

# Mr James Andrew Christopher Wilson: Professional conduct panel outcome

Panel decision and reasons on behalf of the Secretary of State for Education

**June 2015** 

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# Professional conduct panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher: Mr James Andrew Christopher Wilson

Teacher ref no: 6771545

Teacher date of birth: 28 October 1948

NCTL Case ref no: 0011467/WILSON

**Date of Determination:** 3 June 2015

Former employer: Pennycross Primary School, Plymouth

#### A. Introduction

A professional conduct panel ("the panel") of the National College for Teaching and Leadership ("the National College") convened on 1 to 3 June 2015 at 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Wilson.

The panel members were Mrs Mary Speakman (teacher panellist and chair), Mr Ian Hughes (lay panellist) and Mr Tony Woodward (former teacher panellist).

The legal adviser to the panel was Miss Eszter Horvath-Papp of Eversheds LLP.

The presenting officer for the National College was Miss Samantha Paxman of Browne Jacobson Solicitors.

Mr Wilson was not present and was not represented at the hearing.

The hearing took place in public and was recorded.

# **B.** Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 10 March 2015.

It was alleged that Mr Wilson was guilty of unacceptable professional conduct in that whilst employed at Pennycross Primary School, Plymouth (the "school") during the 1970s and 1980s, he:

- 1. Inappropriately touched a number of pupils including:
  - a. Pupil A
  - b. Pupil B
  - c. Pupil C
  - d. Pupil D
  - e. Pupil E
- 2. and in doing so his behaviour was sexually motivated.

The allegations were not admitted by Mr Wilson.

# C. Preliminary applications

#### Proceeding in absence

The panel considered an application to proceed with the hearing in Mr Wilson's absence. The panel was satisfied that a valid notice of proceedings had been sent to him, containing the necessary details set out in paragraph 4.12 of the "Teacher Misconduct – Disciplinary Procedures for the Regulation of the Teaching Profession" (the "procedures"), and that this was sent to him at least 8 weeks before this hearing, in accordance with paragraph 4.11 of the procedures.

The panel noted the advice from the legal advisor that the right to a fair trial under article 6 of the European Convention on Human Rights includes the right to 'participate effectively', but that this right is not absolute and can be waived by the conduct of the defendant, if that waiver is unequivocal, ie, 'clear and unqualified'. The panel was also mindful of the legal principles established in the case of R v Jones [2003] 1 AC 1, particularly that the discretion to commence a trial in the absence of a defendant should be exercised with the utmost care and caution and if the absence of the defendant is attributable to involuntary illness or incapacity it would very rarely be right to exercise the discretion in favour of commencing the trial.

However, the panel concluded that Mr Wilson was demonstrably aware of these proceedings generally and the hearing specifically, and had deliberately and voluntarily absented himself from the proceedings and this amounted to a clear and unequivocal waiver of his right to attend the hearing. In particular, the panel took account of the letter from Parnalls Solicitors dated 1 April 2015 which stated: "Mr Wilson will not be attending the final hearing, nor will he be engaging in these proceedings or this process any further. The reason for this is his health and he is acting in accordance with the advice of his doctor. ... our client will no longer be involved in these proceedings, we are no longer instructed..." Mr Wilson had the benefit of legal advice at that time and no representations were made for the proceedings not to continue in his absence. However, the panel noted that there has since been some engagement by Mr Wilson, although this has been very limited.

In addition, the panel was conscious of the fact that there was no indication that Mr Wilson would be likely to attend at a later date if the hearing were to be adjourned. Whilst the panel noted that the reasons for Mr Wilson's non-attendance were primarily the strain caused by the proceedings, the panel felt that it would have been possible to put in place appropriate measures to mitigate its effects. The panel also noted that Mr Wilson had withdrawn instructions to his solicitors.

Whilst the panel was mindful of the potential disadvantage to Mr Wilson in not being able to give his account of the events, the panel carefully balanced this against the wider public interest in proceeding, given the interests of the alleged victims and witnesses and the interest of justice in the hearing taking place within a reasonable time. Overall, the panel considered that it was in the public interest to proceed with this hearing today.

#### **Evidence by video link**

The panel also heard an application from the presenting officer to admit the evidence of Witness B via video link. The panel noted that Witness B had been notified of the hearing dates on 2 March 2015 and it was only in response to a reminder letter of 27 May 2015 that she notified the NCTL of her unavailability for the hearing. The presenting officer made representations that there was not sufficient time to apply for a witness summons, and that other options to enable Witness B to attend had been explored with her.

