

**THE PARLIAMENTARY STANDING COMMITTEE ON ENVIRONMENT,  
RESOURCES AND DEVELOPMENT MET IN THE RECEPTION ROOM, TOWN  
HALL, LAUNCESTON, ON MONDAY 19 MARCH 2007.**

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**Mr BOB GORDON**, MANAGING DIRECTOR, FORESTRY TASMANIA, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** (Mr Hall) - Good afternoon, Mr Gordon. Would you like to make an opening statement?

**Mr GORDON** - Only to reiterate what I said in the previous session about what the drivers were from Forestry Tasmania's point of view in terms of setting up the original softwood joint venture deal and also to stress that the matter you are inquiring into isn't really a matter for FT, it was a matter for the softwood joint venture, but we said we are more than happy to cooperate with the inquiry.

**Mr GUTWEIN** - I want to come back to the question that I asked you when you were wearing your Taswood Growers hat. In regard to Forestry Tasmania's involvement in the joint venture, does Forestry Tasmania have to act in accordance with the provisions of both the Forestry Act and the GBE act apart from, as we discussed in relation to the advice that we have received, section 12A of the Forestry Act, which we have been advised was contracted out to Rayonier in regard to the terms of sale of the resource?

**Mr GORDON** - Forestry Tasmania as a corporate body has no role in the recent softwood joint venture process. It only has a role as an owner that has nominated three people to be directors. Forestry Tasmania as such has no role in the decision-making process of the joint venture.

**Mr GUTWEIN** - Are you telling us then that those people being appointed by Forestry Tasmania to sit on Taswood Growers board need have no regard for any of the statutes that Forestry Tasmania is obliged to operate in accordance with?

**Mr GORDON** - I am saying that once those people are on the softwood joint venture board they are no longer Forestry Tasmania, they are directors of a company. There would be thousands of companies in Australia where the shareholders elect directors but they have been nominated by a major shareholder. Once you are a director of that entity your responsibility is to the entity not to the shareholder that nominates you. And that is a matter of company law in Australia and there are quite severe penalties for not acting in that manner.

**Mr GUTWEIN** - So who are the shareholders of Taswood Growers then?

**Mr GORDON** - Forestry Tasmania and the two GMO entities.

**Mr GUTWEIN** - Okay. Do the representatives of Forestry Tasmania, in your opinion, that sit on the Taswood Growers board have to take into account the interests of the shareholders that they represent?

**Mr GORDON** - Their first obligation is to the softwood joint venture. Again, I do not know whether the Auditor-General ended up inquiring into the Companies Act and the operation of the softwood joint venture or not. I have not actually spoken to him yet, I think he is due to come and see me sometime in the next couple of days. I am just trying to answer Mr Gutwein's question about what are the obligations of company directors and I understood that was going to be part of the Auditor-General's inquiry - that is, whether the directors of the softwood joint venture carried out their responsibilities in accordance with the law.

**Mr GUTWEIN** - I do not think that it is part of the Auditor-General's inquiry, based on the briefing that we received last week. Just so that we are clear, in your opinion the three directors who sit on Taswood Growers board and who are nominated by Forestry Tasmania have no obligation whatsoever under the State acts that Forestry Tasmania has obligations under and are set out?

**Mr GORDON** - They are not there as Forestry Tasmania, they are there as directors acting in the interests of the softwood joint venture.

**Mr GUTWEIN** - So again, do they have any obligation in regard to those State laws?

**Mr GORDON** - Do you mean are people subject to the State laws? They are. The specific ones that you are referring too only have application if the decision that is being examined is being undertaken by a GBE. It is not a GBE undertaking this decision-making process, it is an independent softwood joint venture. And that is what I understood the Solicitor-General's advice said.

**Mr GUTWEIN** - That is certainly not the advice that we received. In fact, the reason that Forestry Tasmania had no function to meet the obligations under section 12A was as a result of the original sale process, contracting out the obligations for the terms of any sale of the resource to Rayonier. But in this situation, as we heard from Rayonier this morning, Rayonier did not make the final decision, in fact they provided options back to the board and the board then made that final decision. So I am struggling to see how the directors of Forestry Tasmania were not obliged to meet their obligations under either the GBE act or section 12A of the Forestry Act.

**Mr GORDON** - We have advice from the Solicitor-General and if you are not clear I suggest the committee get further advice from the Solicitor-General when asking that question. I am bound by his advice. I do not know if the committee is or not but I certainly am.

