

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON PUBLIC SECTOR  
EXECUTIVE APPOINTMENTS MET IN COMMITTEE ROOM 1, PARLIAMENT  
HOUSE, HOBART, ON MONDAY 10 NOVEMBER 2008**

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**Mr SIMON COOPER** WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** (Mr Harriss) - In terms of completeness of the committee preliminaries you will recall that I made a telephone call to you and left a message for you. That was for the purpose of my alerting you to the fact - as a measure of courtesy - that select committees generally do not usually rip out summonses to people.

**Mr COOPER** - You will recall too, Mr Harriss, that I returned your call and you did not return mine.

**CHAIR** - I am about to conclude that. I am extending to you the courtesy of an explanation as to what happened there. Yes, you did return my call. I was in another select committee on the north-west coast and Launceston during the days when you returned the call so with the time as it went I did not get back to you - I was not able to - before in fact the summons was dispatched. I have extended the same courtesy to the other people who received a summons but I just wanted to let you know that circumstance because, as I said at the outset, it is not the usual process of select committees. We are operating with some time constraints with this committee. The committee had previously resolved that, in terms of facilitating the proper process as we unfold with time, we did have one witness who rejected an invitation to attend so the committee resolved at a previous meeting that it would be pertinent and prudent for us to in fact issue summonses, so that was the process there.

**Mr COOPER** - Well, I must say I regarded it and continue to regard it as a gross discourtesy. If I had been asked I would happily have attended. I was served by a process server in my place of work in front of my staff directing me and requiring me to attend when I was supposed to be conducting a hearing on the north-west coast. A simple telephone call or calls would have avoided all of that and it was most unnecessary and most discourteous.

**CHAIR** - As I have indicated to you that was a committee resolution -

**Mr COOPER** - I understand that.

**CHAIR** - in terms of the time process and we did reschedule your previous hearing time, which was our demand because of the summons, so we rescheduled until today. Can I also indicate to you that we have received from your counsel an indication that you have other commitments as of 5 o'clock today. We will facilitate your departure by 5 o'clock. I would think that, as a measure of courtesy, is appropriate. We understand you are busy and that you have plenty of other commitments. In that event, if we have not concluded our deliberations then we would consult with you as to an appropriate time for you to return. We will see how that unfolds but we will facilitate the 5 p.m. departure for you today.

I suspect you are familiar with the protection which you are afforded as a result of attending a select committee of the Parliament and that is the same protection which members of parliament are afforded with regard privilege.

**Mr COOPER** - You can assume that that is all correct.

**CHAIR** - If there are times during the process today where, in consequence of a question to you, you feel that it is a matter which you would prefer to deliberate with us in camera then you are perfectly at liberty to make that request of the committee. We would consider that request and advise you accordingly as to whether we resolve into camera at that time. There are matters which we do want visit with you in camera and so once we have concluded the public session of the hearings we will of our own resolution move into camera to question you on those issues. So with that is there anything that you want to say in introduction before we move to questions.

**Mr COOPER** - No.

**CHAIR** - We also appreciate the offer or the communication by your counsel to the committee that you have kept detailed notes and that you were prepared to bring those along to help facilitate the committee's deliberations. We appreciate that.

**Mr COOPER** - You have also been provided by my counsel, each of you and your secretary, with a copy of my submission.

**CHAIR** - Yes. I understand our committee secretary, Dr Huntly, has advised you that it would be prudent, in the event that you wish to table that as a document, that it should occur in camera. There are reasons for that, which we will let you know during the process of the day in camera.

There are a number of matters related to allegations surrounding the approval of the pulp mill, which impact on the deliberations of this committee. My first question to you is: prior to March 2007 did the former Premier, Paul Lennon, ever indicate to you either directly or indirectly that he personally had a desire for the pulp mill to be approved, or the process to unfold, to meet a particular time frame?

**Mr COOPER** - Prior to March?

**CHAIR** - Prior to March 2007.

**Mr COOPER** - So 1 March or 31 March?

**CHAIR** - 1 March.

**Mr COOPER** - No, I have no memory of any particular discussion in relation to time prior to 1 March 2007. It was discussed in a general sense but I do not recall nor do I have a note of a particular time frame being indicated.

**CHAIR** - At any time in conversations or communications, either direct or indirect, with the former Premier?

**Mr COOPER** - Prior to March?

**CHAIR** - At any time.

**Mr COOPER** - Yes.

**CHAIR** - Can you alert the committee to what that is please?

**Mr COOPER** - Yes. It was certainly discussed at a meeting I had with the Premier and the Secretary of the Department of Premier and Cabinet on 26 February 2007 at the Premier's office.

**CHAIR** - What was the detail of that conversation?

**Mr COOPER** - That just makes me realise I have not answered your first question accurately. On 26 February 2007 I met with the Premier and Ms Hornsey. At that meeting the Premier told me he wanted a reduced time line for the pulp mill assessment process. He indicated that he wanted the process finished by July 2007 as opposed to the time line that had been indicated by the commission's assessment panel, which was October 2007.

**CHAIR** - When he was indicating that to you in that meeting, what was your role at that time?

**Mr COOPER** - I was meeting with him as Executive Commissioner pro tem of the RPDC.

**CHAIR** - What was your reaction when that request was made?

**Mr COOPER** - I knew then that the only way any shorter time line could be attained would mean that public hearings would be excluded. I was concerned about the fact that public hearings would be excluded. There are a number of reasons for that, not least of which seemed to be overlooked by all and sundry - that the Commission was also carrying out a Federal requirement and it seemed to me that Federal legislation expressly required public hearings. It also seemed to me that it was implicit in the State Policies and Projects Act that public hearings were required. The State Policies and Projects Act, as each of you would no doubt be aware, is part of the resource management planning suite of legislation for this State. That legislation expressly enshrines the concept of public participation in planning. It seemed to me that federally definitely and certainly in the State that those public hearings were required, so they could not easily be dispensed with.

I was also worried, having secured services of the Honourable Christopher Wright QC to chair the assessment committee - that was not my role, it was his - I thought it very unlikely that Mr Wright would be happy with that. I was concerned that we would lose him from the process and that it would irretrievably wreck the process. I expressed those concerns.

**CHAIR** - How did the matter arise that public hearings would be dispensed with? You have indicated that it seemed to you that the only way to truncate the time would be to dispense with public hearings. How did that arise?

**Mr COOPER** - Because I was given a document that had been prepared. I was given the document either by Mr Lennon or Ms Hornsey, I do not recall, but one or the other, that there was a new indicative time line that expressly excluded public hearings.

**Mr MARTIN** - What was the origins of that document, do you know?

**Mr COOPER** - No idea.

**Mr MARTIN** - Do you know who prepared it?

**Mr COOPER** - No. Somebody else.

**Mr MARTIN** - Is that a matter of public record? Do you have a copy of that?

**Mr COOPER** - I do have a copy.

**Mr MARTIN** - Can we table that?

**Mr COOPER** - This is the only copy I have. There would be another copy on the RPDC standing file.

**CHAIR** - If you are happy to table that, Simon, we can get that copied straight away.

**Mr COOPER** - That was the original document I was handed. On the bottom right-hand corner is my initial and I think the date it was received.