The panel also noted that Mr Wilson had been notified of this application by email on 28 May 2015 and by post sent by special delivery, which had been signed for on 29 May 2015.

The panel considered the advice from the legal advisor that under paragraph 4.18 of the disciplinary procedures, the panel could admit any evidence, where it was fair to do so, which might reasonably be considered to be relevant to the case. In exercising that discretion, the panel carefully considered the public interest in investigating the allegations in so far as it was possible to do so consistently with fairness to the teacher,

bearing in mind that there might be subtleties of tone or body language that might be lost via the medium of videolink.

Whilst the panel was frustrated that the witness was unavailable, it was of the view that evidence via video link was a preferable option than simply admitting Witness B's statement as hearsay. In this case, hearing first hand evidence from witnesses was particularly important in order to test that evidence, especially as Mr Wilson himself was not present to do so himself. The panel considered that its role was to hear the best quality evidence available in the circumstances, in a fair, just and timely manner. On that basis, the panel was prepared to allow Witness B to give evidence via a video link.

# D. Summary of evidence

#### **Documents**

In advance of the hearing, the panel received a bundle of documents which included:

Section 1: Chronology and anonymised pupil list, with page numbers from 2 to 3;

Section 2: Notice of proceedings and response, with page numbers from 5 to 11;

Section 3: NCTL witness statements, with page numbers from 13 to 31;

Section 4: NCTL documents, with page numbers from 33 to 237; and

Section 5: Teacher documents, with page numbers from 239 to 253.

In addition, the panel agreed to accept some further documents in support of the preliminary applications, which the panel designated as Section 6, without specific pagination.

The panel members confirmed that they had read all of the documents in advance of the hearing.

#### Witnesses

The panel heard oral evidence from:

Pupils A, B, C, D and E, all former pupils of the school, all called on behalf of the NCTL.

No witnesses were called on behalf of Mr Wilson.

#### E. Decision and reasons

The panel announced its decision and reasons as follows:

The panel confirmed that it had now carefully considered the case before it and had reached a decision. The panel also confirmed that it had read all of the documents provided in the bundle in advance of the hearing, as well as the additional documents admitted to the bundle.

Mr Wilson was a teacher at Pennycross Primary School in Plymouth from September 1970 to April 1985. It was alleged that during this time he inappropriately touched a number of pupils. In particular, the acts were alleged to have taken place primarily during reading sessions and story time, where Mr Wilson allegedly touched the children inappropriately either when they were reading aloud standing behind his desk or sitting on the arm rest of his armchair. In 1982 Mr Wilson was ordained and subsequently became a parish priest after leaving teaching. In 2009, a number of former pupils made allegations against Mr Wilson. He was subsequently charged with a number of offences and was found not guilty after a trial at Plymouth Crown Court in September 2010.

#### **Findings of Fact**

The panel has found the following particulars of the allegation against Mr Wilson proven, for these reasons:

#### 1. Inappropriately touched a number of pupils, including pupils A, B, C, D and E

The panel considered the evidence presented both on an individual basis in respect of each pupil, and collectively, in order to identify how they supported or conflicted with each other.

The panel was highly conscious of Mr Wilson's voluntary absence from the hearing and his resultant inability to cross-examine the witnesses. The panel therefore took great pains to question the witnesses appropriately and to ensure that their evidence was properly tested. In particular, the panel was mindful throughout the hearing of the possibility of collusion on the part of the witnesses and a possible motivation of compensation arising from the alleged conduct.

The panel was also mindful of the fact that Mr Wilson had been tried of the matters forming the subject matter of the current charges against him and he was found not guilty. However, the panel noted that the criminal trial was decided on the basis of a standard of proof of beyond reasonable doubt, whereas the current proceedings required findings on the balance of probabilities.

The panel noted that the allegations related to a period of more than a decade and a number of different classes. In that time, the layout of the classroom and Mr Wilson's habitual clothing might have changed. The panel was therefore of the view that minor differences between the witnesses' recollections on these issues were not significant. In any event, the panel considered that the witnesses were all young children at the time of the events and their recollections of some of the details would be likely to differ.

Nevertheless, the panel was of the view that the evidence of all the witnesses was broadly consistent both in terms of the circumstances of how the touching happened and of their description of Mr Wilson at the time of the events. In particular, the incidents primarily took place when other children were present, but in a way that the touching was unlikely to have been visible to the other children.

Further, the panel considered that there was no evidence that the witnesses were colluding. The panel was satisfied that the witnesses did not know each other well, or at all, (except for Pupils D and E who are brothers), and that they independently put forward descriptions of events that were similar. In particular, whilst Pupil A had contacted a number of other former pupils in order to gather further evidence for the purposes of the criminal trial, Pupils B to E were not amongst those contacted. There was also no evidence that the witnesses were motivated by the prospects of compensation as a result of Mr Wilson's actions.

