has ancient roots, kept alive in recently by the Nuremberg Trial of Doctors in 1946/47, and the World Health Organization’s Declaration of Helsinki in 1964; yet in the 1970s explicit protocols to ensure adherence to these principles, especially informed consent, had yet to be developed. Beyond all this, some people are intrinsic sadists, and may gravitate to employment in psychiatric wards.

Can motives or instincts arising from the above factors be an adequate explanation for what went on in LACAU? Perhaps in part, but these do not account for the whole sad saga. The presence of an ECT machine capable of constant current stimulation, use of an unheard of formulation of paraldehyde, and strategies to induce terror, suggest forward planning of atrocities and possible complicity of others. Complete lack of systems to monitor or discipline Dr Leeks, near complete suppression of communication, and disregard for minimal consent requirements suggests the same at an administrative level (although, in lesser degree, this is often part of ward management in normal mental health wards). A further point is detailed in a later chapter: In late 1972, only 11 months after appointment, before the most serious abuse started, Dr Leeks visited South Australia, apparently seeking employment, as if he wanted to get away from the unit. Perhaps he had been asked to undertake ‘treatment’ which contravened all he learned as a trainee; and to continue would jeopardise his future career. Altogether LACAU looks like a strange, secretive research facility.

**1978 to Present Day**

On 6 May 1978 in the well-respected magazine, *The Listener*, an article appeared on ECT. After that the intensity of concern abated. During the 1980s and early 1990s, the neoliberalism of Roger Douglas completely transformed the role of the state in social services. Investigating what went on at Lake Alice was not a priority. In 1990, the New Zealand Bill of Rights came into law, which gave leverage to later actions. In that year, CCHR filed a class-action lawsuit against the New Zealand government. Barrister Grant Cameron played a large part in this, and by 2000, led retired High Court Judge, Sir Rodney Gallen to be appointed to rehear a case from Lake Alice. His report was unequivocal: Abuse at Lake Alice had been ‘*outrageous in the extreme’.* Faced with civil litigation, Helen Clark’s government apologized, paid ex-gratia compensation to 95 claimants, but no person or agency was held accountable, there were no guilty parties, and no guarantees that abuses had ceased or could not recur.

In due course, a statement was given to the Royal Commission by Judge David Collins (who had assisted a group of Lake Alice victims in civil litigation in 2002) stating *‘Both Sir Rodney (Gallen) and I discussed Dr Leeks’ role in the Unit and we were both certain that if police had seen the records that had been made available to us in confidence then the prosecuting authorities would have agreed with our conclusion’*. In 2010, police investigating allegations by 40 people announced that there would be no criminal charges laid against Dr Selwyn Leeks.

CCHR continued by filing reports with the United Nations Committee Against Torture. In mid-2013, the Subcommittee on the Prevention of Torture of the United Nations visited New Zealand. In December it released a 50-page report declaring some psychiatric ‘treatments’ to be torture. As a result, a branch in the Ombudsman’s Office was set up to investigate crimes of torture inside all psychiatric facilities where patients are detained[[17]](#footnote-17). Despite this, up to the time of establishment of the Royal Commission, forty years after the first serious allegations, all that happened was a complex sequence of half-investigations, half-admission of responsibility, and sly cover-up. I need not describe it all, because it is covered elsewhere[[18]](#footnote-18).

After the General Election in October 2017, it was clear that a Labour-led government was to take office. Prominent lawyers and child-care experts (Sonja Cooper, Dr Anaru Erueti, Rosslyn Noonan and Dr Elizabeth Stanley) and others, well informed by views of survivors, grasped the opportunity to press for an independent enquiry[[19]](#footnote-19), which they knew was on the agenda of the incoming administration. The government intention was made clear by the end of the year. On 30 January 2018, the first public announcement was made, stating that the Inquiry, under guidance of the Ministry of Internal Affairs, must consult the public on Terms of Reference, no doubt to signify its independence. A previous Governor General, Sir Anand Satyanand was to head the Royal Commission.

Two weeks after this announcement (14-15 February) at a public meeting (which I attended) the Commission’s Terms of Reference were discussed. They were formalized by November 2018. The ‘plain English’ version[[20]](#footnote-20) included seven bullet points:

* *Why people were taken into care – including if there was bias, discrimination or bad decision-making by agencies.*
* *What abuse and neglect occurred - what took place and to what extent?*
* *Why it happened – what made it possible for abuse and neglect to happen to people?*
* *What effects this had – on the person abused, their family/whānau and others.*
* *What was learned – what changes were made over the years in response to abuse and neglect, including to laws, rules, and efforts to monitor places where care is provided?*
* *How well the redress and rehabilitation processes are working and can be improved.*
* *How things can be done better in the future to avoid the mistakes that allowed historical abuse to occur.*

Clearly the third bullet point fitted my focus – the site of ultimate responsibility. The fifth and seventh bullet points were also relevant. An expanded version of the Terms of Reference was contained in a long document[[21]](#footnote-21). The only part I quote expands the third bullet point, spelt out in greater detail in the full document than any of the others.

*10.2 The factors, including structural, systemic, or practical factors, that caused or contributed to the abuse of individuals in State care and in the care of faith-based institutions during the relevant period. The factors may include, but are not limited to*

*(a) the vetting, recruitment, training and development, performance management, and supervision of staff and others involved in the provision of care:*

*(b) the processes available to raise concerns or make complaints about abuse in care:*

*(c) the policies, rules, standards, and practices that applied in care settings and that may be relevant to instances of abuse (for example, hygiene and sanitary facilities, food, availability of activities, access to others, disciplinary measures, and the provision of health services):*

*(d) the process for handling and responding to concerns or complaints and their effectiveness, whether internal investigations or referrals for criminal or disciplinary action.*

I had no reason to doubt that my emphasis on the locus of ultimate responsibility fell within these ToR, especially given the phrase *‘The factors may include, but are not limited to. . .’* Section 28 of the ToR is also relevant:

*The inquiry will be based in New Zealand, where almost all of its work will be undertaken. The inquiry will use, wherever possible and appropriate, modern technology to communicate with participants or others who are based overseas (for example, by video link).*

*28.1 From time to time, and only where the inquiry determines that it is necessary to gather information or evidence from participants or others who are based overseas, the chairperson, members, or nominated Secretariat staff may travel outside New Zealand. The inquiry will ensure that it has all relevant legal or other permissions (as the case may be) to undertake investigative work outside New Zealand. .’*

After this it soon became clear that the agenda should be expanded to include abuse in religious institutions. Sir Anand Satyanand was well known for his Catholic faith. For this reason, his role as head of the Commission came under public criticism. By August 2019 he submitted his resignation, citing over-work and advancing years as the reason. This took effect in November 2019, and on 15 November 2019, a clause was added to the ToR to include faith-based institutions. He was replaced by Judge Coral Shaw.