**Mr MARTIN** - That was handed to you in that meeting by Mr Lennon or Ms Hornsey?

**Mr COOPER** - Correct.

**Mr HALL** - Simon, you did then discuss that, as you indicated, you were unhappy about that process which was going to be followed? Did you talk to the Solicitor-General?

**Mr COOPER** - No, not then.

**Mr HALL** - Okay, but at a later stage you did?

**Mr COOPER** - Correct.

**Mr HALL** - How much later was that?

**Mr COOPER** - The next day.

**Mr HALL** - His opinion was what the Government wanted at that stage or was it something else? You obviously expressed your concerns to him.

**Mr COOPER** - I attended a meeting the next day with Mr Wright, Mr Lennon and Ms Hornsey at which the Premier formally, I suppose, put this new time line on the table. Mr Wright expressed concerns at that stage similar to the ones I had expressed the day

before. Either Mr Lennon or Ms Hornsey - I do not recall which - indicated that there was advice from the Solicitor-General, Mr Bale, that this was in order, and Mr Wright and I immediately left that meeting and went and saw Mr Bale and that was discussed.

**Mr HALL** - Was that a vigorous discussion at the time?

**Mr COOPER** - I think robust is a fair way of putting it.

**Mr HALL** - And obviously the Solicitor-General stuck to his guns that it was in order to proceed down that track of the process?

**Mr COOPER** - Yes. It was the Solicitor-General and his immediate predecessor expressing different views about whether or not this was in order. I think we left the meeting agreeing to disagree.

**CHAIR** - Prior to that meeting on 26 February, how would you describe your business and personal relationship with the former Premier?

**Mr COOPER** - I had no personal relationship with the former Premier. I had no business relationship with the former Premier. I had some dealings with him as my minister.

**CHAIR** - As a result of getting that, what I will term as a directive - it may not have been a directive, but that time line which you -

**Mr COOPER** - No, it was a request.

**CHAIR** - A request to truncate the deliberations or the time process. Apart from what you have already mentioned, how did that affect the relationship you had in a working sense with the Premier?

**Mr COOPER** - I continued to have dealings with the Premier in relation to the commission's affairs but specifically the pulp mill assessment, which was still ongoing.

**CHAIR** - Did that request affect your further consideration of how the process might unfold, given that Mr Wright was tasked with chairing the assessment panel?

**Mr COOPER** - I am not quite sure how to answer that. It has been suggested that there was some impropriety about all that but it seemed that there was no impropriety about the Premier asking that that occur. The impropriety would have been for Mr Wright and/or myself to acquiesce to a course that was plainly wrong.

**CHAIR** - And possibly ultra vires?

**Mr COOPER** - Ultra vires what?

**CHAIR** - In terms of offending against the legislation to which you have already referred.

**Mr COOPER** - It could not have occurred, in my view and I am firm about that, in relation to the Federal aspect of the assessment we were carrying out. As I said earlier, there is not a lot of doubt, but this is two lawyers and we will always argue about it, but I was

strongly of the view that public hearings were required as a matter of law, and I maintain that view. I also think that the assessment process would have been utterly compromised in any public meaningful sense if Mr Wright, the assessment panel and the RPDC had acquiesced to that course.

**CHAIR** - Given that Chris Wright was also involved in the process going forward, can you advise the committee of what your communications with Chris Wright were subsequent to that time frame being presented to you?

**Mr COOPER** - We retired from our meeting with Mr Bale and went and discussed it. We were both concerned about it.

**CHAIR** - That was the next day, 27 February?

**Mr COOPER** - That would be right. We were both deeply concerned about it.

**CHAIR** - And what decisions did you make as to agreeing to that request for a time frame change? I can only presume from your previous evidence to the committee that you simply were not prepared to go down that path.

**Mr COOPER** - That is correct. Ultimately, it was a matter for the assessment panel. I suppose the RPDC might have directed the panel, or endeavoured to do so, but I would not have done that because I took the view that the holding of public hearings was essential.

**CHAIR** - Can you then advise the committee, Simon, as to the process which might have followed thereafter with regard to submissions by Gunns to the RPDC in terms of critical non-compliance of those Gunns submissions and what role you and Christopher Wright may have played with regard to notifying Gunns of that critical non-compliance.

**Mr COOPER** - I'm not sure I follow the question. If you're getting at whether we did anything about telling Gunns that they remained in default as far as the provision of information was concerned, no, we didn't. We didn't because events overtook us. We were about to do that but then Gunns indicated that they were, quote, 'withdrawing from the process', unquote, so it was all rather academic. But there had been a letter prepared that was to go to Gunns to alert them and put them on notice as to the variety of areas where they remained deficient as far as the provision of information was concerned; basically telling them where the problems were.

**CHAIR** - There was a letter prepared?

**Mr COOPER** - Correct.

**CHAIR** - Who prepared the letter and what was the process for letting Gunns know?

**Mr COOPER** - I was off work for the week leading up to Friday 9 March. I had injured my back and was in hospital Monday and Tuesday. I was at home for the rest of the week but still in contact with the office. I spoke to Chris Wright two or three times that week but I specifically spoke with him on Friday 9 March. He prepared a letter for me to sign

as Executive Commissioner of the RPDC to go to Gunns to tell them where they were non-compliant in relation to their obligations - that is on page 6.

**CHAIR** - No, I'm just looking at another document which I've got my eye on.

**Mr COOPER** - It was a fairly detailed letter and whilst Mr Wright superintended it, it had been prepared by commission staff who were, of course, au fait with the detail as to where there were deficiencies. He wanted to make arrangements for me to sign it. I was literally flat on my back and short of someone coming down to my home I wasn't in a position to do anything. I also received a phone call at about the same time, within an hour or so, from Ms Hornsey, who apparently was aware that this letter or a letter of that type was on its way to Gunns. I don't know how she became aware that the letter was going to be sent but she told me not to send the letter, or asked me not to send the letter.

**CHAIR** - What was your reaction to that request?

**Mr COOPER** - Well, I could see no harm in waiting at that stage. She told me in the course of that conversation that if that letter was received by Gunns it would tip them over the edge so, as it happened, the letter wasn't sent. That was on Friday 9 March, I was back at work on Monday 12 March and then Gunns withdrew on Wednesday 14 March.

**CHAIR** - With regard to that request from Linda Hornsey not to send the letter on Friday 9 March, and it didn't get sent, Gunns subsequently withdrew from the project of State significance process on Wednesday 14 March.

**Mr COOPER** - They purported to. There was a fundamental misunderstanding in the legal position, but -

**CHAIR** - Can you explain that?

**Mr COOPER** - Well, once something is declared a project of State significance in terms of the State Policies and Projects Act 1993, it's not for anybody to withdraw it. Parliament has declared it and the commission has an obligation to discharge certain statutory obligations and it will do so. It's not up to Gunns or anyone else to say, 'We're not going ahead with it', or, 'We want it done differently', or, 'We want you to do it in a different way.' It was a misunderstanding of the legal situation. They could write as many letters as they liked and say, 'We're withdrawing', or, 'We're not going ahead with it', or anything of that nature, but the fact of the matter was that the commission remained seized of it unless and until there was a ministerial direction to change that.