**Mr GUTWEIN** - Would you be prepared to provide that advice to the committee? Could we request that? It does seem to differ somewhat from the advice that we have been given.

**Mr GORDON** - Again, I do not know whether it is appropriate or protocol for me to be providing the Solicitor-General's advice to Forestry Tasmania. I am happy to take that on notice and let the committee consider it.

**CHAIR** - We will take that on notice, thank you.

**Mr BOOTH** - You are saying that it is your understanding that the Solicitor-General has given us certain advice. Have you seen that advice?

**Mr GORDON** - I was told that it was in the newspaper about a week and a half ago. And no-one has denied that they have the advice. I think it was Mr Gutwein who read from it before.

**Mr BOOTH** - I was asking whether you have seen it or have you only got the newspaper article.

**Mr GORDON** - I have seen it by reading it upside down from the other side of the table, that's about all.

**Mr BOOTH** - Not bad reading skills.

**Mr GORDON** - The bit you read is not inconsistent with the advice that I have. I just do not know what the rest of the advice is. Presumably you asked the same question as we asked.

**Mr GUTWEIN** - We will never know. What question did you ask and then perhaps we can see?

**Mr BOOTH** - My question is along the same lines. Bob, I wanted you to clarify that what you are saying effectively is that whilst you work for Forestry Tas, in whatever function, you have to take account of your obligations under the relevant parts of the GBE act and the Forestry Act, but that somehow when you walk in the door of the joint venture you no longer have any requirement to abide by the requirements of those two acts.

**Mr GORDON** - That is what I understand from Mr Gutwein reading out the paragraph before that the Solicitor-General has advised you on.

**Mr GUTWEIN** - No, no, it wasn't. The advice that we have received, Mr Gordon, was such that section 12A did not apply because the function of 12A was transferred to Rayonier as a part of the sales agreement and Rayonier would specifically have the right to determine the terms and conditions of sale. Now in this particular situation we understand from Rayonier this morning that they did not determine who would be the successful bidder, that in fact it was the board that made that decision.

**Mr GORDON** - Again when you read out the Solicitor-General's view it said, amongst other things, the softwood joint venture, the only means to sale is via a joint process. That is, neither Forestry Tasmania nor the GMO entity has the capacity to sell its own trees separately other than through the joint venture and the sales agency agreement. Therefore it is not a decision that has to be exercised by Forestry Tasmania, it is a decision for the softwood joint venture.

**Mr BOOTH** - As government representatives in the sense that they represent the GBE of Forestry Tas on that joint venture it is my clear understanding from advice we got from the Solicitor-General that in fact the obligations under - I think it was the Solicitor-General - the obligations under the GBE act still apply in terms of their role on a joint

venture to obtain a proper price and so forth to satisfy the requirements of the GBE act. Is that not your understanding?

**Mr GORDON** - You can ask the Solicitor-General this but I suspect the obligations under Australian company law are much more onerous than the obligations under either the GBE or Forestry Act in terms of responsibilities. For instance if a director does not act in the interests of the company in company law and you can prove it, you go to jail. I do not know what the provisions are in the GBE act, I have not looked at it for a while. So if you asking what is the most onerous obligation then the softwood joint venture has an obligation to that entity to act in the interests of that entity.

**Mr BOOTH** - I suggest that that is an interesting sort of a semantic differentiation you are trying to bring forward with regard to the company and the shareholders. I think under the Companies Act you are obliged to act in the best interests of the shareholders which, obviously, is in the best interests of the company. So I would have thought that as a director of that company you would carry through into those meetings any obligations that your shareholders were obliged to comply with and one of those obligations surely would be to abide by relevant acts of parliament which are the GBE act and the Forestry Act.

You somehow appear to be suggesting that the directors of the joint venture have some surgical separation from the shareholders whom they represent, that before they walked in the door they clearly were representing interests of Forestry Tasmania and therefore were obliged to follow the GBE act and the Forestry Act. But then you suggest they walk in the door and they lose those obligations. Can you explain how that can occur?

**Mr GORDON** - I think I have answered this question now four times, Mr Chairman, and again I refer you back to the Solicitor-General's advice and to company law. There is a clear separation between the two bodies. I am not sure what else I could say. Obviously some people have a different view.