My own first report to the Royal Commission was dispatched in July 2019. The sequence of documents sent included the following:-

* 9 July 2019: *‘Synopsis of Evidence about Deep Sleep Therapy (aka “Prolonged Narcosis”) with Emphasis on Events at Cherry Farm, New Zealand, 1973-78.’*.
* 2 May 2020: Document about the inquest in which I had been involved entitled ‘*On the Probity of the Judiciary, and the Rule of Law in Aotearoa New Zealand’.*
* 13 September 2021: ‘*Discussion Document (?Preliminary to Witness Statement) for Royal Commission on Abuse in Care.’*
* 13 September 2021: ‘*Painful Memories Recalled, Still Relevant Today (CONFIDENTIAL)’*
* 15 November 2021: ‘*Richard Helms’ Visit to Australia (3-8 July 1972), and New Zealand (8-11 July 1972), and its Implications for the Royal Commission on Abuse in Care.’*

Other documents and emails sent and received are mentioned later.

‘Richard Helms’ was of course Director of the United States Central Intelligence Agency. Clearly, I needed to follow international leads to pursue my investigations. This was evident even in my first report of July 2019, albeit not implicit in the title. Given that CCHR’s approach to the UN committee on torture (a crime under international law) was a key factor bringing the Commission into existence, and that CCHR was an international body, it was reasonable that I should extend my search to include overseas influence. The Commission intended to do the same. So, I was confident that my emphasis was within the Commission’s ToR. When the Commission was set up, it may have assumed that abuse it would address was entirely home-grown. Based on my studies over the previous 10 years, I never made that assumption.

By now, the Royal Commission was bigger - and more expensive - than ever envisaged when established. Public hearings occurred with video/audio recording available on-line. Witness statements were available in written form. Not all are publicly available, and much evidence collected was not made public. How much, how important, and how revealing such unheard testimony might be, I do not know.

The hearings were different from normal court-room procedures. They were conducted by the Chair, Coral Shaw and four commissioners. Many witnesses were Maori or Pacific Islanders. Their supporters and whanau often introduced their witness with brief episodes of singing (wiata) a natural expression of their spirituality, seen on important occasions. A few witnesses appeared on-line, from overseas. Judge Coral Shaw conducted the hearings with great presence, conveying a relaxed style, yet always attentive and concerned for the well-being of witnesses for whom this appearance was yet another added trauma, albeit of great import. The Commission did not aim to find persons or agencies guilty, so there was no cross-questioning, although the chair and commissioners asked simple questions for clarification. Everything was done to help vulnerable, yet courageous witnesses to tell their story in a calm manner. From footage I viewed I am impressed by this aspect of the Commission. Had I been called to appear I would have had no fear in doing so.

Apart from victims, various experts appeared - researchers or investigative journalists, and those with technical or medical expertise (usually in narrow fields). One witness, expert on aversion therapy, pointed out that what Selwyn Leeks did was not true aversion therapy (a view also held by Dr Mirams, according to the Listener article). Few witnesses other than myself, had studied the historical background of torture and abuse in the context of world events.

It was expected that, at some stage, heads of state agencies (or important sections therein) would be called to respond to evidence of abuse heard in earlier hearings. This was voluntary: *Sub poena* powers were never used. However the Commission had the power to issue ‘Notices to Produce’ past documents. Ministries whose responses were most needed were Health, Social Development and Education. The Commission also invited current or former employees and contractors from other state agencies to make contact ‘if they believed that they could assist its inquiry’[[22]](#footnote-22). State agents necessarily appeared late in the sequence of hearings, between 15 and 26 August 2022[[23]](#footnote-23). Spokespersons came from those ministries, plus the Police Department (including the Police Commissioner) - the only agency to respond to the invitation. The New Zealand Security Intelligence Service did not take up the offer.

**Shifting Terms of Reference**

The Royal Commission stated on many occasions that it was ‘independent’ of government, as it should be to be credible. However, during its operation, unforeseen events happened, some significant, and some of which I know of directly. The Ministry of Internal Affairs *did* make changes to the Terms of Reference. The rationale for this was stated publicly, but there may have been added unstated reasons, linked to concurrent events. These unforeseen events and manoeuvres of the Commission are therefore collected in the timeline which follows:

On 10 January 2020, CCHR’s approach to the UN Committee against Torture led that committee to uphold a complaint from former Lake Alice patient Paul Zentveld. In an ‘advance unedited version’ of its decision, the committee recommended the New Zealand government to ‘*conduct a prompt, impartial and independent investigation into all allegations of torture and ill-treatment made by the complainant, including, where appropriate, the filing of specific torture and/or ill-treatment charges against the perpetrators and the application of the corresponding penalties under domestic law’*[[24]](#footnote-24). This recommendation added urgency to the commission and its agenda.

* 19 March, 2020: Less than a month after the end of the inquest in which I was involved, but before the coroner reported, the Ombudsman sent two inspectors to make an unannounced visit to the ward where the young man I had tried to help took his life.
* 2 May 2020: I sent my account of the death of this young man to numerous high-rank individual and agencies in New Zealand, including the Royal Commission on Abuse in Care.
* Late August 2020: The Ombudsman’s report on the ward in Wellington hospital was released, a month after the coroner’s report. Its title made clear its link to torture allegations: *‘OPCAT Report on an unannounced follow up inspection of Te Whare o Matairangi Mental Health Inpatient Unit, Wellington Hospital, under the Crimes of Torture Act 1989’[[25]](#footnote-25).*
* On 23 September, 2020, there were news reports about very serious concern expressed through the Public Service Association (union for nurses), by staff in Wellington Hospital's Acute Mental Health Ward, about the disastrous situation there. These disclosures echoed what I knew about that ward, from 2015; but in several ways, the situation seemed to have worsened.
* On 15 October, 2020, Aaron Smale published an article entitled ‘*Abuse, torture and a deep state campaign of* *denial*’. He tells of the ‘long game’ New Zealand governments of all shades have played, responsible for a system permitting crimes against children, and constraining complaints processes, to prevent a full picture ever being known[[26]](#footnote-26)**.**
* On 4 December 2020, the Commission released its Interim Report as two substantial volumes. Nothing in them indicated that ‘structural and systemic factors’ mentioned in its ToR included overseas factors; but nothing excluded this. There was however a stronger emphasis on redress and reparations than in the ToR.