**Mr MARTIN** - Was the Premier aware of that?

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

**Mr MARTIN** - Was Gunns made aware of that?

**Mr COOPER** - I do not know; I did not make them aware of it. I subsequently wrote to the Premier pointing out that it was a fundamental misunderstanding of the legal position and that the commission remained seized of the matter and in the absence of either an a

ministerial direction or an amendment to an act of parliament, we would continue to do our duty.

**CHAIR** - Was the letter to which you refer drafted in some confidence; was the letter which was going to advise Gunns of their non-compliance shared with you in confidence?

**Mr COOPER** - No, I doubt it. I was not at work that week, that was the problem. I'd been in hospital on Monday and Tuesday so I had some telephone contact with Chris Wright and a couple of other staff members but I was in a fair degree of pain and I cannot remember and did not take notes like I would normally take, certainly of Tuesday, Wednesday, Thursday. I do not think I have any and that was on account of lying down on the floor watching TV for three days, as you do.

**CHAIR** - Did it concern you that Ms Hornsey should be phoning you about that letter some hours later when you had only received it that day?

**Mr COOPER** - At the time, no. Now, there could be any number of ways that she was aware of it. I do not know and I would not like to speculate. Again, I do not see any impropriety with any of that. The commission is not ASIO. The commission operates as an independent statutory body but it necessarily operates in a public sense and there is no secret about what it does or how it conducts itself. All of its records are public. Everything that is written is written, or at least should be written, with a view to the fact that one day they will be in the public domain, or may be. I do not see any problem with any of that. That is certainly the culture that I operate in.

**CHAIR** - What was the effect of not sending the letter with events overtaking the process on the 14th?

**Mr COOPER** - None, no effect at all. Had Gunns not purported to withdraw from the process and had there not been the act of parliament passed, it would have been sent and it would have put Gunns on notice in relation to where the commission considered there were deficiencies in relation to the provision of information. It would have squarely informed any reasonable reader that the ball was in their court in relation to the provision of information and if they wanted things done quickly they should get their skates on.

**Mr MARTIN** - Just to clarify a point - and I might have missed this - when Ms Hornsey asked you not to send the letter, did you make the decision on your own or did you discuss it with Mr Wright? Do you know why you decided to go along with her request?

**Mr COOPER** - I spoke to Chris Wright after it and we agreed to wait until I was back at work and discuss it on Monday.

**Mr MARTIN** - Which would have been?

**Mr COOPER** - March 12.

**CHAIR** - Simon, do you have a view about the fact that that letter was not sent and then Gunns withdrew, or as you indicated, purported to withdraw, on the 14th? Do you have a view as to whether that gave Gunns the capacity to withdraw but that the deficiencies would never have been a matter of public domain?



**Mr COOPER** - It may well have been a motivation. If it was their motivation and if it was a driver, it was muddle-headed, because ultimately, plainly, given the operations of the commission, all of these matters are on the public record - draft or no draft, whether it is sent or not.

**CHAIR** - So when Gunns did go through the process on 14 March indicating that they were withdrawing, did you receive any communication from them?

**Mr COOPER** - I had a phone call from Mr John Gay telling me he was about to send me a fax, which I did particularly note and remember because I do not think I had anyone ring me and tell me they wanted to send me a fax this century. Sure enough, a fax arrived saying that Gunns were withdrawing from the process due to delays or uncertainty associated with the outcome and the timing.

**CHAIR** - Did you discuss that document or that communication from Mr Gay with anybody?

**Mr COOPER** - Oh yes. I went and spoke immediately to Mr Wright, who was upstairs. I showed that to him. We discussed it. We probably reached, independently of each other, the view that in a legal sense it was meaningless. Practically speaking it meant a bit because it seemed that we might as well take our foot off the accelerator as far as dealing with the matter was concerned. I did instruct commission staff that were working on it to stop because we would wait and see what happened.

**Mr MARTIN** - In the phone conversation with Mr Gay, was there any further discussion or was it just a short 30-second thing saying there is a fax coming.

**Mr COOPER** - It was a short 30-second, 'I am sending you a fax'.

**Mr MARTIN** - He did not explain what the fax was, the significance of it?

**Mr COOPER** - Not that I recall. Oh yes, sorry, he was faxing me about withdrawing.

**Mr MARTIN** - Without saying why?

**Mr COOPER** - Without saying why. If he said why, I have not made a note of it. I specifically remember, Mr Martin, that he telephoned me and told me that he was sending me a fax, because it stayed in my mind.

**Mr MARTIN** - You had no discussion with the Government at that time about that?

**Mr COOPER** - No.

**CHAIR** - Is it true that there was a process regarding comment to the media or a media release that Mr Wright was intending to make that you received a request from Linda Hornsey -

**Mr COOPER** - That comes later, Mr Harriss. You go forward a couple of weeks to the Sheffield Shield final. So on the Tuesday of the Shield final, which would be 20 March, I was at Bellerive watching the second day of the game and I received a telephone call

whilst I was there from Ms Hornsey. It was the same day it would seem that Mr Wright had held a press conference or something of that nature.

**CHAIR** - And the reason for his press conference?

**Mr COOPER** - You would ask him that. I was not privy to his decision to go and speak to the media. I gather, doing the best that I can from memory, that it was to do with observations that the then Premier had made in relation to Mr Wright and the process, but I do not specifically recall. I was a bit more interested in the cricket.

**CHAIR** - So Ms Hornsey phoned. What was her reason to phone you? What was the nature of the conversation?

**Mr COOPER** - She said to me, just before tea it was, that she wanted me to make a media release or make some sort of media statement and basically contradict what Chris Wright had apparently said.

**CHAIR** - And you were not aware of what Chris Wright said.

**Mr COOPER** - Well at that stage, no, I was unaware of what Chris Wright had said.

**CHAIR** - Did you question her on that?

**Mr COOPER** - She told me it related to the meeting, I think, of 27 February. I said I would have to return to my office and check my notes, see what my recollection was and what notes I had made of it, which I did. I think I rang her when I got back to the office after I had checked my notes. Her concern was that apparently Mr Wright had indicated that he had felt pressured, 'leant on' I think the expression might have been, by the Premier at that meeting on 27 February. I told her that I was not prepared to get involved in any sort of media circus. My recollection of the meeting tended to agree with Mr Wright's as it was being reported. I wasn't going to hop into a credibility contest with Mr Wright in any event, but as it happened I agreed with him, so I declined - and returned to the cricket.

**Mr MARTIN** - So what you are saying is that you agreed with the interpretation that that meeting leant on Mr Wright and yourself in trying to shorten the time frame?

**Mr COOPER** - What I agreed with was what I understood he was saying. I didn't see what he said; I heard a little bit of it on ABC Radio - I think I must have - as I was going back to work. I agreed with what was being attributed to him in a general sense in relation to the tenor of the meeting.

**Mr MARTIN** - Forget about what Mr Wright said, going back to that meeting with the Premier and Ms Hornsey, was it your feeling that the Premier had been leaning on yourself and Mr Wright?

**Mr COOPER** - As I said earlier, Mr Martin, I don't see there was any impropriety in the question, 'Can we make it shorter?' I didn't see anything wrong with that. It would have been wrong for us to acquiesce when we took the view, for proper reason, that that ought not occur. That is the best way I can answer that.