**Mr HARRISS** - I just want to go to the matter, and again referring to the Solicitor-General's advice where, relating to the sales agency agreement, he indicates that that process effectively passed the right to determine the terms and conditions of sale to Rayonier. Yet that is not what I heard Rayonier advise the committee this morning. I heard them advise the committee that they really do not have too much power or authority to set the terms and conditions of sale or too much else with relation to the wood supply allocation. All of those directions, as I understood from the advice to the committee this morning, come from Taswood Growers. Is that right Bob?

**Mr GORDON** - That is correct. The softwood joint venture is the only body that has the right to sell wood under the terms of the sales agency agreement and Rayonier has the right, under the sales agency agreement, to effectively implement that. So, again, the only route to market is via that process. If your piece of paper is the same as Mr Gutwein read out, you need, if you wish to explore that further, to ask the Solicitor-General what are the other things in the 200-page sales agency agreement because he has not actually commented on all of those issues.

**Mr HARRISS** - That is true. Earlier when Mr Jolly was at the table with you, I think it was he who made the comment that a judgment had been made. These are my recollections

of what he said, something to this effect, that Forest Enterprises Australia is better equipped in a technological sense going forward to participate in the world market as to the production of the raw product with what they were proposing.

Was that a condition or a clause in the tender documents in any way that any tenderer had to satisfy the board of Taswood Growers that they were technologically advanced or what were the terms in that sense, without breaching any commercial confidentiality because it is a matter that has already been raised for the committee's benefit. You would understand I would then want to satisfy myself as to how that value judgment was made, if in fact the tender documents did not require any bidders to identify those issues.

**Mr GORDON** - I am going back to being a softwood joint venture director now because Forestry Tasmania was not involved in that decision.

**Mr HARRISS** - That is right.

**Mr GORDON** - I am happy to do that. I am just trying to make it clear that Forestry Tasmania as an entity did not participate in that process - that is, the softwood joint venture board. One of the issues we needed to satisfy ourselves about was the capacity of bidders to pay market prices in the long term and therefore have a sustainable competitive advantage in the softwood processing industry. Each of the bidders was given exactly the same selection criteria and each of the bidders had exactly the same opportunity to submit that information.

**Mr BOOTH** - So you are saying that both companies, both bidders in this case, and there were only two I believe for this contract in the latter days of this contract, that both submitted the mill designs, if you like, their production systems as part of the tender.

**Mr GORDON** - Both had the capacity to submit that if they wished to, and you would need to ask each of the companies what they submitted.

**Mr BOOTH** - But that was not a precondition. I understand the complexity of your position here, given you are answering questions in a sense about the joint venture. But from that point of view the tender document did not specify that you had to, it is simply nebulously alluded to capacity and so forth and productions methods.

**Mr GORDON** - It was an expression of interest process where each of the bidders had exactly the same capacity to provide information on which we could make a commercial decision.

**Mr BOOTH** - Did the joint venture go back and test that proposition with Auspine, that they may, in fact, not have the capacity to mix it in the future world of competitive sawmilling?

**Mr GORDON** - You really have to ask Rayonier that because I wasn't on the joint venture at the time, for most of the time that this process was undertaken, which is why if you want to go back to the joint venture then I really need Ian Jolly back here because he was there for the whole process and I was only there for the latter part of the process.

**Mr GUTWEIN** - Bearing in mind you might say that you've only been the head of FT for a couple of months now -

**Mr GORDON** - It seems like a lot longer.

**Mr GUTWEIN** - I'm sure it does.

What formal correspondence or meetings or discussions were held between the forestry minister and FT in relation to this particular matter? Obviously questions were being raised in Parliament over the previous 15 months; there was quite a bit of public discussion. On how many occasions did the portfolio minister meet with Forestry Tasmania to discuss its view in relation to where the negotiations were at, albeit regarding the three directors that were sitting on the Taswood Growers board, the minister couldn't directly speak with or influence them, but certainly he could speak with Forestry Tasmania?

**Mr GORDON** - I assume you're talking about last year.

**Mr GUTWEIN** - Last year.

**Mr GORDON** - I don't know. I wasn't at Forestry Tasmania. I was doing another job which was keeping me pretty well fully occupied.

**Mr GUTWEIN** - You haven't received any briefings in relation to -

**Mr GORDON** - There is a series of stuff on the files. I just haven't gone back through those, that's all.

**Mr GUTWEIN** - Would we be able to ask Mr Gordon, then, if he could provide us with a chronological picture of events in regard to either formal correspondence or formal meetings or discussions between the Government and FT?

**Mr GORDON** - Which, as we have already established, isn't related to the softwood joint venture.

**Mr GUTWEIN** - With the greatest of respect, it has three members who sit on the softwood joint venture board, but I think it is reasonable to find out whether or not the Government were discussing this matter with FT.