The panel considered that the term "inappropriate touching" should have its basic English meaning. Inappropriate touching would include that which was intentional, was not necessary and/or in an area of the body which ordinary people would consider private and/or related to sexual matters. Whether or not the touching was deemed to be inappropriate by the pupil was considered by the panel to be irrelevant. The panel was mindful of the fact that the allegations related to the 1970s and 80s when society's attitudes in general may have been different. However, the panel considered that the type of touching in the allegations would have been inappropriate at any time.

In respect of the individual allegations against each pupil, the panel found as follows:

#### (a) Pupil A

Pupil A's evidence was that she had felt Mr Wilson's hand touch the inside of her legs from the back, then felt his hand move up to her crotch area, where there was digital penetration. She could not remember how many times this happened. She said she was not aware if it happened to anyone else at the time, and the first time she talked to anyone about it was in 2009 when she saw a TV programme about child abuse, which prompted her to go to the police. Upon the police's recommendation, she contacted other former pupils and some came forward with similar allegations. She said she had not had contact with them since leaving school prior to that prompted by the police.

Pupil A was evidently very distressed when giving her evidence and the panel found her evidence convincing. The panel was of the view that she had given a consistent account throughout her various statements to the police and the NCTL, and in her evidence before the panel. Despite the passage of time, her recollections were clear and the panel was satisfied that they had not changed.

The panel was satisfied that the acts described by Pupil A took place, that these were carried out by Mr Wilson and that these amounted to inappropriate touching.

#### (b) Pupil B

Pupil B's evidence was that Mr Wilson would stroke her legs from the base of her knee to the base of her buttocks, while she was standing behind his desk reading aloud to the class. She recalled Mr Wilson as being emotionally abusive and bullying, often shouting at the children. She had expressed concerns to her mother at the time and she was moved to another class, so she was in Mr Wilson's class for only 4 months. Pupil B stated that she had not discussed these events with others until 2009/10, although she did raise her general concerns about Mr Wilson when he was officiating at a friend's wedding 15 years ago.

The panel found Pupil B to be a convincing and credible witness. The panel considered that her evidence had been consistent throughout. The panel was satisfied, that despite the short time Pupil B had spent in Mr Wilson's class, she had a good recollection of other details such as the classroom layout and her other teachers at primary school. There was no evidence of Pupil B colluding with any other former pupils.

The panel was therefore satisfied that the touching described by Pupil B took place, that this was carried out by Mr Wilson and that this amounted to inappropriate touching.

#### (c) Pupil C

Pupil C explained to the panel that Mr Wilson had touched her on the bare skin of her inner thigh, above the hemline of her skirt or dress, on a number of occasions. She described how she had told her mother about this, who responded that she should try not to let him do it again. She also recalled Mr Wilson touching another pupil in a similar manner. As an adult, she had not considered reporting the incidents to the police, as she had felt that, whilst the touching was not acceptable, it was relatively minor, particularly in the context of the times. Also, she said that she felt that she would have been alone in raising her concerns about Mr Wilson. She said that she only came forward when she heard about the allegations against Mr Wilson and wanted to help support those who were more seriously affected by his actions. Whilst it happened that she knew the investigating officer of the criminal case well, Pupil C said that she would, in any case, have contacted any other officer in the circumstances.

The panel found Pupil C to be a robust and credible witness. The panel was satisfied that she had nothing to gain personally by making the allegations against Mr Wilson and that she did not know the other pupils well. The panel also found her reasons for not coming forward earlier to be understandable.

The panel was satisfied that the touching described by Pupil C took place, that this was carried out by Mr Wilson and that this amounted to inappropriate touching.

#### (d) Pupil D

Pupil D described in vivid detail the layout and atmosphere of the classroom during story time. He explained that he had been a keen reader and a good student. He described

how he would sit on the arm rest of Mr Wilson's armchair and Mr Wilson would reach around him, put his hand down inside his pants and fondle his genitals. Pupil D explained how at the time, he did not think anything of this and thought that this was what happened to the good boys. He had thought that Mr Wilson was being kind. Whilst he was aware that some children referred to Mr Wilson as "touchy-feely Wilson", he did not think that this was said in fear, but more in a jokey way. As an adult, Pupil D explained that he had come to understand the touching as "sick" and that he had compartmentalised it and moved on with his life. He had come forward in order to support his brother (Pupil E).