**CHAIR** - Simon, my judgment is that we have spent a reasonable amount of time on this area but you would be aware that there is a particular reason for this - that there have been allegations in the public domain that you had been offered, if you like, an appointment as a magistrate because of the difficulties you might have been posing in terms of consideration of the pulp mill. The committee has embarked upon this line of questioning for that purpose -

**Mr COOPER** - I understand.

**CHAIR** - to try to get in our minds the process which might have unfolded. Do you have a view about those public allegations as to your role in the RPDC process in regard to the pulp mill and how you might have been difficult to deal with - my words, not the public domain words - in the event that it would have been a good idea to get you out of that arena?

**Mr COOPER** - I think you can break that down into two component parts. Was I difficult to deal with? Well, if doing what you are required to do as a matter of law is being difficult to deal with, then presumably I was. This suggestion that I was to be appointed a magistrate to get me out of the RPDC is fatuous nonsense. I had constantly been asking to be relieved from the RPDC because I had a full-time job as chairman of the Resource Management Planning Appeal Tribunal, which I still carry out. I did not want to be at the RPDC; I had been asked to superintend it for 'a few weeks' while there was a process undertaken to secure a replacement commissioner for Mr Green. It would have been a very simple matter indeed to revoke my acting appointment as executive commissioner, so it is just nonsense. For it to be correct it has to have involved Mr Roger Willee, who was the magistrate at the time, so presumably he is in on it. As I understand the situation, and I think this is generally in the public domain, Mr Willee made a decision to retire because there had been some changes to Federal superannuation law, so presumably the Commonwealth Government was in on it as well. It is just fatuous rubbish, in my view.

**CHAIR** - What was the process available for the appointment of a magistrate to replace Mr Willee?

**Mr COOPER** - I don't know what the process was. I can tell you what my involvement in it was. I became aware at the end of April or early May, I think, that Mr Willee was to retire. Mr Wilkinson will understand perfectly well how the legal profession works, that there is always great excitement when there is the possibility of a magistrate or a judge retiring, not because we are happy to see the back of him or her but usually because it is perceived as an opportunity for advancement. That was advertised in all three newspapers, as I understand it, and probably on the Internet. Expressions of interest in fact were called for on the Internet because that is where I obtained the information. Expressions of interest were called for from suitably qualified legal practitioners.

I considered - vacillated - about whether I would express interest and in the end spoke with the Secretary of the Department of Justice, Lisa Hutton, about whether I ought to apply. My major concern was that at that stage I had two hats: executive commissioner in the RPDC and in effect still chair of the tribunal. I figured that there was every possibility that they would take one look at an application and say it is too difficult

because we are going to have to fill those two places if we stick him in there - assuming that I was regarded as qualified and appropriate for appointment.

So I spoke to Ms Hutton about that. She agreed that that might be a consideration and suggested I speak to the Attorney about it, which I did. I spoke to the then Attorney, Mr Kons. I spoke to him by telephone, I do not recall when, but some time in May. I expressed that very concern. He told me that leaving two positions vacant - the Resource Management and Planning Appeal Tribunal and the RPDC - was not a consideration and that he would consider every application, or every expression of interest, on its merit.

I downloaded the request for the expressions of interest. As you may appreciate, with those appointments there are numerous questions that had to be addressed and frankly I could not be bothered preparing 15 or 16 pages if they were going to take one look at it and place it in the wastepaper basket. So I did that. I submitted an expression of interest - it went in a day or two before they closed - and that was that.

**CHAIR** - I do want to rewind just for a moment to another matter regarding the pulp mill process. At any time after Linda Hornsey had contacted you and asked you to make a contradictory media statement to that of Mr Wright, did you communicate with former Premier Paul Lennon?

**Mr COOPER** - Yes

**CHAIR** - Either by telephone, or in writing or e-mail?

**Mr COOPER** - Yes I did. I wrote to the Premier on 23 March 2007.

**CHAIR** - What was the purpose of that communication, please?

**Mr COOPER** - There were a variety of reasons for it. It is the letter that subsequently I think was tabled in the lower House in about June. There were several reasons why I wrote to the Premier. One was that the other commissioners of the RPDC were as concerned as I was in relation to the process, or lack of it, and the commission resolved to mark that - draw that - to the attention of our minister, who was the Premier. I also wrote because the Premier had indicated to me some weeks earlier that he was concerned about the possibility of a law suit from Gunns against the State in relation to delays with the assessment process, and in effect I was writing as, I guess, one lawyer to another, although I did not know who that lawyer was, pointing out up front where the deficiencies lay, where the delays were in relation to the assessment process. If anybody was thinking about any litigation perhaps it would have given them pause for thought.

**CHAIR** - You have indicated that that letter you wrote to Paul Lennon subsequently was tabled in the lower House. Can you identify the time of that?

**Mr COOPER** - The first week in June - probably about 4 or 5 June.

**CHAIR** - How did you become aware of that?

**Mr COOPER** - I read about it in the paper, or heard it on the news, I cannot remember which.

**CHAIR** - Is there anything else surrounding that revelation about that letter which sticks in your mind as to what happened?

**Mr COOPER** - Well, yes. It was the first week of the June school holidays and I was on leave with my family at our shack at White Beach. I heard, I think on the ABC, that the letter had been tabled in Parliament. It had been obtained, I think, by FOI. I am almost certain.

**CHAIR** - I think you are right.

**Mr COOPER** - I went to the local shop at Nubeena to buy the *Mercury* to read about it because obviously I was somewhat interested even though I was on holiday. Whilst I was doing that my mobile phone told me that there was a message on it. It was a message from the then Attorney-General Mr Kons asking would I telephone him. I assumed - wrongly as it turned out - that the two events were connected.

**CHAIR** - The two events were not connected?

**Mr COOPER** - No, it would seem not. I rang him back early, about 9 a.m., on 7 June. I rang Mr Kons back and we had a conversation at that stage, but it was nothing to do with the pulp mill which was a bit of a surprise to be honest. He said to me during that conversation, 'I have decided to appoint you as a magistrate', which surprised me. It was not as if I had not applied or expressed interest but I expected a completely different telephone conversation to occur.

**Mr WILKINSON** - I suppose you would have expected some type of meeting with him and others answering questions in relation to your suitability to become a magistrate?

**Mr COOPER** - No, I didn't actually. No, I didn't expect that. I actually thought it was a 'here we go' in relation to 'Why did you write that letter'. That was what I thought it would be. I didn't expect that there would be any discussion in relation to suitability as I understand the process - such as it is - because that is not the process that is adopted in relation to those types of appointments.

**Mr MARTIN** - Mr Kons, when you rang him back, was he aware of what had gone on in the media and the tabling of the document?

**Mr COOPER** - I have no idea.

**Mr MARTIN** - Did it come up in conversation?

**Mr COOPER** - Not at all. It was not discussed, which surprised me. As I say I had girded my loins and was expecting a different conversation.