**Mr GORDON** - I presume you'll discuss that in committee.

**CHAIR** - Yes.

**Mr BOOTH** - I have a similar problem, Mr Chair. There were a number of questions that I wanted to ask Mr Gordon in regard to what instructions, if any, FT members were given regarding Taswood Growers by either the minister or the Premier in regard to this matter. I think what Peter said is that they suggested that we need a chronological history of the interaction there between the minister or the Premier and the members of the Taswood Growers board in regard to any instructions or concerns that they may have had with the possibility of this tender falling over or being awarded out of Scottsdale. Unless we can

get that information it's a bit hard to be cross-examining you given you are now saying you don't have the information with you and you weren't there, which is a reasonable position.

**CHAIR** - We have made the request.

**Mrs RATTRAY-WAGNER** - Well I think probably I'm a bit the same, that some of these questions go back beyond Mr Gordon's capability of answering because it's in the process leading up to and Mr Gordon wasn't in the driver's seat at that stage.

**Mr GUTWEIN** - I was wondering if you'd mind making a comment on circumstances that we find ourselves in at the moment, post the deal being struck, as the head of Forestry Tasmania. If I could summarise what has been said in the media in recent weeks in relation to this issue, we've now got Auspine that's in a situation where it has possibly up to five years' worth of resource available to it and we heard this morning that that would be at significantly lower volumes than it has currently enjoyed; that FT have now, I think, subsidised that west coast resource to the tune of \$12 or \$13 per tonne in a royalty deal. We have FEA, a new company that is taking on 300 000 tonnes of timber without having existing markets, to the best of my knowledge - mind you, that is something for FEA to explain - for that amount of wood established, with Auspine remaining in the marketplace. We have now effectively grown or doubled almost I think the pine cut in Tasmania and we also have the situation where small sawmillers are concerned not only about the current situation which will see logs being transported past their door but also concerned in relation to what the marketplace might look like in three to five years' time for their businesses.

As the head of FT do you think the softwood sector is currently in the most sustainable position right now?

**Mr GORDON** - Firstly, FT has a very, very minor part of the softwood-growing sector. The softwood joint venture has about two-thirds, the other third is held by Norske Skog, lots of individual private growers, there are some MIS-scheme pine plantations and there are quite a few individual private growers. Are any of those people being called as witnesses?

**Mr GUTWEIN** - Private growers? No.

**Mr GORDON** - Or Norske Skog?

**CHAIR** - No.

**Mr GORDON** - As you would be aware, at the same time that the Government abolished the Forestry Commission and made it Forestry Tasmania, they also hived off looking after private wood to a separate entity called Private Forests Tasmania and so the only information we have on that is basically the information that you can get from the public record or what we can calculate ourselves, which is relatively easy to do. So I am not sure your conclusion that the total cut of pine in the State will have doubled. Those people have been harvesting their forests all along.

It is certainly true that Norske Skog's plantations which were basically planted in a lump 20 to 25 years ago are now starting to be the size to produce sawlogs. Many of the private growers go in and out of the market depending on market prices and they probably have not been in the market while the price of pine logs has been as low as it has. You tend to find they are much more opportunistic about selling their crop whereas the softwood joint venture and the major industrial owners tend to look for long-term contractual arrangements preferably domestically. Private growers have a different way of managing their forests. As I said, we no longer have any responsibility or oversight of other than FT's wood.

**Mr GUTWEIN** - You are the head of Forestry Tasmania, Mr Gordon. Surely you must have a view as to whether or not the circumstances we find ourselves in now are ideal.

**Mr GORDON** - Of course they are not ideal and I am not sure -one is suggesting that they are.

**Mr GUTWEIN** - Could I ask you then, if they are not ideal - and I know this is difficult because as you clearly explained there is this Chinese wall that exists - were you one of the directors of Taswood Growers who made the final decision?

**Mr GORDON** - Yes.

**Mr GUTWEIN** - You were. So we now have this situation that is not ideal, by your own words, and yet we are being told that it is the best situation with regard to the long-term sustainability of the industry. There is a certain incongruity to your statements there.

**Mr GORDON** - None at all. Ideal is a different concept from the best deal you can get. It is a quite severely different concept.