In years before the Commission was established, I had interacted with several journalists, one of whom, Mike Wesley-Smith was a determined investigator with legal experience and qualifications, who had been investigating abuse in Lake Alice for some years. By early 2021, he had joined the Royal Commission, leading a rapidly growing research team there. A friend of mine who had helped me greatly had suggested that I should be part of such a research team. For other reasons I wanted to meet Mike again. On Tuesday 2 March 2021 we arranged to meet in a café in central Wellington. However, as I travelled in on the train, I thought, if asked, ***I should not*** agree to join that research team, because I would have to sign a confidentiality agreement. When we met, Mike was accompanied by a senior detective sergeant - ‘Nick’ (whose surname I never discovered at the time. He was Nick Reid). The meeting was short. Little of substance was discussed, although I learned a few small points from him, which I mention later. We talked about my early experiences with Schizophrenia Fellowship in Dunedin. I explained how I saw my interaction with the Commission continuing, retaining independence, yet linked as an allied investigator. Mike said simply: ‘*Yes, that’s how we want it too’*. So, agreement was reached on an important point. On return home I sent him an email with names of parents I had met in early days of Schizophrenia Fellowship. However, I never learned if their offspring were amongst those receiving DST.

After this meeting, I kept asking myself: ‘Why was the detective sergeant there?’ It was never explained. I have wondered if he was there to provide a report on the conversation, or even, via a secret recording device, a verbatim transcript? If so, why?

On 19 April 2021, as I learned later, the Cabinet decided to adjust the Terms of Reference, for this supposedly independent Royal Commission[[27]](#footnote-27). A public announcement about this was made on 27 April 2021, by Minister of Internal Affairs, Jan Tinetti, narrowing its scope and changing some reporting timelines, specifically by:

* Allowing the Royal Commission a small extension of up to five months to give it time to complete its final report back by June 2023,
* Moving the due date forward to October 2021 for its report on redress for survivors of historical abuse and how the redress process can be improved, so Government can move more quickly to make improvements, and
* Narrowing the Royal Commission’s scope by removing the requirement for it to look at modern-day care policy settings to avoid duplication with other reviews already underway, and so it can focus on the causes, extent and nature of historical abuse in care.

On 4 May, I received from the Royal Commission a message regarding the process of Redress for victims of abuse, and on 2 June another message, covering several issues, including change of the Terms of Reference. By 9 July the finalized version of the changes was announced. The synopsis included:

* *Narrowing the scope of our Terms of Reference by removing the requirement to provide forward-looking recommendations*
* *Remove the Royal Commission’s mandate to examine current frameworks to prevent and respond to abuse in care, including current legislation, policy, rules, standards and practices.*

The detail was in the following sections of the ToR:

* Section 10.5: **Original:***'What lessons were learned; what changes were made to legislation, policy, rules, standards, and practices to prevent and respond to abuse in care; and what gaps, if any, remain and need addressing*': **Amended version deletes**: ‘*and what gaps, if any, remain and need addressing*’]
* Section 10.6: **to be deleted**. It reads:  '*The current frameworks to prevent and respond to abuse in care; and any changes to legislation, policies, rules, standards, and practices, including oversight mechanisms, that will protect children, young persons, and vulnerable adults in the future.'*
* Section 10.7: **delete** *‘rehabilitation*’
* Section 15: **original**‘*For the avoidance of doubt, existing feedback, complaints, review, claims, settlement, or similar processes will continue to operate during the course of the inquiry’s work. As provided in clauses 31 and 32, the inquiry may make interim or final recommendations on improvements to these processes* ‘ **Replacement version**: '*the inquiry is not permitted to examine or make findings about current care settings and current frameworks to prevent and respond to abuse in care, including current legislation, policy, rules, standards, and practices*.’

Aaron Smale’s comment[[28]](#footnote-28) was as follows:

*Along the way, the commission’s terms of reference were also tweaked. Initially it could hear evidence about events that took place up until the end of 1999 (the reason for this date was never explained). However, the commission had the discretion to consider evidence after this date, and this discretion remained in the terms changed last year. Now, there is a new clause in its terms of reference, 15d. This clause says the commission “is not permitted to examine or make findings about current care settings and current frameworks to prevent and respond to abuse in care, including current legislation, policy, rules, standards, and practices.” This is contradicted by a later clause saying the commission can make recommendations*

I learned of the finalized version some weeks before the public announcement. On 15 June, I had sent a nine-page document to the Office of Prime Minister & Cabinet, entitled ‘*Serious Concerns About Direction Now Being Taken in Royal Commission on Abuse in Care’*[[29]](#footnote-29)*.* This was transferred to Minister Jan Tinetti, of Internal Affairs.

Here is a synopsis of some of the points I made:

An early comment in the Commission’s hearings from barrister Sonya Cooper, was that the Royal Commission could not function in an independent manner: It was set up by the Crown, and was effectively *'the Crown investigating itself’*.

I stated: *‘For the Royal Commission to make recommendations which would be acceptable to the general public requires from the beginning, international scrutiny of the Royal Commission’s activities by observers of impeccable credentials. In my view, it was a serious mistake, that there was no such international scrutiny.’*

Further grounds for concern were that the decision was not made known to me (as one who had made submissions to the Royal Commission) until 2 June, with only 9 working days before the deadline for receipt of submissions to the complicated form about the redress process.