**Mr MARTIN** - Did anyone else in the Government contact you that day about it?

**Mr COOPER** - No.

**Mr MARTIN** - And with Mr Kons even in that conversation it did not come up?

**Mr COOPER** - He did not advert to it at all.

**Mr HALL** - Did you talk to anybody else about the conversation?

**Mr COOPER** - Yes.

**Mr HALL** - You discussed it with somebody else?

**Mr COOPER** - Yes, I did. Well Mr Kons said to me that the only people who knew about the decision were him and Paul. He did not say who Paul was but contextually it was unlikely to have been anyone other than the Premier, although it is possible. He asked me to keep it confidential. I asked him if I could tell my wife. He said that would be all right, so I actually walked down to the beach where my wife and kids were and told her. She was pleased because she knew it was a job I had long coveted, although I do remember saying to her I do not think we should break out the champagne yet. There is many a slip betwixt cup and lip, which seemed remarkably prescient.

**Mr MARTIN** - So your nickname should be Nostradamus.

**Mr COOPER** - I wish I had as much luck with the horses.

**Mr HALL** - Anybody-else?

**Mr COOPER** - I did. I was asked to keep it confidential. I told my wife, I had permission to do that, and I told my best friend - but no-one else, not a soul. I am absolutely confident he totally did not and would not have revealed that information. I know he didn't.

**Mr MARTIN** - Your best friend is not someone whose name has been mentioned in this matter?

**Mr COOPER** - He is a sergeant of police but he has nothing else to do with this and he is not involved. He is not a lawyer; he was not an aspirant for the job and I have known him for 25 or 26 years. It was just, you know how it is, you tell someone.

**CHAIR** - Prior to that telephone conversation you had with Mr Kons when he has told you that, in your evidence, Paul and he had decided to appoint you as a magistrate -

**Mr COOPER** - No, he didn't say that. He said that the only other person that knew was Paul.

**CHAIR** - Okay, he was appointing you a magistrate and the only other person that knew was Paul?

**Mr COOPER** - Correct.

**CHAIR** - Had you had any communication or conversation with Mr Kons about taking on an expanded role? You have mentioned that you were wearing two hats within the planning regime, as it were.

**Mr COOPER** - Yes, there had been some discussions. There had been a number of discussions between myself and the then minister in relation to what should happen in relation to planning reform, which is a perennial favourite in this State. There had been at least floated in a general sense the possibility of some sort of vague, non-specific expanded role. But no more than that, no more than in a very general sense about how things might operate at some stage in the future.

**Mr MARTIN** - Going back to 23 March when you sent the letter to the Premier, was there any response from the Premier or his office or Ms Hornsey?

**Mr COOPER** - Yes. There was a letter received from an executive officer within the Department of Premier and Cabinet, dated 11 April and thanking me for it.

**Mr MARTIN** - There was no direct personal contact by the Premier expressing an opinion about it?

**Mr COOPER** - No.

**Mr MARTIN** - Or Ms Hornsey?

**Mr COOPER** - No.

**Mr MARTIN** - Or anyone else?

**Mr COOPER** - No.

**CHAIR** - So Mr Kons has indicated to you that he is going to appoint you a magistrate?

**Mr COOPER** - Correct.

**CHAIR** - On 7 June?

**Mr COOPER** - Yes.

**CHAIR** - Are you aware of what process followed from there with regard to the Justice department? I suppose they get involved. They have to prepare paperwork.

**Mr COOPER** - No, I am not.

**CHAIR** - When was the next time that Mr Kons spoke with you about the magistrate's position?

**Mr COOPER** - The following Tuesday, 12 June. I had dinner with him at his request to discuss it.

**CHAIR** - Just you and him?

**Mr COOPER** - No, him and one of his advisers.

**CHAIR** - Can you recall who that adviser was?

**Mr COOPER** - Peter Pearce.

**CHAIR** - What was the extent of that conversation at Mr Kons' request that he meet with you?

**Mr COOPER** - He asked me to meet him for dinner and he made the arrangements. We met and had dinner at Maldini's Restaurant in Salamanca at about 7.30 on Tuesday 12 June - he, Pearce and I.

**CHAIR** - With regard to the planning changes which the Attorney was contemplating, and that there was contemplation for an expanded and probably a merged role of RPDC executive commissioner and RMPAT chairman, if that is the right term, did the Attorney discuss with you what your future role might be if that were to occur?

**Mr COOPER** - The idea of planning reform was something that we discussed on a number of occasions - three or four. The possibility of some type of perhaps merged role, although it is difficult to see how you could do that too comfortably given that they operate in very different ways and perform very different functions, was certainly mooted.

**CHAIR** - Is it true that the Attorney had indicated to you that he was keen for you to take on the role if indeed things transpired and the planning system was changed, that there would be this expanded role?

**Mr COOPER** - That is probably a reasonable way of describing it.

**CHAIR** - Where did that fit into the scheme of things in terms of time lines?

**Mr COOPER** - It might have even been in 2006, Mr Harriss. I do not have a specific recollection of it.

**CHAIR** - Okay, that is fine. It was well before the events of March 2007. Did Mr Kons at that dinner engagement indicate to you why he had decided not to proceed down that path and give you this expanded role but to appoint you as a magistrate instead?

**Mr COOPER** - No.

**CHAIR** - You indicated that you would not have been interested in that expanded role; is that correct?

**Mr COOPER** - It would depend what it was. Mr Kons had asked me very strongly to apply for the RPDC job, which I refused to do. I did not want it. That was shortly after the expressions of interest for that particular job had closed. I was not interested in doing the RPDC job.

**CHAIR** - Did you investigate with him why he had asked you to apply, given that the expressions of interest had closed?



**Mr COOPER** - He came and saw me and said to me that they had only had three applicants for the job, which was hardly surprising in the environment within which the commission was being required to operate. But in any event he apparently took the view, or someone did, him perhaps, that none of the three applicants were suitable. I do not know who those applicants were. He asked me to apply, in fairly strong terms, and I declined.

**CHAIR** - So he did not indicate to you how he came to the conclusion that none of them were suitable?

**Mr COOPER** - No, he just told me that there were three applicants only and none was suitable. I do not know whether that was his view or someone else's.

**CHAIR** - We are back now at 12 June, the dinner date. Did you indicate that you would be interested in taking up that offer of the magistrate's position?

**Mr COOPER** - I was delighted, of course. I had already expressed that, I think, on the telephone on 7 June. I would not have expressed interest if I was not very interested in the job.

**Mr MARTIN** - Can I clarify something that has been suggested? I think you have answered this but I will ask you the question directly. I think when you were appointed to the RMPAT position you were overseas?

**Mr COOPER** - Correct.

**Mr MARTIN** - At that time was there ever any suggestion made to you that if you came back and did that job you would finish up as a magistrate?

**Mr COOPER** - No.

**Mr MARTIN** - That was never suggested to you?

**Mr COOPER** - Never.

**Mr MARTIN** - So in accepting the RMPAT position you had no commitment from the Government beyond that position?

**Mr COOPER** - No, none at all.

**Mr MARTIN** - Were you ever aware of the rumours before you came back or when you first came back that that had been suggested?

**Mr COOPER** - No, it is the first I have heard of it.

**CHAIR** - When did you first become aware, Simon, that the intention to appoint you a magistrate had been changed and how did you become aware?