**Mr GUTWEIN** - Now we are getting into semantics.

**Mr GORDON** - You put the question: is it ideal; if it is not ideal, why not? It is not ideal because we have had in probably the last 15 years where anyone who owned private pine plantations in the State was being sent the signal that their pine plantations were not worth much money. There has been almost no private-grower establishment of pine plantations, in fact most of the bigger private growers have been converting their pine plantation estate into hardwood plantation because the price signal that was being sent was that you cannot make money out of growing pine trees.

And that was exactly the price signal the softwood joint venture was getting, that large parts of the softwood plantation estate could not be harvested because you could not even cover your costs of production with the price you are being paid. That is not ideal. No-one is saying that is ideal. The only way you will have a sustainable industry is if the people growing the trees are also getting a fair return for their investment, and they have not been for a least the last five years.

**Mr GUTWEIN** - In your opinion then, Auspine were not in a position long term to provide that return that the grower would have been looking to receive long term, is that what you are saying?

**Mr GORDON** - You would have to ask Auspine the question about what they thought the long-term view of the industry was, what they were prepared to pay and what they saw as a satisfactory return for private plantation owners. I understand that they actually sold their own pine plantation estate.

**Mr BOOTH** - If what you are saying is true, why do you not apply the same logic to royalty rates on native forest then, where no private grower can compete against the Crown because of the prices that you offer it for?

**Mr GORDON** - Again, it is a false premise. I am quite happy to have a wide-ranging debate from the pulp mill to bans on native forest logging to old growth logging to whatever you like but

**CHAIR** - Yes, but we need to keep focused on what we are doing here today.

**Mr BOOTH** - That is why I made the point that it appears that there is a contradiction, unless you are saying that the question in the first place about returns is not relevant. I would have thought that under the GBE act it is actually relevant to it and it led into some questions that I was going to ask. How is this going to affect FT's budget? If in fact the 10-year contract, given that it is claimed to yield a better return over a 10-year period but it seems to be acknowledged that there might be a constraint on returns in the first year at least because there is nowhere to market the big logs to at the moment, what effect is this likely to have on FT's budget for this current financial year or the following one which it will affect more than this one.

**Mr GORDON** - To go back through it, we have talked about the GBE committee and as the FT chairman said, the biggest impact on Forestry Tasmania's return this year and last year was the substantial misinformation campaign by green groups. That dominates FT's revenue.

**Mr BOOTH** - How much of a drop in your anticipated revenue do you expect to receive in the next financial year as a result of this deal? In other words, the returns from the Taswood Growers that you are anticipating, and it is one of your line items in the budget. What effect do you expect to see as a result of this in the next financial year?

**Mr GORDON** - Compared with the last financial year?

**Mr BOOTH** - Compared to your predictions.

**Mr GORDON** - I think that it would be reasonably close to the predictions. One of the challenges for the softwood joint venture has been the very low returns on invested capital that it has been returning because of the low prices which the market has demonstrated were well below the going rate. Again, it goes back to 'if you cannot make money out of growing trees'. I notice that there is a bit of inconsistency between saying Forestry Tasmania should get a much better rate of return on its assets but by the way you cannot charge market rates and you cannot go through some process where the market has opened up and competitive bids are put in.

**Mr BOOTH** - I do not think that anyone on this committee is suggesting that you cannot charge market rates.

**Mr GUTWEIN** - I just want to seek advice from the Chair. A number of my questions relate to the process and to discussions between the Government and FT over the preceding 12 months. The understanding that I received from Mr Gordon was that he is not aware of what those discussions were or the involvement or what took place. I am just wondering whether or not we shouldn't reserve the right to recall Mr Gordon at a time when he has actually got that information to hand or somebody can be here to answer the questions of the committee.

**CHAIR** - We can reserve that right. Obviously it is a committee decision we would have to deliberate on and think about.

**Mr GUTWEIN** - Whilst we can discuss what has happened in the period of time Mr Gordon has been chair of Forestry Tasmania, I think in regard to the process we need to have some answers in relation to what occurred during the last year. As I say, a lot of my questions go to that point so I am not seeing a lot of value in continuing at this particular point of time.

**CHAIR** - Fair enough.

**Mrs RATTRAY-WAGNER** - Bob, you have talked about the private forest entity and you said you had no real understanding of what they had available. Do you not have a relationship or some sort of dialogue with that entity to see what is happening as a whole-of-stakeholder organisation? Can you explain to me why you do not really have a relationship?

**Mr GORDON** - We do have a relationship. What I said was we do not hold the data so when it was the Forestry Commission and there was a private forest division we actually held the data so if you asked me a question how much private radiata pine in the north-west of the State over 15 years of age that has been thinned I could tell you. I cannot now because we no longer have that information.