I also wrote: ‘*What is occurring in the Royal Commission is secret[[30]](#footnote-30). It is not a judicial process, but nonetheless, breaches the fundamental principle of our justice system, that ‘justice is done and seen to be done.’ We do not know - and cannot know - what secret evidence is being revealed from state archives, or what secret negotiations are occurring behind the scenes.*’ . . .*‘The best initial step to redress is to ensure that ‘****the Truth, the Whole Truth & Nothing But the Truth’****has been told’*

In practical terms, ‘*the biggest single move to help victims of abuse is the strategy just mentioned - for those victims to see moving forward a profound and comprehensive reform of our system of justice*.’ That is, after all, why many witnesses agreed to tell their story.’

 In some sections of my letter, on reflection I thought I might have misunderstood the wording of the announcement about changed Terms of Reference:

 ‘I was puzzled by the changed emphasis. *Focus on the actual abuse but not on the structures that allowed the abuse to occur might be seen as a way to divert attention from the higher levels of the state apparatus who bore responsibility.’*

*‘The revised ToR appear to limit the opportunity for the Royal Commission to make recommendations about structural changes to systems (including systems of Justice) within which documented abuse was allowed to occur.’ . . .‘I fear that what is unfolding now in this proposed redress process, is an attempt on very large scale, to ‘pay-off’ victims, whose lives have been ruined, without holding to account agencies of state (and of religious organizations) who bear responsibility, and continue to bear responsibility. It attempts to manage the issue without addressing structures and endemic croneyism which allowed - and, as I know, still continues to allow - all this to happen. It is arguable that THIS is the real issue here.’*

Was I being unfair?

On 6 August 2021 I received a response from Minister Tinetti (copied to Kelvin Davis, Minister for Children). The response included:

*While current care settings and current frameworks to prevent and respond to abuse in care have been excluded from the Royal Commission’s terms of reference, its* ***ability remains to make recommendations for the future to ensure that the factors that allowed abuse to occur in the past do not persist in current or future settings****. . . .*

*The performance of current frameworks (including policy, practice, and institutions) have been, and are being examined in other reviews and inquiries.* ***Removing the current care settings and frameworks from the scope of the terms of reference will enable the Royal Commission to solely focus on what happened in the past, what caused or allowed it to happen, and will avoid duplication with other investigations into the current care system. This is why these changes to the terms of reference were made. The decision was not an initiative of the Crown Law office.***

*The exception to the changes to current care settings is the area of redress, where the terms of reference will retain the current provisions related to current redress and rehabilitation processes. . .*

*I am conscious that survivors have been waiting a long time for their stories to be heard . . .Many survivors are also elderly or are in ill health. Changing the terms of reference (including by excluding the current care settings and current frameworks and only allowing a moderate extension) has reduced the risk that some survivors may not be here when the Royall Commission completes its work.*

Here, I have emphasized – bold type – what I take to be the key lines. These lines may be – *probably* - consistent with Minister Tinetti’s poorly-phrased announcement; yet having now been excluded from bearing witness in public to the evidence I have collected about where I see ultimate responsibility to lie, these lines ring hollow. It is important to note that the Royal Commission was supposed to be independent, yet a ministerial decision narrowing the ToR undermines independence; and the line ‘*to avoid duplication with other investigations into the current care system’* brings those areas away from independence of the Royal Commission, and within government control. So, perhaps, in the sections of my message which I questioned as having perhaps been unfair, I may in fact have hit the nail on the head – and the issues I raised there may have been too close to reality for the minister to provide a direct response.

Over the years, there had been attempts to call Leeks to justice, including calls in 2001 for him to be extradited and stand trial in New Zealand. However, on 8 December 2021 the police stated that, despite their finding enough evidence to lay criminal charges, he would escape prosecution, as explained to survivors, because ill health and dementia made him unfit to stand trial. Nonetheless investigations into allegations about Lake Alice in the 1970s did lead to a criminal charge filed by the police against a former staff member - 89-year-old John Richard Corkran - who appeared in Whanganui District Court on December 14, 2021, with the trial to follow in 2023[[31]](#footnote-31). Selwyn Leeks himself died on 6 January 2022, somewhere in Australia.

To my mind that single prosecution in Whanganui was ***trivial***, the minimum lip-service paid to calls from the UN Committee on Torture recommending *filing of specific torture and/or ill-treatment charges against the perpetrators and the application of the corresponding penalties under domestic law’*. That single trial is not just trivial: *It is also* ***pathetic****, when the real criminals were at higher levels of the state apparatus, indeed, of large parts of that apparatus itself, which is responsible.*

An important precedent is the Nuremberg Trial of Doctors (1946/47). Of those tried and found guilty, the vast majority were not low-level minions who did their dirty deeds - shall we say - with the blade of a scalpel; but rather those at high administrative levels, who were in control, and did their deeds - shall we say - with their gold-tipped fountain pens. If there is to be any resolution here, that must be the precedent.

Even so, the minimal response of the police was no surprise, since police had no power to prosecute relevant parts of the state. This leads to an important and interesting question. In situations like this, who ***does*** have power to call to account agents and agencies bearing ultimate responsibility? At the end of this chapter, I start to answer to this seeming intractable puzzle.

The Royal Commission held hearings about ‘redress’ as early as possible, and on 21 September 2021 made recommendations to government[[32]](#footnote-32), including:

* If a redress scheme can ensure care providers/individuals are held accountable for any abuse, this will act as a deterrent and so a form of prevention.
* There is a need for rigorous independent monitoring, i.e., independent of the agencies and organisations that provide care of children, young persons and vulnerable adults.
* A system that has statutory powers to receive complaints, investigate complaints and report complaints is needed. People must be held accountable. This system needs contact with those abused.

In 2022, legislation for Oranga Tamariki (Ministry for Children) was debated in Parliament. By 29 August new law was passed and received Royal Assent[[33]](#footnote-33). The new Act was widely criticised, especially because the Monitor of Oranga Tamariki was established as yet another government department, which undermined its independence. Aaron Smale saw this as just another example of government impunity[[34]](#footnote-34).

On 18 January 2022, accompanied by a trusted friend and colleague, I took part in a three-hour recorded interview/discussion with two skilled legal staff working with the Commission. We spent a long time going through the plethora of circumstantial evidence I had collected to suggest that the worst abuse documented in Royal Commission hearings was instigated by military intelligence agencies from overseas. Most of that is dealt with in later chapters. However, the framework in which the interview occurred (before the recording device was turned on) is highly relevant.