The panel found Pupil D to be a credible witness. The panel was mindful that his primary motivation in coming forward was to support Pupil E, and considered whether this would have a bearing on the reliability of his evidence. However, the panel felt that Pupil D and Pupil E did not have a particularly close relationship and that Pupil D had in fact tried to encourage Pupil E to move on with his life. On that basis, and given the otherwise positive feelings Pupil D had about Mr Wilson, the panel considered that there was no reason for Pupil D to fabricate his own experiences of Mr Wilson touching him inappropriately.

The panel was therefore satisfied that the touching described by Pupil D took place, that this was carried out by Mr Wilson and that this amounted to inappropriate touching.

#### (e) Pupil E

Pupil E's evidence was that he would be reading in class standing next to Mr Wilson behind the teacher's large desk, which obscured him from the rest of the children from the waist down. Mr Wilson would then reach down into Pupil E's pants and fondle his genitals, his bottom and near his anus.

In the panel's view, Pupil E was clearly emotional and distressed while giving his oral evidence. The panel was concerned that some of his evidence was confused and unclear and that he may have been experiencing some mental health issues, and he told the panel that he had received counselling. The panel also noted his comment that "my memory confuses me". Whilst he appeared genuinely to believe that the alleged touching had taken place, the panel gave careful consideration to whether such belief might have been the product of a mental illness. However, on the balance of probabilities, the panel concluded that it was not. Pupil E had discussed the events with his family on a number of occasions since the 1990s and he had presented a consistent version of events throughout that time. Specifically, he had raised his experiences several times with different people, well before Pupil A had gone to the police and started to gather evidence of other potential victims.

In addition, the panel considered whether Pupil E might have been motivated by the prospect of being awarded compensation arising from his allegations, as he stated that he had been approached by someone from the counselling service who had raised the

possibility of compensation. He stated that his desire was to see justice for what Mr Wilson did and if he were to gain any compensation he would give this to his father to pay back for times when his father had helped him out. The panel also took into account Pupil D's statement that historically his brother had never expressed a desire to claim compensation. On balance, the panel concluded that the prospect of compensation was not a significant factor in Pupil E coming forward with his allegations.

The panel was therefore satisfied that the touching described by Pupil E took place, that this was carried out by Mr Wilson and that this amounted to inappropriate touching.

#### **Consideration of evidence collectively**

The panel found the allegations in respect of each pupil proven, and also considered that the evidence of all five pupils collectively demonstrated significant consistency in their accounts of the events, particularly the similarities in the descriptions and circumstances of the touching. Taken together, these are mutually supportive and add significant weight to the panel's findings that Mr Wilson did touch pupils in an inappropriate way.

#### 2. The conduct at allegation 1 was sexually motivated

The panel applied the two-stage test of firstly considering whether a reasonable person would think the actions found proven could be sexual (ie, objectively), and if so, whether in all the circumstances of the conduct in the case, the teacher's purpose in carrying out such actions was sexual (ie, subjectively).

The panel was of the view that all of the acts found proven were to parts of the body that were normally considered to be private and sensitive. Whilst the panel could conceive of circumstances where touching of such areas could be non-sexual, for example genuinely accidental touching, the panel considered that a reasonable person would have found the prolonged, intentional and repeated touching by Mr Wilson in these cases to be sexual in nature.

In terms of the second limb of the test, the panel was satisfied that Mr Wilson's purpose in carrying out his actions was sexual. Whilst the panel considered Mr Wilson's acceptance in the criminal proceedings that he might have made friendly or reassuring contact with pupils, it was of the view that the acts found proven went well beyond any ordinarily explicable contact and his motivation can only have been sexual.

# Findings as to unacceptable professional conduct

Having found the particulars of allegations 1 and 2 proven, the panel was satisfied that the conduct of Mr Wilson amounted to unacceptable professional conduct.

In considering the allegations that the panel has found proven, the panel drew on its own experience and has had regard to the definitions in the Teacher Misconduct – Prohibition of Teachers Advice (the "guidance"). In particular, given the serious and repeated nature

of Mr Wilson's conduct against very young children, the panel was satisfied that Mr Wilson's behaviour amounted to misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher.

In addition, the panel considered whether Mr Wilson's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the guidance of which he has not been convicted. The panel found that behaviours associated with offences relating to sexual activity were involved and the guidance indicated that in such cases panels were likely to conclude that an individual's conduct would amount to unacceptable professional conduct. In this case, the panel saw no reason to depart from that general position.