**Mr COOPER** - A telephone call from Ms Sue Neales from the *Mercury* on Monday, 13 August. She told me.

**CHAIR** - What was your reaction? Did you inquire with her as to what the source of her information was?

**Mr COOPER** - No, I do not think I did. She told me basically what seems to have been completely accurate with the Cabinet minute, although I do not recall her using that expression. The documentation or paperwork had been prepared, had my name on it and the Premier's office had intervened on the Friday just passed. The documents were shredded and another name had gone forward.

**Mr HALL** - Up until that time you were under the assumption that the appointment had simply been delayed?

**Mr COOPER** - Yes.

**Mr HALL** - Everything was on hold and a temporary magistrate might have been appointed; was that the view?

**Mr COOPER** - That was as I understood it. But I had no discussion. The last time this had been discussed with Mr Kons was at that meeting on 12 June.

**Mr HALL** - Was that when you had the dinner? Was that the night?

**Mr COOPER** - Correct; that was the last time. I had received some telephone calls from three journalists in the middle of July - 11 July - running this, 'The Premier wants to get rid of you so he is going to make you a magistrate,' nonsense. But I had not discussed it with anyone, apart from saying to them, 'Yes, I have applied.' There was no secret about that. But I did not say I had a discussion with anyone about it. I certainly did not give any indication to anybody, to any of them nor would I, that I had the indication from Mr Kons that that was going to occur.

**CHAIR** - So that was just the mere media speculation to which you have just referred?

**Mr COOPER** - Rumour in Tasmania, isn't it?

**CHAIR** - You have indicated that the Premier's office had intervened?

**Mr COOPER** - That is what I was told.

**CHAIR** - You were told by Sue Neales. When did you become formally aware that your appointment would not proceed? How did you become aware?

**Mr COOPER** - I have never become formally aware, other than through the effluxion of time and the fact that somebody else has been appointed to that position. I received no formal communication, nothing. I don't think anyone did. The first I read about it in any formal sense was at that meeting. There was no letter, 'Bad luck, you've missed out' or anything of that nature, and certainly no explanation from anyone.

**CHAIR** - And you hadn't had any letter confirming your appointment? You'd had two conversations with the then Attorney.

**Mr COOPER** - That's right, but then I didn't expect one. I was pretty aware of how the process at least is suppose to work because I had been President of the Bar Association in the early part of the decade and was well aware of what protocol and process was supposed to be followed. These types of judicial and magisterial appointments were not a surprise so nothing that had occurred surprised me.

**Mr MARTIN** - Surely you would have expected a phone call from the person who had told you that you were getting the job that you weren't getting the job?

**Mr COOPER** - You might have done that and I might have, but I received no such call.

**Mr MARTIN** - You're not surprised that Mr Kons, having told you once before that you were going to get the job, didn't ring you to tell you you hadn't got the job?

**Mr COOPER** - That is a question for Mr Kons, I think, isn't it. My view about Mr Kons is not particularly relevant, I wouldn't have thought.

**Mr WILKINSON** - It is fair to say, Simon, isn't it, with your experience as President of the Bar Association, plus your history in the law, that when that comment was made to you by Mr Kons you had every reason to believe that you were, when the time was right, going to be appointed to be the next magistrate?

**Mr COOPER** - That is a very kind question, Mr Wilkinson, but I had no reason to believe anything to the contrary. I gather that, so far as the process is concerned - all this I know after the event - there was some type of subcommittee that consisted of the Chief Magistrate and the secretary of the department and maybe someone else - I don't know - where the expressions of interests - and there were 25, I now gather - were ranked by the Chief Magistrate and the secretary of the department. They came up with a short list of three that they considered to be highly suitable and I was one of those, so I am told. None of that surprised me.

**Mr WILKINSON** - I understand what transpired but what I am suggesting is that if the Attorney came up to anybody in the position where they were able to make an appointment and said, 'You've got the job', you'd expect that that was the case otherwise you wouldn't expect the initial offer in the first place.

**Mr COOPER** - I wouldn't now.

**Mr WILKINSON** - I understand that.

**Mr COOPER** - But until then I had no reason to believe that that would not occur.

**Mr MARTIN** - You made no attempt to contact Mr Kons to ask him?

**Mr COOPER** - No, there didn't seem any reason to do so.

**Mr MARTIN** - I think I would have in your position.

**Mr COOPER** - I have tried to keep my counsel, Mr Martin. This whole affair has been unfortunate but, frankly, I don't want to add oxygen to the rumour, scuttlebutt, innuendo and nonsense that is flying around. I have a job to do and whingeing and blurting about it wasn't going to do anything anyway. Fundamentally, the chap who was appointed as a magistrate, I might add, is a splendid appointment that enjoys the confidence of the whole profession. I think it would have been, and was, grossly unfair to him because for me to have joined the debate would have looked like the worst case of sour grapes since sour grapes were invented. It would have been grossly unfair to Mr Hay. He is an admirable appointment and I don't think there would be any doubt about that from any member of the profession. I simply did not want to dignify what was going on by joining in. I didn't want to say or do anything that would reflect in any way adversely upon Mr Hay because that would have been grossly unfair.

**Mr MARTIN** - I understand and respect that. I suppose I would have been sorely tempted to make a personal call to Mr Kons to ask him what had changed.

**Mr COOPER** - I had reached the stage then where I would have been reluctant to have accepted anything he said so there was little or no reason to add to the confusion.

**Mr HALL** - When Sue Neales rang you and gave that news it obviously was not a good day out for you. Did she give you any more information at all, did she add anything more in that phone call at all?

**Mr COOPER** - That is as best as I remember it.

**Mr HALL** - Just to say that she had heard that you weren't - on the 13th August?

**Mr COOPER** - Correct.

**CHAIR** - Prior to that, you indicated that there was media disclosure of the matter. Did you have any communication from anybody in government circles to visit with you the matter of media disclosure and as to where that might have emanated, as to how the media started to unload things?

**Mr COOPER** - At the time I had no idea, but looking back it sort of makes a bit of sense where it might have come from. I certainly received a phone call from Ms Hornsey on 1 August in which she put to me fairly and squarely that I had been apparently telling people that Mr Lennon was going to appoint me as a magistrate.

**CHAIR** - That was 1 August and Sue Neales' articles were after?

**Mr COOPER** - No, there were phone calls from three journalists all in July or thereabouts, it might have been two in one day and one the next running the 'you are going to be appointed because they are sick of you in planning'. On 1 August I received a telephone call from Linda Hornsey. She said that she had heard that I had been telling people that Mr Lennon was going to appoint me as Magistrate. I told her that was simply incorrect.

**CHAIR** - Anything else during that telephone conversation? If you told her that it was not correct, what happened then?

**Mr COOPER** - That was the end of that. I told her it was nonsense.

**CHAIR** - Phone conversation over.

**Mr COOPER** - Pretty well.

**CHAIR** - Did you hear at any time later from Linda Hornsey regarding the appointment or the purported appointment?

**Mr COOPER** - Yes I did, I rang her on Monday 13 August pretty much after I had a phone call from Ms Neales and told her what it was that was suggested to me and asked what is going on and she said that she knew nothing about it but she would make some inquiries. That telephone conversation took place in about the middle of the day on Monday 13 August.

**CHAIR** - And she said that she would make some inquiries. Did she make some inquiries and advise you as to the outcome?