Of the two lawyers, one had headed investigations into Lake Alice Child & Adolescent Unit. The other, was a recent arrival in New Zealand, with Greek and Swiss parents. Prior to his employment with the Royal Commission, he worked with United Nations Human Rights Commission at trouble spots across the world, including ones where genocide was alleged. I explained that I had been a careful observer of the Commission’s activities, and it had earned my trust – mainly; but that trust could never be absolute – ‘about 75%’ - I said. I then quoted the line attributed to Thomas Jefferson: *‘The Price of Liberty is Eternal Vigilance’.* Right at the end of the recording - and this should be clear in the transcript - I compared what happened 45 years earlier, and what I had witnessed recently, regarding investigation into the death of the young man I tried to help, and the subsequent deeply flawed inquest. The interviewers were generally reticent about expressing their own views; but one of them responded to my remarks by saying that, over 50 years, very little had changed (about our flawed investigative and judicial processes). I had already stated this view in the earlier document about the inquest in whi00ch I had been involved, dispatched on 2 May 2020, and in the discussion document, sent to the Commission in the September prior to the interview.

 This gives a clue to the real rationale for change of Terms of Reference. Quite apart from my own documents connecting what occurred decades ago with what is still happening, the same message is conveyed by evident concern of Chief Ombudsman Boshier, and the nurses (through their union) about the mental health ward of Wellington hospital. My hypothesis then is that a hidden rationale for changing ToR was to ensure that the Commission focussed on what happened in the past, not the present. Implicitly, ‘*the past is the past; the present is the present; and never the twain shall meet’* It is a stratagem by which current administrators and politicians can ‘share shock and horror’ at what happened long ago, while distancing themselves from what is happening now. It is similar to the strategy used by the coroner in the inquest I attended, a ruling on a ‘cut-off date’, before which no evidence could be considered, and therefore preventing the most incriminating evidence ever being heard in his court.

It was made clear that the recorded part of the interview would be converted into a transcript, which, after my corrections, I would be invited to sign; and in due course, this would become the basis for a witness statement. There was a clear assumption by all present that, after signing such a witness statement, it was a likely prelude to my appearing at a public hearing (as already implied by the title of my Discussion Document sent to the Commission the previous September). The two lawyers who interviewed me were skilled. They gave me almost no information which was not already in the public domain, yet, by the perspicacity of questions they asked, they gradually increased my trust.At the end I complimented the Swiss-Greek legal expert, saying that it was good to have someone in the Commission’s legal team who knew of the darker side of modern European history, pointing out its great relevance.

I expected to receive drafts of the transcripts within a few weeks, and, not long after, a draft witness statement for me to correct, and add to, subtract from – in whatever way I wanted. I waited patiently, with increasing concern. Eight months later, on 26 August, I could wait no longer, and wrote to express my concern about the delay. My letter made it clear that I expected to finalise a witness statement, in preparation for appearing at a public hearing.

On 28 September, I received the copies of the transcripts and a draft witness statement. The transcripts had been prepared by machine reader, which matches sounds to words in its memory bank, regardless of sentence meaning. The result is often bizarre! The draft witness statement was derived, I think, from someone listening to the audio recording. I had an impression that details included were perhaps a little haphazard, or perhaps chosen because it was thought (incorrectly) that they might be specially important to me. It took a few weeks hard work before, on 17 October, I returned corrected transcripts and a near-final version of the witness statement. My covering letter included the question: *‘Can you give me an indication of the****date****on which I will be asked to appear before a hearing of the Royal Commission?’* The witness statement was not signed, because there were details I still wished to discuss.

Apart from same-day acknowledgement, I heard nothing more - certainly no suggestion of a date - until 8 November, when there was a public announcement, in celebratory tone, that the Commission had held its last public hearing. I found out soon after, that I was definitely not to appear in a public hearing. I had invested a lot of trust in the commission, and was left with a sense of having been seriously misled. On 9 November, I wrote to let the Commission know this, and that *'The bond of trust, such as it was, which had been established earlier, is now broken*.’ I also let the Commission know what was needed for them to rebuild that bond of trust. However, the deadline I gave them for a response came and went without so much as an acknowledgment of my message.

I do not believe the two lawyers who conducted the interview intended to mislead me. I guess it was a decision imposed at higher levels, once the gravity of my allegations and the strength of their evidential basis had sunk in. Unnamed persons were uncomfortable with the direction my evidence was leading. I reach this conclusion not only from the fact of my not being asked to appear at a public hearing, but from the inordinate delay in sending me transcripts, and draft of a witness statement; that they left me no opportunity to fine-tune it; and the way I learned of this - hardly open and transparent. I suspect that during that eight month delay, powers in the Commission hoped that I had lost interest, and that I would not get back to them. When I did, they responded in haste, rather unprofessionally. The fact that my less-than-friendly message on 9 November was not even acknowledged supports this view. I cannot tell whether Judge Coral Shaw really knew of my being excluded from appearing at a public hearing. I ask whether she was really in charge, or was just a smooth outer appearance, while the driving forces were hidden. Apart from disappointment, I have to say that, frankly, I am hardly surprised; but I am left with a dreadful fear, that the 45-year cover-up of where ultimate responsibility lay for heinous state crimes, will continue into the future, unaddressed.

***Responding officials*:**

The Royal Commission included many hearings at which agency heads commented on evidence of abuse presented by victims, and on processes for redress and reparation. The Police Commissioner was the one most genuinely contrite He admitted that the police investigations failed on many occasions regarding crimes committed at Lake Alice. He apologized to victims for the failures, especially for failure in 2002. This is welcome, but it is a long journey before public trust in the police force is regained. I say this based on aspects of the inquest in which I was involved, and the story described in my introductory chapter on the death of Shargin Stevens. Part of their problem is simply lack of resources, which means that police avoid investigating allegations when they are likely to be contested or require complex and lengthy work. This is not right, but is understandable, and hardly the fault of the police. Nonetheless, this does not cover all problems in the police force.