There are publicly available sources of that information like the National Forests Inventory; like the information that Private Forests Tasmania publish on a regular basis about the availability of the softwood plantation resource and I have that but it is not my data. I am simply commenting on it because we keep an overview of, as you said, the resource but if you asked me about who owns it I no longer have that information other than the stuff that is in the public arena.

**Mrs RATTRAY-WAGNER** - Hence it has taken a considerable amount of weeks to be able to gather some of that data to be able to make Auspine any offer whatsoever about what was available?

**Mr GORDON** - I understand a lot of the information that was provided by individual farmers to Private Forests Tasmania was on the condition it was not made available or used for other than the statistical purpose but you would really have to ask Private Forests Tasmania that question.

**Mrs RATTRAY-WAGNER** - Moving on from that question then, does Forestry Tasmania contract out their work force to do pruning for some of those private tree growers?

Would they have expertise outside of Forestry Tasmania to do that pruning and those particular operations that are needed to provide a good quality sawlog in the future?

**Mr GORDON** - Forestry Tasmania does not but Private Forests Tasmania has an extension program including - the one thing I know of that Forestry Tasmania is on contract for was to provide a piece of software called, I think, 'The Forestry Toolbox'. It might even be free if you are a private grower. You can use that software to predict your rate of return on investment if you do different things, and they do and will provide advice to people about contractors that are available to do pruning, thinning and fertilising.

Most of the work the softwood joint venture does is actually done by independent contractors and Forestry Tasmania would use those same independent contractors for both its hardwood and its small remaining softwood plantations so there would be an *x*, *y* and *z* contracting company and they would provide pruning, fertilising, they might provide soil analysis advice, a whole range of technical information that they would provide to quite a few forest owners whether it is hardwood or softwood.

**Mrs RATTRAY-WAGNER** - So Forestry Tasmania does not contract any of its services to Taswood Growers to actually maintain any forests or any plantations?

**Mr GORDON** - Yes, it contracts services for road building and maintenance; it contracts firefighting services. On an ad hoc basis it contracts for research and development. For example, Forestry Tasmania is the body that has been contracted by, I think, the Australian Quarantine Service, for Sirex wasp monitoring at the wharf. We have a minimum expertise in Sirex so if there was a Sirex problem probably in anyone's plantations in Tassie then Forestry Tasmania is likely to be approached to provide the contract service about finding out whether it's there or not, advice on the nematode that attacks and kills it and what management prescriptions.

**Mrs RATTRAY-WAGNER** - So Forestry Tasmania contracts -

**Mr GORDON** - Contracts to the softwood joint venture.

**Mrs RATTRAY-WAGNER** - So you actually work for yourself.

**Mr GORDON** - No, we work for the softwood joint venture.

**Mrs RATTRAY-WAGNER** - Yes, but I mean with the other hat on you're actually contracting your own services as the head of Forestry Tasmania.

**Mr GORDON** - Correct.

**Mr BOOTH** - When did Forestry Tasmania become aware of FEA's interest in a softwood resource of that volume?

**Mr GORDON** - I wasn't there at the time, but I imagine when everyone else became aware of it.

**Mr BOOTH** - I take it on face value that if you don't know you can't give me the answer, but you perhaps could supply that information if you can't answer it, as to when Forestry

Tasmania became aware that FEA were interested in becoming a large player in the softwood sawmilling sector. You're saying, I think by implication I'm correct in assuming, that when the press release came out or the media became aware that FEA put in a bid -

**Mr GORDON** - That's what I'm assuming but I don't know because I wasn't there.

**Mr BOOTH** - You said you were on Taswood Growers Board when the decision was made -

**Mr GORDON** - Correct.

**Mr BOOTH** - Did you make the minister or the Premier or the Government aware of the fact that it was likely that the bid was going to be lost to Auspine and in which direction it was tendered?

**Mr GORDON** - The softwood joint venture made its decision and then there was a process, which as you are probably aware, was subject to Australian Stock Exchange and ASIC laws whereby companies, where a matter that could affect either the share price or trading, needed to notify the stock exchange before notifying any other commercial entity. ???3.12.22 I can't remember the dates but you could ask Rayonier that question. There was a process that was gone through by FEA to notify the stock exchange. I haven't got those dates in my head; if you want me to go back and ask Rayonier to look up those dates I'm more than happy to do that.