**Mr COOPER** - I don't know whether she made the inquiries, I doubt whether they were necessary. But she did ring me back at about 6 p.m. that day.

**CHAIR** - Why do you say that you doubt they were necessary?

**Mr COOPER** - Because plainly she already knew.

**CHAIR** - What causes you to reach that conclusion?

**Mr COOPER** - Because if her evidence has been accurately reported before this committee then plainly she already knew because she had had a discussion with Mr Kons, so it is reported, in which she had suggested that it would be inappropriate that I be appointed.

**CHAIR** - So this is in the middle of the day she had indicated to you that she does not know anything but she will do some research and get back to you?

**Mr COOPER** - Correct.

**CHAIR** - But you have indicated to the committee that she did phone you later that same day.

**Mr COOPER** - Yes.

**CHAIR** - And the content of that telephone conversation?

**Mr COOPER** - At about 6 p.m. that day I was at home, she rang and told me that my name was in fact going forward, she said something like 'I stopped it when I became aware of it', and 'we' could not appoint you because it would look like a Labor mates thing or cronyism or something of that nature.

**CHAIR** - What was your reaction to the fact that she says she stopped the appointment when the Attorney himself has indicated to you that he has appointed you?

**Mr COOPER** - Okay. My immediate reaction was to go and kick the cat although we do not have one.

**CHAIR** - You would have found one.

**Mr COOPER** - Had we had one it would have been in danger. At the time I had no particular reaction to it other than I was obviously a bit upset about it, disappointed I suppose. With the benefit of hindsight it is pretty troubling, the Attorney's appointment.

**Mr MARTIN** - Sorry, it is pretty - ?

**Mr COOPER** - Troubling? Not for me. I just think in a general sense it is pretty troubling if that is in fact what occurred, that the Attorney-General would, at the direction apparently of a public servant, change his mind in relation to a judicial or magisterial appointment, and then go and shred the document because he has been asked to. It is pretty troubling generally.

**CHAIR** - What did you think about her comment that it would look like, what did you say, Labor mates or cronyism?

**Mr COOPER** - Well, not a lot. It did not seem to have caused any concern when I was asked to superintend the RPDC, nor did it cause any concern when I was appointed as Chairman of the Resource Management and Planning Appeals Tribunal.

**Mr MARTIN** - Is there any difference between those different appointments and this one?

**Mr COOPER** - Not that I can see.

**Mr MARTIN** - Do you consider yourself a Labor crony or Labor mate?

**Mr COOPER** - I don't.

**Mr MARTIN** - Have you ever been a member of the Labor Party?

**Mr COOPER** - I was a member of the Labor Party in 1988.

**Mr MARTIN** - For a short period?

**Mr COOPER** - In 1988-89, so not as recently as you.

*Laughter.*

**CHAIR** - He probably still is, though.

**Mr MARTIN** - Debatable. It has also been said that you have a family relationship with the former Premier, that that is the basis of those comments. Have you any comment to make on that?

**Mr COOPER** - That is correct. Certainly my father had a relationship with the former Premier. Had. But it is Tasmania. Mr Wilkinson and I have known each other for 25 years. I assisted him on his first election campaign, sticking pamphlets in letterboxes.

**Mr MARTIN** - Does that make Mr Wilkinson a Labor crony?

**Mr COOPER** - Well, that is right. Mr Harriss's daughter worked for me when I was in private practice as secretary in my firm. I do not think we have a relationship, Mr Hall, but who knows? Yes, there is that connection.

**Mr MARTIN** - That must have been a really distressing reason to be given for not getting the job, that a public servant requested the Attorney-General to not appoint you because of a fictitious excuse that you were a Labor mate.

**Mr COOPER** - I guess so. I thought it was pretty unfair to my father too. It has nothing to do with him.

**Mr WILKINSON** - Whether it be the case or not, if I might say it should not make any difference, should it? If a person is capable of doing the job and is up to the job, whether he knows the person or not or whether he has had a previous dealing should not make any difference at all.

**Mr COOPER** - Some level of relationship is inescapable in Tasmania.

**Mr MARTIN** - From what you have said, there is no truth to those reasons. Did you then think there must be a better reason for Linda Hornsey to interfere in the process?

**Mr COOPER** - Mr Martin, I do not know whether that is the truth or not, that is for you to determine, but I was offered originally, 'I know nothing about it', as the excuse. Well, not as an excuse but my first inquiry elicited, 'I know nothing about it', which seems to have been unlikely. Then that was the second excuse. It may well have been the reason, I do not know.

**Mr MARTIN** - Given the fact that it is rather extraordinary for a public servant to take that role, do you know that Ms Hornsey was acting under instructions from anyone?

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

**Mr MARTIN** - You never asked about that?

**Mr COOPER** - I had a discussion with her subsequently but whether she was acting under instructions was not discussed. I do not know if she ever was or she was not. She was either acting off her own bat or she was acting under instructions. I do not know.

**Mr MARTIN** - Did you ask whether the then Premier agreed with her decision to interfere?

**Mr COOPER** - No I did not.

**CHAIR** - Simon, you have indicated you had a subsequent discussion with Linda Hornsey. Can you advise the committee of the context of that and the setting of that, please?

**Mr COOPER** - Certainly. On Tuesday 14 August I sent an e-mail to Ms Hornsey. In substance the e-mail said that I more than a bit concerned about the reasons that she had offered me -

**CHAIR** - That is the day after you had -

**Mr COOPER** - Correct, and if that was a legitimate or valid reason then I really needed to consider my future, probably even in the State because it did not seem to me to be fair or reasonable in the circumstances, given that I had returned from a pretty good job in the UK. If I was going to get caught in the middle of this sort of nonsense and that was going to be offered as an excuse then I was starting to have pretty serious second thoughts about whether I even wanted to be here.

Anyway, that was the substance of it. She rang me back and chided me about sending the e-mail because things like that oughtn't be documented to which I replied I thought it was about time things were recorded but in any event, I had asked if I could meet with the Premier in that e-mail. She refused, said he refused or said he could not meet with me or wouldn't, I don't recall, but that she would meet with me and she would meet with me the next day to discuss it.

**CHAIR** - So the next day, being the 15th, she did meet you, is that correct?

**Mr COOPER** - That is right. She met me at 9 a.m. at a coffee shop in Sandy Bay - Coffee Roasters, Gregory Street, in Sandy Bay.

**CHAIR** - What was her communication with you after having chided you for sending an e-mail? She subsequently met with you.

**Mr COOPER** - And hopped straight into me about the letter, the now notorious letter of 23 March 2007 - why did I send it, it had caused her a lot of grief, it had caused her a lot of trouble.

**CHAIR** - Remind me of 23 March, that was the letter regarding the RPDC process?

**Mr COOPER** - Correct.

**CHAIR** - And the fact that you had written to the Premier?

**Mr COOPER** - No, that was *the* letter to the Premier of 23 March explaining what had gone on, the letter that was subsequently tabled in the lower House on or about 6 June.

**CHAIR** - She hopped straight into you because that had caused her some grief?

**Mr COOPER** - Correct.

**CHAIR** - Did she elaborate?

**Mr COOPER** - Well, she didn't have to really in the sense that my memory of it is that there had been Estimates committee meetings and things of that nature and a lot of questions



were asked about that because in that letter I had identified that the letter had not in fact been sent to Gunns at her request. She seemed to have some difficulty with that. When she asked me why I had sent it, I said, 'Well, apart from the fact that it is true, there are a number of reasons it was sent', and they were the reasons that I offered to you gentlemen earlier.