For the Ministry of Health, the Director General, Dr Sarfati, made a statement including many areas where serious shortcomings were ‘acknowledged’, but did not exactly offer an apology, let alone admit that crimes had been committed. The lawyer for the Ministry of Health, Mr Philip Knipe gave a long account of the history of redress and claims processes regarding abuse in health facilities, including comments of the ‘quantum’ of payment as reparation. Dr Crawshaw, for the Directorate of Mental Health spoke of the process of de-institutionalization, the impact of the New Zealand Bill of Rights 1990, the 1992 Mental Health (Compulsory Assessment and Treatment) Act 1992, and more recent UN conventions. He accepted that in the 1970s, children and young people were placed in institutions for reasons that would not be tolerable today. Most of his statement was about recent reforms, with little assessment of the Directorate’s former role in the 1970s, and its continuity with the present.

The Solicitor General’s office had been the target of some of the strongest criticism, especially from barrister Sonya Cooper, who represented many of the Lake Alice victims. The witness statements by the current holder of the position, Una Jagose were again long and complicated, pointing out many precedents from past case law, and how the law might have had limits curtailing litigation and redress in former years. I need not discuss this except to comment on the length and inaccessibility of his statements for the lay reader. First class legal and judicial minds do not need this. They get to the nub of complex issues with words that are direct, hard hitting if needed, easily understood, and compelling in their precision and rationality[[35]](#footnote-35).

**Summary and Comment.**

In 1976 and 1977 there were many alerts to terrible things which had gone on in Lake Alice. I ask a seemingly naive question. Was it ***medical*** malpractice? It included deliberate attempts by several methods to produce maximum pain but was not aversion therapy. Health professionals are supposed to be independent of government in treatments they administer. Possibly, one might say, this independence applies less in psychiatry than in other specialties. However, unlike most specialists, Dr Leeks was not linked to any peer review network. What went on at LACAU was administratively remote from professional or public service discipline. On these grounds, I suggest it is incorrect to describe what went on there as ***medical*** malpractice. Whether the practice there was good, mediocre, or appalling, ***it was not medical.*** It made no sense in any medical facility. However, in a very different world – that of the military or military intelligence – it might make perfect sense.

There were many calls for a full inquiry or a Royal Commission, and for responsible persons or agencies to be held to account. These calls failed, in such consistent fashion, by so many agencies that a serious suspicion is raised of an orchestrated campaign to suppress all attempts to find out what was really going on.

At what levels of government might such a campaign originate?

The *police* were contrite about their failure. The fact that they willingly accepted an invitation to appear, with no hint of higher agencies directing them, suggests they were not coerced by higher powers. The Medical Council had a quite inadequate response. This might be the medical profession’s instinct to protect its own (an instinct which should be challenged wherever possible), rather than direction from above.

In the Ministry of Health, *the Directorate of Mental Health* is intertwined with other departments, because of its major role in implementing the Mental Health Act. *That must be examined further.*

With my larger agenda in mind, two related points should be made about the Security Intelligence Service of New Zealand. First, my own submission had raised important issues on which the SIS might have had significant point to make, but, since I had been excluded, these issues were never raised in public. Second, the SIS did not respond positively to the commission’s invitation to appear at a public hearing. Putting the two points together, the Royal Commission, while knowing my allegations about possible interference from overseas intelligence agencies, went out of its way to avoid SIS being implicated.

What about the *bi-national college of psychiatry (RANZCP*)? . . and why did Dr Dobson, chair of the New Zealand branch of the college, not refer the Lake Alice issue to top levels of the bi-national college? He *did* warn the head of the Values Party not to be involved with CCHR because of the latter’s origins in Scientology. This line was certainly inappropriate, but was significant in another way: Across the Tasman, RANZCP was having to contend with potent action over psychiatric practice, also coming from CCHR, about Chelmsford Private hospital. This suggests trans-Tasman coordination in the profession, aiming to close down dangerous investigations and litigation. I have more to say about this later.

The dismissive attitude of the *magistrate* towards CCHR in 1977, and similar failures later suggests that at least some members of judiciary were complicit in the cover-up. I reached a similar conclusion a few years earlier from analysis of the inquest in which I was involved. A conversation in a community law office in Wellington gives further hint of the reach of this elite club of lawyers and judges. After discussing my issue for a while and getting nowhere, I asked this head lawyer point blank: *‘Do lawyers have an obligation, by virtue of their profession, to uphold the rule of law?* Answer: ‘*You’re asking the wrong person: I’m part of the system.*’ I understand him to be saying that he is no longer an independent professional.

The *Crown Law Office* came in for potent criticism in Commission hearings. I suspect complicity with others to suppress state crimes. Not just that: By virtue of the central role of the Solicitor General - and whatever the incumbent might say, in protest - this office must be a prime suspect for coordinating the cover-up, at least in recent years; but this does not absolve others - politicians and bureaucrats – who in past times may have done more than coordinate.

Why were obvious indications of torture not investigated earlier? Perhaps because there was no local statute to prohibit torture. The only document which might be cited was the United Nations Universal Declaration of Human Rights of 1948/49; but it was not a legal document. It was supposed to inspire the passing of national laws, different in each jurisdiction; but regarding torture, I believe it never did so until recently. Why not? The only answer which is forthcoming, is that through most of the period in question, the Cold War was rampant (and Hot Wars often raged). During that protracted international conflict, torture was in widespread use. It was not the best time to enact laws against torture. One might suggest that the perpetrators *were* constrained by the UN Declaration, because they went out of their way to devise means of torture which left no physical mark; but the rationale still seems to have been to avoid passing laws against torture.

The Terms of Reference for the Royal Commission did not exclude exploring international factors behind abuse at Lake Alice (and elsewhere); yet seemingly, the Commission was run so that it *did* exclude consideration of such influences.

The Solicitor General is a problematic office in constitutions where executive and judicial branches of government are supposedly separate, and never more so, when there are allegations of serious state crimes. In the Solicitor General’s introductory remarks the nature of that office was explained, including a very odd statement that one role of the office was to determine what the Government’s view of the Law was. So, the Law is just a matter of opinion? Possibly - since in common law tradition, statutes are interpreted in context of a long succession of precedents from case law. Nonetheless, I cannot accept this as defence of issues of criminality by state actors of the gravity of those established by the Royal Commission. Indeed, common law tradition has old precedents – not against torture itself, but against testimony obtained under torture. In those days, the idea of a *research facility* aiming to find better methods of torture was beyond the wildest of nightmares.