**Mr BOOTH** - I think I'm content with that except for whether or not you, as the representative if you like from FT on Taswood Growers, spoke to your minister about it before the decision was made - not before it was announced but before it was made that - it was likely to go -

**Mr GORDON** - The Forestry Tasmania Board was informed of the decision and of the legal advice because by this stage it had been raised as a public issue about section 12A. The minister was aware of the process that was being carried out and I could check with Rayonier but I think they provided briefings to both the Minister for Forests and the Opposition. I'm not sure about the process but it would probably have been Rene Hidding I think.

**Mrs RATTRAY-WAGNER** - I'm still waiting for my return phone call from Mr Claridge from the message left on his answering machine from the 29th.

**Mr GORDON** - So again there was a process of briefing on the process itself, which was carried out by Rayonier and again I haven't got those dates in my head, but as I understand it there were briefings for various groups you could ask about if Mike is still there.

**Mr GUTWEIN** - Well we were certainly briefed in November that FEA had arrived on the scene.

**Mr GORDON** - Yes that's about the time - once again it was before I was there. That was about the time, I just can't remember the dates.

**Mr GUTWEIN** - When did you become FT chairman?

**Mr GORDON** - Managing Director.

**Mr GUTWEIN** - Managing Director, sorry.

**Mr GORDON** - On 1 January.

**Mr GUTWEIN** - And the decision was made to give the supply deal to FEA on what date?

**Mrs RATTRAY-WAGNER** - Before the 29th?

**Mr GORDON** - The end of January. I can get the date from Rayonier.

**Mr GUTWEIN** - In that period that you can discuss with us, did you have with the shareholder minister any discussions regarding possibility of an outcome that may not be all that favourable to the north-east? Were you approached by the shareholder minister, who would have been the Premier, in that period in your new role as GM of FT?

**Mr GORDON** - There was a discussion about section 12A of the Forestry Act and whether Forestry Tasmania had received legal advice on that - it was some time in that period - and I advised both my board and informally the minister that we had received advice on section 12A several times and I think there was some received the previous year as well. But the decision was made independently by the softwood joint venture board without seeking advice or direction from either FT or the minister, which is what is required legally.

**Mr GUTWEIN** - Did the minister in his role as minister responsible for forests seek a meeting with you in that period and the lead-up to it to express any concerns about the circumstances that might befall the north-east if the deal was to go to FEA or to discuss with you -

**Mr GORDON** - I am trying to remember; I think there might have been an acting minister for most of that time.

**Mr BOOTH** - It was the Premier, I think.

**Mr GORDON** - I think there was actually an acting forests minister for most of January but, again, I would have to check that.

**Mr GUTWEIN** - I think that is right.

**Mr GORDON** - There were certainly no formal meetings or discussions. If you are asking whether Forestry Tasmania knew that the Minister and Premier were concerned about the employment impacts, he was on the public record as saying that at some time in the middle of 2006.

Was I aware that the Opposition had raised similar issues and did I have any discussions on it? I did not because I was not at Forestry Tasmania for the vast majority of the time the public debate was going on. As the joint venture said this morning, this was not an

easy decision and once it was two private sector companies bidding for a resource, we had to make a decision on what we thought was the best long-term solution in the sustainable sense, and it was not an easy decision.

**Mr BOOTH** - So was it the representatives on the joint venture board of Taswood Growers - FT's representatives on that - who made the decision in terms of whether or not they had obligations under the Forestry Act or the GBE act, or did they refer that back to the board of FT and there was a broader determination from them?

**Mr GORDON** - There was legal advice received from a couple of different sources that said section 12A did not apply to the softwood joint venture decision.

**Mr BOOTH** - Do you recall when you got that advice?

**Mr GORDON** - That was probably back in 1999. There was advice when I started at the job that was already there saying that and there was subsequent advice that was received after the issue was again raised publicly, so I think a couple of people had raised a slight variation on that and a more specific question was asked and the advice was all consistent - that is that section 12A did not apply to the softwood joint venture transaction.

**Mr BOOTH** - And the GBE act did not apply either, presumably?

**Mr GORDON** - Correct, because the bit of the GBE act which Mr Gutwein read out this morning referred to long-term economic return to the shareholder or something.

**Mr BOOTH** - So if somebody is caught stealing trees, which no doubt happens from time to time, who prosecutes them in the event of a pine tree getting stolen that happens to be part of the joint venture? Are they prosecuted by the Crown or by Rayonier?