**Mr MARTIN** - Why did she have difficulty with it?

**Mr COOPER** - I have no idea.

**Mr MARTIN** - It was a statement of fact, wasn't it?

**Mr COOPER** - It was a statement of fact. Everything in that letter was a statement of fact.

**Mr MARTIN** - When you say she had difficulty with that, was that difficulty with you sending a letter or what you wrote in the letter or the fact that you were doing your statutory duty?

**Mr COOPER** - You would have to ask her that but the impression I got was that she had been named in it and that I had identified that the letter that we, the commission, had intended to send was not sent at her request and that was her difficulty and that then had caused her difficulty because questions had been directed during Estimates committee meetings and things of that nature. Parliamentary questions I think had been asked.

**Mr MARTIN** - In this conversation did she dispute with you your description that she had requested?

**Mr COOPER** - No, and nor could she have because that was in fact what occurred.

**CHAIR** - So at Coffee Roasters she hopped into you. Did the meeting then go in a different direction?

**Mr COOPER** - Once I had explained to her why I had sent the letter, not that she was entitled to an explanation but nonetheless it was contextual, she calmed down a bit. We then discussed the magistrate's appointment or non-appointment. I was of the clear view that she was very annoyed about the letter of 23 March and that it had caused her a lot of grief. Whether there was a link between the two I don't know but certainly that was the impression I got. I can't say to you that she said to me, 'That is the reason'.

**CHAIR** - But you were of the clear view that it could well have been.

**Mr MARTIN** - Did she offer any other explanation as to why she interfered in the process?

**Mr COOPER** - No.

**Mr MARTIN** - So in this conversation that is the only thing she raised as a concern with you?

**Mr COOPER** - Correct. That is right.

**CHAIR** - And did she indicate to you that she had stopped the appointment?

**Mr COOPER** - Oh yes.

**CHAIR** - Made it clear?

**Mr COOPER** - Absolutely. I was absolutely in no doubt that that was what had occurred. That was the first occasion, and only occasion I think, when I raised - I told her, or indeed anyone, that Mr Kons had told me that I had the appointment, which she described as indicative of inexperience on his part.

**CHAIR** - And is it true, then, that to this day you have not spoken with Mr Kons about that appointment?

**Mr COOPER** - Correct.

**CHAIR** - Any further questions before we move into camera?

**Mr HALL** - At that meeting, Simon, did she then, I suppose, offer you anything down the track?

**Mr COOPER** - Oh yes; she told me that I could have the next one.

**Mr HALL** - The next magistracy?

**Mr COOPER** - Correct; and I pointed out to her that it was not hers to give and that that was completely inappropriate. I was - well, I don't know if surprised is the right word because I wasn't surprised by anything much then - but I indicated to her that it was completely improper; that it wasn't hers to give even though it may be that it was; that it was inappropriate - who was to say who would be in the next field of candidates.

**Mr HALL** - What was her reaction to that? Was she -

**Mr COOPER** - Oh no, no; you can have the next one. Sort of - yes, once or twice.

**Mr HALL** - So she brushed it off - your opinion -

**CHAIR** - But not this one because of Labor cronyism; interesting.

**Mr COOPER** - Yes, well, that's a matter for you.

**CHAIR** - But the next one, if her contention held any validity, then you'd still be in that same position.

**Mr COOPER** - Well that's correct, isn't it. It's a pretty obvious point that if you can't appoint someone because they're a Labor mate in August, why could you in September or August the next year? Circumstances would not have changed.

**Mr MARTIN** - Did you ask her why the same problem didn't exist in this point to the current position?

**Mr COOPER** - I didn't think to. A lot of it was - you know, things are a hell of a lot clearer after the event when you have the opportunity to think about it and I was pretty annoyed. I was pretty upset by everything that had gone on really.

**Mr MARTIN** - Understandable.

**CHAIR** - Anything further? We're looking at you, Terry.

**Mr MARTIN** - On this issue?

**CHAIR** - Yes, before we go into camera.

**Mr MARTIN** - So you had no contact with Mr Kons?

**Mr COOPER** - Yes, I did. I had a number of contacts with Mr Kons in relation to a variety of matters in my position as, still, Executive Commissioner of the RPDC; mainly, I might add, my requests to have some indications to just when I would be able to return to full time employment at the Resource Management and Planning Appeal Tribunal and generally in the context of inquiries from Mr Kons' office as to why there were delays of the Resource Management and Planning Appeal Tribunal, which I had pointed out that there would be if I was asked to stay in post at the RPDC for too long.

**Mr MARTIN** - And the response to that?

**Mr COOPER** - Oh well, we're going to get around to it; we'll do something about it.

**Mr MARTIN** - When I stop and think about it you must have had a lot of contact with Mr Kons until he lost the job, because he was the responsible minister.

**Mr COOPER** - Less and less, Mr Martin.

**Mr MARTIN** - Why is that?

**Mr COOPER** - I had some contact in relation, for example, to the Bruny bioregion inquiry. Apart from that, not very much. I'd been in fairly regular contact with Mr Kons up to August of last and then almost none.

**Mr MARTIN** - That seems fairly extraordinary given that you had not only one, but two of the most important planning positions in the State, if not the two most important, and you tell me your contact with the relevant minister became less and less to almost nothing?.

**Mr COOPER** - That's accurate.

**Mr MARTIN** - Was that of your doing or his?

**Mr COOPER** - It wasn't ever of my doing. I mean, one is sort of beholden to one's minister and you respond when you are asked to respond. But, no, I had almost no contact down to when, earlier this year, an inquiry committee was set up to examine cleaning law

reform, including the possibility of merging the Resource Management and Planning Appeal Tribunal and the RPDC. I was not included on that committee.

**Mr MARTIN** - You were not included on that committee?

**Mr COOPER** - That is correct.

**Mr MARTIN** - Holding the two positions you have?

**Mr COOPER** - Correct.

**Mr MARTIN** - Did you seek any explanation why you would not be?

**Mr COOPER** - No.

**Mr MARTIN** - Why? You obviously assumed there was a reason. So what was your assumption?

**Mr COOPER** - I think he was - actually I do not know. I mean, I have thought about this - as to why he would do that. There may be a rational reason, but I cannot think of one.

**Mr MARTIN** - And the dealings that you did have with him in your professional capacities, you never once raised the issue of what happened between the phone call telling you you had the magistrate's job and the decision not to.

**Mr COOPER** - Certainly not.

**Mr MARTIN** - Never raised it?

**Mr COOPER** - No. My meetings with him were in relation to matters that were within my area of responsibility as executive commissioner of the commission. The issue of my appointment or otherwise as a magistrate did not arise in that context and it was not for me to raise it.

**Mr MARTIN** - He never sought to raise it as an apology - just when you were walking out of a room together, or whatever?

**Mr COOPER** - Never.

**CHAIR** - Okay. My judgment is that we are ready to lead into committee. We have 13 minutes so we will ask people to clear the room please. The hearing is adjourned for a few moments.