This leads to my last point. When the rule of law breaks down so severely that heinous crimes are committed by colluding branches of the state itself, to which agency can one turn to re-establish public trust? An answer is to be found in the field of jurisprudence, and is simple in its logic: Within agencies of that state there is nowhere to turn; to re-establish trust and the rule of law, international guidance is needed. This is what happened at Nuremberg; and after the English civil war, the parliamentary system was constructed based largely on the basis of methods of deliberation of the Scottish presbyterian church; and after further years beset by strife, a monarch – or rather a ‘dual monarchy’ - was appointed from the Netherlands.

The reader may share my disquiet: When a Royal Commission established because of allegations of breach of international law appears to have no international jurists to scrutinise is activities; when ‘structures and systems’ of this Commission address only home-grown problems, excluding ones emanating from overseas; and when I find myself excluded from bearing witness on exactly such topics; then there *are* grounds for disquiet.

Moreover, this Royal Commission appears to have definite ‘no go areas’, or these areas may be imposed *ad hoc*, from the Department of Internal Affairs. So far, no serious questions have been raised about:

***Why did torture occur?***

***Why did a concerted cover-up continue over so many years?***

***Why has there been so little scrutiny of politicians and public servants of that day?***

***Why, late in the day, were the Terms of Reference changed, preventing examination of the fifty-year continuity of administrative abuse.***

***Why have international influences been excluded from consideration?***

***Why has there been no investigation of the role of the Bi-national College of Psychiatry, only of its local branch?***

***Why was SIS never required to respond under sub poena conditions, if necessary?***

***. . . . and even. . . dare I say it . . . why is everyone so damn polite?***

I add here that, whatever legal fanatics say, the Rule of Law depends not just on enacting and enforcing statutes. Bigger than this by far, it depends on traditions which grow over centuries. Growth of such traditions depends on aspects of a society and its culture way beyond legal instruments and judicial processes. I develop this theme in my last chapter.

Many positive achievements have come from this Royal Commission so far. In getting so much horrific evidence out in the open, from so many, so vulnerable witnesses, from so long ago must be ranked as a huge achievement.  In particular, it has provided me with abundant solid evidence to further my investigations. I wait its final pronouncements with avid interest. ***Nonetheless, with respect, I must say, it has been afraid to follow through the full logic of its mandate.*** Perhaps that fear, the failure to explore international influences, and the lack of international scrutiny, are all somehow linked. Fear of looking internationally may have motivated the failure to appoint international observers; or alternatively, the fact that there were no international observers made it easy to avoid uncomfortable questions. So, I end where I began, with Shakespeare’s *Macbeth*:

***Wouldst thou have that which thou esteem’st the ornament of life and live a coward in thine own esteem, letting ‘I dare not’ wait upon ‘I would’ like the poor cat ‘i the adage?***

1. The roots of Scientology go back to the second world war, as one of several approaches supposed to make psychiatry more scientific. After revolutionary advances in physical sciences, it was thought that similar advances might be possible in human sciences. Wartime research into psychology and psychiatry seemed to open doors on the conundrum of consciousness; and religious certainties of former times were evaporating. At this time, the basis for Scientology lay in Freud’s psychology, the harmful effects of repressed childhood trauma and the process of Abreaction (see later chapters). Scientology was also interested in making big money, at times in questionable ways. Inevitably it was a challenge to orthodox psychiatry. [↑](#footnote-ref-1)
2. The cerebral cortex - the large, folded sheet of nervous tissue beneath the skull, can be seen as the ‘organ of association’ (Carl Wernicke’s phrase). Its functions may diverge with either unduly restricted association (‘skepticism’), or unduly loose association (‘gullibility’). The latter, in extreme form, equates to mania. The simple elemental substance lithium, in the same class of elements as sodium and potassium, is effective treatment. The balance between sodium and potassium in nerve cells, determines the electrical potential difference between the inside and outside of nerve cells. In turn, this determines the excitability of each nerve cell; and then, in a large network of connected nerve cells, the balance determines the freedom with which mental associations are formed. The nature of mania, and the role of lithium in stabilizing the cerebral cortex against excesses, follow, at least in principle, from these facts, in a way which is obvious to those who know basics of electrophysiology. [↑](#footnote-ref-2)
3. https://www.abuseincare.org.nz/assets/Uploads/Documents/Public-Hearings/Contextual/08.-Oliver-Sutherland.pdf [↑](#footnote-ref-3)
4. See Supplement no.1 – Chapter 1 (this section of OCTSPAN website) [↑](#footnote-ref-4)
5. This refers to the establishment of the Department of Social Welfare, coming into operation on 1 April, 1972, by amalgamation of pre-existing Social Security Department, and the Child Welfare division of the Department of Education. [↑](#footnote-ref-5)
6. At this time, all public servants had to sign this Act. This Act, goes back to 1951, and included draconian sanctions if breached. Only two persons were ever charged under the Act, Dr Bill Sutch (who was acquitted), and Oliver Sutherland himself (who never faced trial). It was replaced by the Official Information Act 1982. It is clear in audio/video recordings of Oliver Sutherland’s presentation to the Royal Commission that his informant had breached the Act. However, in the transcript, this is obscured, but seems to be referred to in a document mentioned in a footnote, which may be hard to access. Indeed the Royal Commission appeared to avoid anything to do with the Official Secrets Act. This may be related to the fact that I was excluded from testifying in public. [↑](#footnote-ref-6)
7. Public release of the Chief Ombudsman’s report occurred after he left office, in part on 13 March, and another part on 24 May. No doubt CCHR had their copy in advance of these dates. [↑](#footnote-ref-7)
8. Dominion 24 May 1977. [↑](#footnote-ref-8)
9. It was granted ‘Royal’ status on 9 May 1977, this becoming official in 1978. [↑](#footnote-ref-9)
10. It may however make a difference in other ways: Intense electrical currents delivered over a small area of body surface can cause electrical burns. For this reason, ECT is normally delivered through electrodes with a large contact area, so that current flow per unit area is reduced. [↑](#footnote-ref-10)
11. According to affidavits seen by the author of the Listener article (6 May 1978) many patients in other hospitals claimed that threats of ECT were used by nursing staff, for quite minor misdemeanours. [↑](#footnote-ref-11)
12. And I believe it was used on me at the time of my first hospital admission in 1966, when I lost consciousness very quickly. [↑](#footnote-ref-12)
13. After adverse publicity at LACAU, Lake Alice had difficulty even recruiting an anaesthetist. [↑](#footnote-ref-13)
14. A position serving as the interface between schools and police. [↑](#footnote-ref-14)
15. Formalization of consent and of many other aspects of medical ethics arose following release of the Belmont Report, in 1976. (https://www.hhs.gov/ohrp/regulations-and-policy/belmont-report/index.html ) This grew from the US National Research Act of 1974, charged with identifying basic ethical principles to underlie biomedical and behavioral research with human subjects. [↑](#footnote-ref-15)
16. https://www.abuseincare.org.nz/our-progress/reports/from-redress-to-puretumu/from-redress-to-puretumu-4/1-1-introduction-12/1-1-introduction-9/ [↑](#footnote-ref-16)
17. https://www.cchr.org/newsletter/2015-summer-new-zealands-psychiatric-horror.html [↑](#footnote-ref-17)
18. <https://www.newsroom.co.nz/abuse-torture-and-a-deep-state-campaign-of-denial> [↑](#footnote-ref-18)
19. http://www.nzlii.org/nz/journals/NZLFRRp/2018/2.html [↑](#footnote-ref-19)
20. <https://www.abuseincare.org.nz/assets/Uploads/Terms-of-Reference-Summary-English.pdf> [↑](#footnote-ref-20)
21. file:///Users/apple/Downloads/Royal%20Commission%20of%20Inquiry%20into%20Historical%20Abuse%20in%20State%20Care%20and%20in%20the%20Care%20of%20Faithbased%20Institutions%20Order%202018%20(1).pdf [↑](#footnote-ref-21)
22. <https://dpmc.govt.nz/news/royal-commission-former-and-current-employees>