**Mr GORDON** - If it is theft it is a criminal act.

**Mr BOOTH** - Yes, but is it stealing from the joint venture or is it stealing -

**Mr GORDON** - It is stealing from the joint venture. As I said, theft is a criminal act, so it would be a police prosecution unless it was a civil action.

**Mr BOOTH** - So when those prosecutions occur - and they have occurred, presumably?

**Mr GORDON** - I do not know.

**Mr BOOTH** - So you are not aware if there has ever been a prosecution for taking trees?

**Mr GORDON** - There have certainly been prosecutions for people stealing Huon pine, blackwood and a whole lot of high-value special species timbers. I think there have been a couple of prosecutions on the west coast in the last five years but I cannot remember the names of the people.

**Mr BOOTH** - But not to your knowledge of straight radiata pine?

**Mr GORDON** - Not to my knowledge. The higher the value of the log the more likely it is that someone would be tempted to flog it.

**Mrs RATTRAY-WAGNER** - Christmas trees don't count, then?

**Mr GORDON** - There used to be a program of people being able to get Christmas trees as wildlings. If John Snodgrass was still here he might remember that.

**Mr BOOTH** - So anyway the point I am trying to get to is the land that those trees are grown on is crown land under all interpretations of what crown land is.

**Mr GORDON** - Correct. It is State forest, for which there is generally freehold title for which a forestry right has been granted, which separates the ownership of the trees from the ownership of the land, which is the same in most joint ventures and most MIS schemes. So you can transact the trees separately from transacting or owning the land. There was actually an act, the Forestry Rights Registration Act; I cannot remember but Mr Gutwein might remember, but that was probably in the mid-1990s and there have been a couple of amendments to it since.

**Mr GUTWEIN** - The one specific to this was in 1999.

**Mr GORDON** - There is still the same common law right but this simply clarified that in Tasmania you can split the ownership of the land from the trees and have separate legal transactions on the two bits.

**Mr BOOTH** - So when the Premier offered to support mediation in late 2006, at that time was he aware of the FEA deal?

**Mr GORDON** - I do not know; I was not there. I just have not had time to go back on everything that has happened in the last three years since I have not been there.

**Mr BOOTH** - In regard to mediation, given that what you have said about the role of Taswood Growers and the rights of FT and the Government -

**Mr GORDON** - You can ask Ian Jolly or one of the people that was on the softwood joint venture board at that time; I just was not there.

**Mr BOOTH** - But what standing would someone have to offer to support mediation in that sense? Is that something that is inconsistent with what you have said before in regard to the rights of people to impose any conditions or mediation on the joint venture or is that a reasonable proposition for a forests minister or a Premier?

**Mr GORDON** - Governments and oppositions make offers to do all sorts of things in all sorts of circumstances. I think the Federal minister recently offered to help in an industrial relations dispute between a car parts person and the employees. I am not sure whether they had any standing to do that but those sorts of offers are made quite commonly.

**Mr GUTWEIN** - I just want to make the point, Bob, that I find it extraordinary that in appearing before the committee today and knowing that so many people in the north-east

were concerned about this particular issue that you did not come armed with a chronological list of events and meetings and the information to fully inform the committee. I accept that you were not there, but ultimately you are responsible for FT. I certainly had hoped that you would be here today prepared to answer questions in regard to the process which obviously extends back before 1 January when you took the chair.

**Mr GORDON** - Mr Chairman, I think that I have answered questions on behalf of the softwood joint venture with Mr Jolly. As I understand it, the legal advice is that FT was not responsible for this transaction and I have nothing from the committee that prepared me today to suggest that they would like to ask questions about a whole range of issues, from stumpages on native forest sales to a whole range of other issues that have been raised.

**Mrs RATTRAY-WAGNER** - I just want to get something clear. Did the Forestry Tasmania representatives, of which you are one of three on the joint venture board, sit down together and decide a position before you went into the boardroom with Taswood Growers? Did you sit down and have a discussion about how things might pan out, or with your FT board?

**Mr GORDON** - We had several discussions as we got various iterations of the analysis of the proposals but, for want of a better word, we did not caucus that decision. We all went there as individual directors and listened to the evidence and analysis that was presented to us and made judgments as individuals. The FT board was informed of the decision that the softwood joint venture had made.

**Mrs RATTRAY-WAGNER** - After the event?

**Mr GORDON** - Yes.

**CHAIR** - Thank you very much for your evidence, Bob.

**THE WITNESS WITHDREW.**