Further, the panel considered that the facts found proven demonstrated a significant breach of trust by Mr Wilson and a very serious abuse of his position as a teacher. These pupils were particularly vulnerable by virtue of their young age, and would have been less able to understand and articulate the significance of the events.

Accordingly, the panel was satisfied that Mr Wilson was guilty of unacceptable professional conduct.

### Panel's recommendation to the Secretary of State

Given the panel's finding of unacceptable professional conduct by Mr Wilson, the panel went on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel considered whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. The panel was mindful that prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have a punitive effect.

The panel considered the particular public interest considerations set out in the Teacher Misconduct – The Prohibition of Teachers advice and having done so, found a number of them to be relevant in this case, namely:

- the protection of pupils,
- the maintenance of public confidence in the profession, and
- declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Wilson, which involved misconduct against very young children, there is a strong public interest consideration in respect of the protection of pupils and children generally. The panel noted that the events took place many years ago, that Mr Wilson has stated that he has not been a teacher since 1985, and that he does not intend to teach again in the future. However, the panel considered that public

confidence in the profession would be seriously weakened if teachers were simply allowed to give an undertaking to avoid teaching in the future, in order to escape sanctions being imposed on them. The panel also found a strong public interest consideration in declaring and upholding proper standards of conduct, as the conduct found against Mr Wilson was well outside what could reasonably be tolerated, even in the context of the times in which the events took place.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order taking into account the effect that this would have on Mr Wilson. In carrying out the balancing exercise the panel considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Wilson, and noted his previous statement to the NCTL that he was retired and did not intend to teach in the future. The panel took further account of the guidance, which suggested that a prohibition order might be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, the panel found the following relevant to this case:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of pupils,
- a deep-seated attitude that leads to harmful behaviour;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- other deliberate behaviour that undermines pupils, the profession, the school or colleagues; and
- sexual misconduct, eg involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position.

Even though there were numerous behaviours that pointed to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case. The panel found that:

- There was no evidence to suggest that Mr Wilson was acting under duress, and in fact the panel found the teacher's actions to be calculated and sexually motivated:
- There was no evidence of any insight on the part of Mr Wilson into his actions nor of any remorse;
- There was strong support for Mr Wilson during his criminal trial and a number of people attested to his good character.

Overall, the panel was of the view that prohibition would be both proportionate and appropriate. The public interest considerations outweighed the interests of Mr Wilson. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered. The panel was mindful that the guidance advised that a prohibition order applies for life, but there might be circumstances in any given case that might make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than two years.

The panel noted page 11 of the guidance which indicated that the panel should consider recommending to the Secretary of State that a prohibition order is to be imposed with no provision for the teacher to apply for it to be set aside after any period of time where the case involved serious sexual misconduct, ie, where the act was sexually motivated and resulted in or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons. Mr Wilson's case clearly fell into that category and the panel saw no reason to depart from that position.

Overall, the panel felt the findings indicated a situation in which a review period would not be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provision for a review period.

# Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendations of the panel in respect of sanction and review.

This is a very serious case in which the panel has paid very careful attention to the evidence of a range of witnesses. The allegations were very serious ones and the panel's findings of fact are clear.

In this case it is very clear that the serious and repeated nature of Mr Wilson's conduct against very young children amounted to misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher.

In addition, the panel has found that behaviours associated with offences relating to sexual activity were involved. This case therefore involves a significant breach of trust by Mr Wilson and a very serious abuse of his position as a teacher. The pupils were particularly vulnerable by virtue of their young age, and would have been less able to understand and articulate the significance of the events.

I have also considered carefully the behaviours that the panel found relevant to this case:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of pupils;
- a deep-seated attitude that leads to harmful behaviour;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- other deliberate behaviour that undermines pupils, the profession, the school or colleagues; and
- sexual misconduct, eg involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position.

In my view these are very serious matters. I have taken into account the need to balance the public interest with the interests of Mr Wilson. I have also taken into account the need to be proportionate. I accept the recommendation of the panel regarding sanction.

I have also considered the advice of the panel regarding a review period.

This case involved serious sexual misconduct, and the panel has seen no reason to depart from position recommended that there should be no review period.

I also support the panel and have decided that it is proportionate in all the circumstances for the prohibition order to be without provision for a review period.

This means that Mr James Wilson is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr James Andrew Christopher Wilson shall not be entitled to apply for restoration of his eligibility to teach.

This order takes effect from the date on which it is served on the teacher.

Mr James Andrew Christopher Wilson has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this order.

NAME OF DECISION MAKER: Alan Meyrick

Date: 4 June 2015

This decision is taken by the decision maker named above on behalf of the Secretary of State.