Departments listed were: Internal Affairs/Te Tari Taiwhenua; Prime Minister and Cabinet; Government Communications Security Bureau; Ministry of Business, Innovation and Employment; Ministry of Foreign Affairs and Trade; Ministry of Justice; Ministry of Social Development; New Zealand Customs Service; New Zealand Police; New Zealand Security Intelligence Service; State Services Commission [↑](#footnote-ref-22)
23. https://www.abuseincare.org.nz/our-inquiries/royal-commission-hearing-into-institutional-responses-of-state-agencies-to-abuse-in-care/state-institutional-response-hearing/ [↑](#footnote-ref-23)
24. <https://www.abuseincare.org.nz/assets/Uploads/Witness-Statement-of-Michael-Ferriss-Citizens-Commission-on-Human-Rights-New-Zealand-for-Lake-Alice-Child-and-Adolescent-Unit-hearing.pdf> <https://www.rnz.co.nz/news/national/407077/un-urges-investigation-into-torture-at-nz-psychiatric-facility> [↑](#footnote-ref-24)
25. https://www.ombudsman.parliament.nz/sites/default/files/2020-08/OPCAT%20Report%20-%20Report%20on%20an%20unannounced%20follow%20up%20inspection%20of%20Te%20Whare%20o%20Matairangi%20Mental%20Health%20Inpatient%20Unit,%20Wellington%20Hospital,%20under%20the%20Crimes%20of%20Torture%20Act%201989.pdf [↑](#footnote-ref-25)
26. https://www.newsroom.co.nz/abuse-torture-and-a-deep-state-campaign-of-denial [↑](#footnote-ref-26)
27. https://nzfvc.org.nz/news/cabinet-narrows-scope-royal-commission-inquiry-abuse-care [↑](#footnote-ref-27)
28. ‘The Misery Go Round’ *North & South* 13 August 2022. [↑](#footnote-ref-28)
29. Supplement no. 2 – Chapter 1 (this section of OCTSPAN website) [↑](#footnote-ref-29)
30. Not only is evidence which can be revealed in public subject to the discretion of the Royal Commission, leaving large areas of uncertainty open to speculation. In addition, even ‘meta-data’ is secret. Regarding the ‘Notices to Provide’, one might ask: How many such notices? and to which agencies? . . . and then, by inference, which agencies were never examined with such Notices? On 18 December 2022, I submitted an OIA request to Department of Internal Affairs. The next day, I heard back: The Royal Commission itself is not subject to the Official Information Act; details of the Notices to Provide are held entirely under authority of the Royal Commission and inaccessible from the Department of Internal Affairs (or any other department). [↑](#footnote-ref-30)
31. The idea of bringing Corkran to trial was abandoned in late June, 2023. [↑](#footnote-ref-31)
32. https://www.abuseincare.org.nz/our-progress/engagement/monitoring-and-oversight-wananga/summary-notes-from-monitoring-and-oversight-wananga/ [↑](#footnote-ref-32)
33. Oversight of Oranga Tamariki System Oversight Act 2022 [↑](#footnote-ref-33)
34. https://www.newsroom.co.nz/a-structure-of-impunity [↑](#footnote-ref-34)
35. I think here of the incisive lines with which Lady Brenda Hale, Chair of the Supreme Court of the United Kingdom delivered her verdict on actions of Prime Minister Boris Johnson in proroguing parliament: ‘*The first question is whether the lawfulness of the prime minister’s advice to Her Majesty is justiciable…..there is no doubt that the courts have jurisdiction to decide upon the existence and limits of a prerogative power. A decision to prorogue will be unlawful if the prorogation has the effect of frustrating or preventing . . . the ability of parliament to carry out its constitutional functions as a legislature. This was not a normal prorogation in the run-up to a Queen’s Speech . . . This prolonged suspension of parliamentary democracy took place in quite exceptional circumstances: the fundamental change which was due to take place in the constitution of the United Kingdom on 31 October. Parliament, and in particular the House of Commons as the elected representatives of the people, has a right to a voice in how that change comes about. No justification for taking action with such an extreme effect has been put before the court. The only evidence of why it was taken is the memorandum from Nikki da Costa of 15 August. This explains why holding the Queen’s Speech to open a new session of parliament on 14 October would be desirable. It does not explain why it was necessary to bring parliamentary business to a halt for five weeks before that. The prime minister’s advice to Her Majesty was unlawful, void and of no effect. This means that the order in council to which it led was also unlawful, void and of no effect and should be quashed. This means that when the Royal Commissioners walked into the House of Lords it was as if they walked in with a blank sheet of paper . . . Parliament has not been prorogued.’*

This was ‘open justice’ at its best [↑](#footnote-ref-35)